



ROADS, BRIDGES & PORTS POLICY COMMITTEE

Meeting Packet

**Wednesday, February 17, 2010
9:00 A.M. – 12:00 P.M.
404 HOB**

LARRY CRETUL
Speaker

GARY AUBUCHON
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Roads, Bridges & Ports Policy Committee

Start Date and Time: Wednesday, February 17, 2010 09:00 am
End Date and Time: Wednesday, February 17, 2010 12:00 pm
Location: 404 HOB
Duration: 3.00 hrs

Consideration of the following bill(s):

HB 97 Street Racing by Soto
HB 403 Derelict Motor Vehicles and Mobile Homes by Nehr
HB 609 Motor Vehicle Registration Application Forms by O'Toole
HB 643 State Road Designations by Bush

Consideration of the following proposed committee bill(s):

PCB RBP 10-01 -- Driver's Licenses
PCB RBP 10-02 -- Outdoor Theaters
PCB RBP 10-04 -- Transportation Corridors

Workshop on the following:

HB 41 Use of an Electronic Wireless Communications Device While Driving by Holder
HB 221 Driving Safety by Williams, A.
HB 323 Use of an Electronic Communications Device While Driving by Long
HB 333 Use of Cellular Telephones by Garcia
HB 687 Cellular Telephone Use by Chestnut
HB 893 Use of Cellular Telephones by Thurston

Workshop on the following:

HB 475 School Speed Zones by Gonzalez

NOTICE FINALIZED on 02/10/2010 15:42 by ADEYEMO.MARTHA

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 97

Street Racing

SPONSOR(S): Soto

TIED BILLS:

IDEN./SIM. BILLS: SB 768

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Public Safety & Domestic Security Policy Committee	12 Y, 0 N	Padgett	Cunningham
2) Roads, Bridges & Ports Policy Committee		Brown <i>RLB</i>	Miller <i>P.M.</i>
3) Transportation & Economic Development Appropriations Committee			
4) Criminal & Civil Justice Policy Council			
5)			

SUMMARY ANALYSIS

Section 316.191(2)(a), F.S. provides that a person may not:

- drive any motor vehicle, including any motorcycle, in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, or exhibition of speed or acceleration or for the purpose of making a speed record on any highway, roadway, or parking lot;
- in any manner participate in, coordinate, facilitate, or collect moneys at any location for any such race, competition, contest, test, or exhibition;
- knowingly ride as a passenger in any such race, competition, contest, test, or exhibition; or
- purposefully cause the movement of traffic to slow or stop for any such race, competition, contest, test, or exhibition.

A person who violates s. 316.191(2)(a), F.S. commits a first degree misdemeanor. In addition, the person must pay a fine of not less than \$500 and not more than \$1,000, and the person's driver's license is revoked for 1 year. A person who commits a second violation of this section within 5 years after the date of a prior violation that resulted in a conviction commits a first degree misdemeanor, must pay a fine of not less than \$500 and not more than \$1,000, and the person's driver's license is revoked for 2 years.

HB 97 increases the amount of the fine a person who commits a second violation of 316.191(2), F.S. within 5 years of a prior violation must pay to not less than \$1,000 and not more than \$3,000.

The bill provides that a person who commits a third violation of s. 316.191(a), F.S. within 5 years of the date of a prior violation must pay a fine of not less than \$2,000 and not more than \$5,000. The bill provides the person's driver's license must be revoked for 4 years.

The bill provides an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Law

Section 316.191(2)(a), F.S. provides that a person may not:

- drive any motor vehicle, including any motorcycle, in any race¹, speed competition or contest, drag race² or acceleration contest, test of physical endurance, or exhibition of speed or acceleration or for the purpose of making a speed record on any highway, roadway, or parking lot;
- in any manner participate in, coordinate, facilitate, or collect moneys at any location for any such race, competition, contest, test, or exhibition;
- knowingly ride as a passenger in any such race, competition, contest, test, or exhibition; or
- purposefully cause the movement of traffic to slow or stop for any such race, competition, contest, test, or exhibition.

