

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.)

Prepared By: The Professional Staff of the Commerce Committee

BILL: CS/SB 2380

INTRODUCER: Commerce Committee and Senator Baker

SUBJECT: Motor Vehicle Sunscreening Material Restrictions

DATE: April 13, 2010 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Meyer	TR	Favorable
2.	O'Callaghan	Cooper	CM	Fav/CS
3.			CF	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This CS expands the existing exemption for people afflicted with certain medical conditions from window tinting restrictions to include people afflicted with an autoimmune disease. The CS also requires the Department of Highway Safety and Motor Vehicles (DHSMV) to consult with the Medical Advisory Board about autoimmune diseases and other medical conditions that require limited exposure to light.

The CS exempts vehicles owned or leased by licensed private investigative agencies or private investigators from certain window sunscreening restrictions.

The CS authorizes the DHSMV to promulgate rules for the implementation of the CS.

This CS substantially amends s. 316.29545, F.S.

II. Present Situation:

Window Sunscreening

Generally, the provisions of ss. 316.2951 – 316.2957, F.S., prohibit a motor vehicle window¹ from being tinted so darkly that it blocks the transmittance of more than a specified amount of visible light.² However, certain medical exclusions and vehicle exceptions apply. Specifically, persons afflicted with Lupus or a similar medical condition may obtain an exemption certificate from the Department of Highway Safety and Motor Vehicles and law enforcement vehicles used in undercover or canine operations are declared exempt under current law from the window sunscreening restrictions.³

Vehicle manufacturers are also exempt from the sunscreening restrictions under ss. 316.2951 – 316.2956, F.S., as long as the manufacturer's tinting or glazing on motor vehicles windows or windshields comply with or are permitted by the Federal Motor Vehicle Safety Standard No. 205, promulgated under 49 C.F.R. s. 571.205.

A person who violates the restrictions on the use of sunscreening materials commits a noncriminal traffic infraction, punishable as a nonmoving violation.⁴

Private Investigators and Private Investigative Agencies

A “private investigator” is defined as “any individual, who for consideration, advertises as providing or performs private investigation.”⁵ A “private investigative agency” is defined as “any person who, for consideration, advertises as providing or is engaged in the business of furnishing private investigations.”

The Department of Agriculture and Consumer Services regulates private investigators and private investigative agencies. Current licensing requirements under s. 493.6106, F.S., for private investigative and repossession services include that the applicant:

- Be at least 18 years of age.
- Be of good moral character.
- Not be adjudicated incapacitated.
- Not be a chronic and habitual user of alcoholic beverages to the extent that normal faculties are impaired.
- Not have been committed for controlled substance abuse or found guilty of a crime under ch. 893, F.S., within 3 years preceding the date of application.
- Be a citizen or legal resident alien of the U.S.⁶

¹ “Window” is defined under s. 316.2951, F.S., as “any device designed for exterior viewing from a motor vehicle, except the windshield, any roof-mounted viewing device, or any viewing device having less than 150 square inches in area.”

² See ss. 316.2951 – 316.2957, F.S., for detailed percentages applying to side windows, rear windows, and additional details regarding louvers, privacy drapes, and installation tolerances.

³ See s. 316.29545, F.S.

⁴ See ss. 316.2956 and 316.2954(3), F.S. See also, s. 318.18(2), F.S. A nonmoving violation penalty is \$30. In addition, a person with a nonmoving violation must pay \$18 in court costs, a \$12.50 administrative fee, an “Article V assessment” of \$10, and a surcharge up to \$15 if required under local ordinance.

⁵ Section 493.6101(16), F.S.

⁶ Section 493.6106(1), F.S.

There are six levels of licenses for private investigative individuals and agencies:

- Class “CC” - private investigator intern.
- Class “C” - private investigator.
- Class “MA” - manager of a private investigative agency.
- Class “M” - manager of a combined private investigative and security agency.
- Class “A” - private investigative agency.
- Class “AA” - private investigative agency branch.⁷

III. Effect of Proposed Changes:

Section 1 amends s. 316.29545, F.S., to expand the exemption for people afflicted with certain medical conditions from window sunscreening requirements to include those persons afflicted with an autoimmune disease. In addition, the DHSMV is required to consult with the Medical Advisory Board about autoimmune diseases and other medical conditions that require limited exposure to light.

This CS also creates an additional class of vehicles exempted from certain motor vehicle window sunscreening restrictions. The CS makes any vehicle owned or leased by a private investigative agency or private investigator licensed under ch. 493, F.S., exempt from certain window sunscreening regulations.

Specifically, the CS exempts these vehicles from the restrictions on the use of sunscreening materials for side windows (s. 316.2953, F.S.) and windows behind a driver in a vehicle (s. 316.2954, F.S.). In addition, it exempts private investigative agencies or private investigators from certain civil and criminal penalties for installing, replacing, repairing, or selling sunscreening materials (s. 316.2956, F.S.).

However, a vehicle being used by a licensed private investigative agency or private investigator is still not exempt from the sunscreening restrictions on windshields (s. 316.2952, F.S.). Also, a licensed private investigative agency or private investigator is not exempt from certain labeling requirements when installing sunscreening materials (s. 316.2955, F.S.).

The CS also authorizes DHSMV to promulgate rules to implement the provisions of the CS.

Section 2 provides an effective date of July 1, 2010.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁷Section 493.6201, F.S. *See also*, Department of Agriculture and Consumer Services, Division of Licensing, <http://licgweb.doacs.state.fl.us/investigations/types.html>.

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:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by the Commerce Committee on April 13, 2010:

This CS differs from the bill in that it:

- Expands the exemption from window suncreening restrictions for certain medical conditions to include those afflicted with an autoimmune disease;
- Requires the DHSMV to consult with the Medical Advisory Board about autoimmune diseases and other medical conditions requiring limited exposure to light;
- Expands the exemption from window suncreening restrictions to include vehicles owned or leased by private investigators;
- Does not contain limiting qualifying conditions for vehicles owned or leased by private investigative agencies to qualify as exempt; and
- Authorizes DHSMV to promulgate rules to implement the provisions of the CS.

B. Amendments:

None.

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