

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Criminal Justice Committee

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BILL: SB 978

INTRODUCER: Senator Fasano

SUBJECT: License Plates/Fraternal Order of Police

DATE: April 8, 2010

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McManus	Meyer	TR	<b>Favorable</b>
2.	Erickson	Cannon	CJ	<b>Favorable</b>
3.			TA	
4.			RC	
5.				
6.				

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**I. Summary:**

The bill requires the Department of Highway Safety and Motor Vehicles (DHSMV) to develop a license plate titled "Fraternal Order of Police." The plate would be available to a license applicant who is a member in good standing of the Florida State Lodge of the Fraternal Order of Police (lodge) or a member of a lodge member's family.

There is a \$25 annual use fee for the plate, which is distributed to the lodge. The lodge retains all proceeds until startup costs to develop and establish the plate have been recovered. Thereafter, proceeds are distributed to the Florida State Lodge Memorial Foundation of the Fraternal Order of Police and used as follows:

- A maximum of 25 percent of proceeds may be used to promote and market the plate, administer the plate program, and pay administrative costs directly associated with the state Fraternal Order of Police Law Enforcement Memorial.
- Remaining fees are to be used by the foundation to fund projects, programs, or events related to the memorial or to fund improvements, maintenance, or other support for the memorial.

The "Fraternal Order of Police" license plate has met the statutory application requirements for a new specialty license plate and falls within the exception from the moratorium on new specialty license plates created by the 2008 Legislature, as the organization submitted its materials before May 2, 2008.

This bill substantially amends sections 320.08056 and 320.08058 of the Florida Statutes.

## II. Present Situation:

### Specialty License Plates

The Florida Legislature created the first specialty license plates in 1986, one commemorating the seven astronauts who died when the space shuttle Challenger exploded after lift-off, and one for each of the nine universities then in the state university system.

Specialty license plates are available to any owner or lessee of a motor vehicle who is willing to pay an annual use fee for the privilege. Annual use fees ranging from \$15 to \$25, paid in addition to required license taxes and service fees, are distributed to an organization in support of a particular cause or charity signified in the plate's design and designated in statute. The Legislature may create a specialty license plate under its own initiative or it can do so at the request of an organization.

Section 320.08053, F.S., provides an organization seeking authorization to establish a specialty license plate must submit the following:

- A request for the particular license plate with a description of the proposed plate in specific terms, including a sample plate conforming to the specifications set by the DHSMV.
- The results of a scientific sample survey of Florida motor vehicle owners that indicates at least 30,000 motor vehicle owners intend to purchase the proposed specialty license plate at the increased costs. The Auditor General is required to validate the methodology, results, and any evaluation by the DHSMV of the scientific sample survey prior to the submission of the specialty license plate for approval by the Legislature.
- An application fee, not to exceed \$60,000, to defray the DHSMV's cost for reviewing the application and developing the specialty license plate, if authorized.
- A marketing strategy outlining both the short and long term marketing plans and a financial analysis outlining the anticipated revenue and the planned expenditures of the revenue from the requested specialty license plate.

The required documentation and fees must be submitted at least 90 days before the convening of the next regular session of the Florida Legislature. If a specialty license plate is approved by law, the organization must submit a proposed art design for the specialty plate to the DHSMV no later than 60 days after the act becomes a law. If the specialty license plate is not approved by the Legislature, the application fee is refunded to the requesting organization.

In 2008, the Legislature passed SB 1992, which included a moratorium on the issuance of specialty plates by the DHSMV. The moratorium is effective from July 1, 2008 to July 1, 2011, but contains an exception "for [any] specialty license plate proposal which has submitted a letter of intent to the Department of Highway Safety and Motor Vehicles prior to May 2, 2008" or "which was included in a bill filed during the 2008 Legislative Session."<sup>1</sup> There were 12 organizations which met the moratorium exceptions; however, only one organization's specialty license plate was enacted during the 2009 Session.<sup>2</sup>

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<sup>1</sup> Section 45 of ch. 2008-176, L.O.F.

<sup>2</sup> Organizations that have met the moratorium exceptions, but have not been legislatively authorized include: Coalition for Renewable Energy Solutions – "Go Green," East Coast Surfing Hall of Fame and Museum – "Let's Go Surfing," Florida Horse Park – "Discover Florida's Horses," Fraternal Order of Police – "Fraternal Order of Police," Guy Harvey Ocean

Section 320.08056, F.S., provides that the DHSMV is responsible for developing the specialty license plates and must begin production and distribution within one year after approval of the specialty license plate by the Legislature. Specialty license plates must bear the design required by law for the appropriate specialty plate, and the designs and colors must be approved by the DHSMV. In addition, the specialty license plate must bear the imprint of numerals from 1 to 999, inclusive, capital letters "A" through "Z", or a combination thereof.

The DHSMV is authorized to annually retain the first proceeds derived from the annual use fees collected in an amount sufficient to defray each specialty plate's pro rata (proportionate) share of the DHSMV's costs directly related to issuing the specialty license plate. A person wishing to purchase a specialty license plate must pay, in addition to the required license plate fee and license tax, a license plate annual use fee (from \$15 to \$25) and a processing fee of \$5.