A person who violates s. 316.191(2)(a), F.S. commits a first degree misdemeanor³. In addition, the person must pay a fine of not less than \$500 and not more than \$1,000, and the person's driver's license is revoked for 1 year.⁴ A person who commits a second violation within 5 years after the date of a prior violation that resulted in a conviction⁵ for a violation of this section commits a first degree

¹ "Race" is defined to mean the use of one or more motor vehicles in competition, arising from a challenge to demonstrate superiority of a motor vehicle or of a motor vehicle or driver and the acceptance or competitive response to that challenge, either through a prior arrangement or in an immediate response, in which the competitor attempts to outgain or outdistance another motor vehicle, to prevent another vehicle from passing, to arrive at a given destination ahead of another motor vehicle or motor vehicles, or to test the physical stamina or endurance of drivers over long-distance driving routes. A race may be prearranged or may occur through a competitive response to conduct on the part of one or more drivers which, under the totality of circumstances, can reasonably be interpreted as a challenge to race. Section 316.191(1)(c), F.S.

² "Drag race" is defined to mean the operation of two or more motor vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one or more motor vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of such motor vehicles within a certain distance or time limit. Section 316.191(1)(b), F.S.

³ A first degree misdemeanor is punishable by up to one year in jail and a maximum \$1,000 fine. Section 775.082, 775.083, F.S.

⁴ Section 316.191(2)(a), F.S.

⁵ "Conviction" is defined to mean a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld. Section 316.191(1)(a), F.S.

misdeemeanor, must pay a fine of not less than \$500 and not more than \$1,000, and the person's driver's license is revoked for 2 years.⁶

In 2007, the Fourth District Court of Appeal ruled that s. 316.191, F.S. was unconstitutionally vague because the statutory definition of racing could include both lawful and unlawful conduct.⁷ For example, both speeding (illegal) and the act of passing a vehicle (legal) could be included under the definition since both acts could be an attempt to outgain or outdistance another motor vehicle. The court held that the critical distinction between the lawful and unlawful conduct was the element of competition or a challenge between two drivers.⁸ Absent such language, the court held the s. 316.191, F.S. was unconstitutionally vague on its face.⁹

In the 2009 legislative session, s. 316.191, F.S. was amended to address the constitutional issues raised by the Fourth District Court of Appeal.¹⁰

Proposed Changes

HB 97 increases the amount of the fine a person who commits a second violation of 316.191(2), F.S. within 5 years of a prior violation must pay to not less than \$1,000 and not more than \$3,000.

The bill provides that a person who commits a third violation of s. 316.191(a), F.S. within 5 years of the date of a prior violation must pay a fine of not less than \$2,000 and not more than \$5,000. The bill provides the person's driver's license must be revoked for 4 years.

B. SECTION DIRECTORY:

Section 1: Provides the bill may be cited as the "Luis Rivera Ortega Street Racing Act."

Section 2: Amends s. 316.191, F.S., relating to racing on highways.

Section 3: Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See fiscal comments.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See fiscal comments.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

⁶ Section 316.191(2)(b), F.S.

⁷ State v. Wells, 965 So. 2d. 834 (Fla. 4th DCA, 2007).

⁸ Id.

⁹ Id.

¹⁰ An amendment to HB 1021 was adopted which amended s. 316.191, F.S.

None.

D. FISCAL COMMENTS:

The bill increases the minimum and maximum fine amounts for second and third convictions for racing on highways within 5 years of a prior conviction of this section. It is possible that the increased fines could result in increased revenue.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

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1 A bill to be entitled
 2 An act relating to street racing; creating the "Luis
 3 Rivera Ortega Street Racing Act"; amending s. 316.191,
 4 F.S.; revising penalties for violating provisions
 5 prohibiting certain speed competitions and exhibitions;
 6 providing an effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. This act may be cited as the "Luis Rivera
 11 Ortega Street Racing Act."

12 Section 2. Section 316.191, Florida Statutes, is amended
 13 to read:

14 316.191 Racing on highways.--

15 (1) As used in this section, the term:

16 (a) "Conviction" means a determination of guilt that is
 17 the result of a plea or trial, regardless of whether
 18 adjudication is withheld.