In an effort to manage the number of specialty license plates and to eliminate those less popular the Legislature during the 2004 Session enacted SB 2020 which provides that the DHSMV must discontinue the issuance of an approved specialty plate if the number of valid specialty license plates in use falls below 1,000 plates for at least 12 consecutive months. The DHSMV is authorized to discontinue the issuance and distribution of specialty plates if the organization no longer exists, if the organization has stopped providing services authorized to be funded, or if the organization requests it. To date, only four plates have ever been discontinued for lack of sales. These plates are the Girl Scouts plate, the Orlando Predators plate, and the Tampa Bay Storm plate, and the Corrections Foundation plate.

Annual use fees, or any interest earned from those fees, may be used by the authorized organization for public or private purposes; however, the annual fees may not be used for commercial or for-profit activities, or for general administrative expenses (except as specifically authorized or to pay the cost of the audit or report required to ensure the proceeds are used as authorized).

Section 320.08058, F.S., lists the approved specialty license plates and specifies funding requirements.

Section 320.08062, F.S., requires all organizations receiving annual use fee proceeds from the DHSMV to be responsible for ensuring proceeds are used in accordance with ss. 320.08056 and 320.08058, F.S. Each organization is either subject to an audit or is required to annually attest, under penalties of perjury, that such proceeds were used correctly. DHSMV can examine all records pertaining to the use of specialty license plate revenues.

There are currently 113 specialty license plates authorized by the Legislature. Sales of specialty license plates generated over \$37 million in annual use fee revenues during the 2009 Fiscal Year (July 2008-June 2009).

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Foundation – "Catch Me Release Me," Surfing Evolution and Preservation – "Endless Summer," St. Johns River Alliance – "St. Johns River," Florida Biodiversity Foundation – "Save Wild Florida," Sons of Confederate Veterans – "Confederate Heritage," Toomey Foundation for the Natural Sciences – "Preserving the Past," and Toomey Foundation for the Natural Sciences – "Trinity." The University of Miami - Center for Autism and Related Disabilities – "Autism Awareness" specialty license plate was created during the 2009 Session (see 2009-71, L.O.F.).

**Florida State Lodge of the Fraternal Order of Police**

The Florida State Lodge of the Fraternal Order of Police (lodge) is part of a national organization of sworn law enforcement officers. The organization is committed to improving the working conditions of law enforcement officers and the safety of those they serve through education, legislation, information, community involvement, and employee representation. The mission of the organization includes: promoting and fostering the impartial enforcement of law and order; improving the individual proficiency of its members in the performance of their duties; encouraging social, charitable, educational activities among all law enforcement officers; and to advocating and striving for uniform application of the Civil Service and merit system for all law enforcement officers.

The lodge has also erected a memorial, in Tallahassee, Florida, which contains the names of every law enforcement officer killed in the line of duty in Florida along with federal officers assigned to Florida who lost their lives in the line of duty.

The DHSMV states: “‘The Fraternal Order of Police’ sponsoring organization met the necessary requirements established by s. 320.08053, Florida Statutes, submitted its letter of intent prior to May 2, 2008, met the moratorium requirements, and is therefore grandfathered in. The survey was approved by the University of West Florida and validated by the Auditor General’s Office.”<sup>3</sup>

**III. Effect of Proposed Changes:**

The bill authorizes the DHSMV to develop a Fraternal Order of Police license plate titled “Fraternal Order of Police.” The department may only issue the plate to an applicant who submits a notarized letter from the Florida State Lodge of the Fraternal Order of Police stating the applicant is a member of the lodge in good standing or a member of a lodge member’s family.

Eligible drivers can purchase this specialty plate upon payment of the appropriate license taxes and fees and a \$25 annual use fee. The lodge retains all proceeds until startup costs to develop and establish the plate have been recovered. Thereafter, proceeds are distributed to the Florida State Lodge Memorial Foundation of the Fraternal Order of Police and used as follows:

- A maximum of 25 percent of proceeds may be used to promote and market the plate, administer the plate program, and pay administrative costs directly associated with the state Fraternal Order of Police Law Enforcement Memorial.
- Remaining fees are to be used by the foundation to fund projects, programs, or events related to the memorial or to fund improvements, maintenance, or other support for the memorial.

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<sup>3</sup> Analysis of SB 978, Florida Department of Highway Safety and Motor Vehicles, dated November 24, 2009 (on file with the Senate Committee on Criminal Justice). Further cited as “DMSMV analysis.”

The bill takes effect July 1, 2010.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Eligible persons who want to purchase a “Fraternal Order of Police” plate can do so for an additional charge of \$25 (plus \$5 processing fee) beyond the normal fees associated with buying a license plate.

The Florida State Lodge of the Fraternal Order of Police has paid the \$60,000 application fee, which will be refunded if the plate is not approved by the Legislature.

C. Government Sector Impact:

The DHSMV is responsible for developing and distributing the “Fraternal Order of Police” license plate. The cost of this effort is approximately \$60,000. This impact will be offset by the \$60,000 application fee that the organization has already paid. Revenue generated from the sale of this plate is based on public interest and cannot be predicted.<sup>4</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

This bill restricts the purchase of the Fraternal Order of Police license plate, allowing sales only to those that submit a notarized letter from the Florida State Lodge of Fraternal Order of Police stating that the applicant is a member of the lodge in good standing or a member of a lodge

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<sup>4</sup> DMSMV analysis.

member's family. This restriction may limit the sale of the license plate, and thus, potential proceeds, and may prevent other interested, but ineligible, parties from purchasing the plate.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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