19 (b) "Drag race" means the operation of two or more motor
 20 vehicles from a point side by side at accelerating speeds in a
 21 competitive attempt to outdistance each other, or the operation
 22 of one or more motor vehicles over a common selected course,
 23 from the same point to the same point, for the purpose of
 24 comparing the relative speeds or power of acceleration of such
 25 motor vehicle or motor vehicles within a certain distance or
 26 time limit.

27 (c) "Race" means the use of one or more motor vehicles in
 28 competition, arising from a challenge to demonstrate superiority

29 of a motor vehicle or driver and the acceptance or competitive
 30 response to that challenge, either through a prior arrangement
 31 or in immediate response, in which the competitor attempts to
 32 outgain or outdistance another motor vehicle, to prevent another
 33 motor vehicle from passing, to arrive at a given destination
 34 ahead of another motor vehicle or motor vehicles, or to test the
 35 physical stamina or endurance of drivers over long-distance
 36 driving routes. A race may be prearranged or may occur through a
 37 competitive response to conduct on the part of one or more
 38 drivers which, under the totality of the circumstances, can
 39 reasonably be interpreted as a challenge to race.

40 (d) "Spectator" means any person who is knowingly present
 41 at and views a drag race, when such presence is the result of an
 42 affirmative choice to attend or participate in the race. For
 43 purposes of determining whether or not an individual is a
 44 spectator, finders of fact shall consider the relationship
 45 between the racer and the individual, evidence of gambling or
 46 betting on the outcome of the race, and any other factor that
 47 would tend to show knowing attendance or participation.

48 (2)~~(a)~~ A person may not:

49 (a)1- Drive any motor vehicle, including any motorcycle,
 50 in any race, speed competition or contest, drag race or
 51 acceleration contest, test of physical endurance, or exhibition
 52 of speed or acceleration or for the purpose of making a speed
 53 record on any highway, roadway, or parking lot;

54 (b)2- In any manner participate in, coordinate,
 55 facilitate, or collect moneys at any location for any such race,
 56 competition, contest, test, or exhibition;

57 (c)3- Knowingly ride as a passenger in any such race,
 58 competition, contest, test, or exhibition; or

59 (d)4- Purposefully cause the movement of traffic to slow
 60 or stop for any such race, competition, contest, test, or
 61 exhibition.

62 (3) (a) Any person who violates subsection (2) ~~any~~
 63 ~~provision of this paragraph~~ commits a misdemeanor of the first
 64 degree, punishable as provided in s. 775.082 or s. 775.083. Any
 65 person who violates subsection (2) ~~any provision of this~~
 66 ~~paragraph~~ shall pay a fine of not less than \$500 and not more
 67 than \$1,000, and the department shall revoke the driver license
 68 of a person so convicted for 1 year. A hearing may be requested
 69 pursuant to s. 322.271.

70 (b) Any person who commits a second violation of
 71 subsection (2) ~~violates paragraph (a)~~ within 5 years after the
 72 date of a prior violation that resulted in a conviction for a
 73 violation of subsection (2) ~~this subsection~~ commits a
 74 misdemeanor of the first degree, punishable as provided in s.
 75 775.082 or s. 775.083, and shall pay a fine of not less than
 76 \$1,000 ~~\$500~~ and not more than \$3,000 ~~\$1,000~~. The department
 77 shall also revoke the driver license of that person for 2 years.
 78 A hearing may be requested pursuant to s. 322.271.

79 (c) Any person who commits a third violation of subsection
 80 (2) within 5 years after the date of a prior violation that
 81 resulted in a conviction for a violation of subsection (2)
 82 commits a misdemeanor of the first degree, punishable as
 83 provided in s. 775.082 or s. 775.083, and shall pay a fine of
 84 not less than \$2,000 and not more than \$5,000. The department

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85 shall also revoke the driver license of that person for 4 years.

86 A hearing may be requested pursuant to s. 322.271.

87 (d)~~(e)~~ In any case charging a violation of subsection (2)
 88 ~~paragraph (a)~~, the court shall be provided a copy of the driving
 89 record of the person charged and may obtain any records from any
 90 other source to determine if one or more prior convictions of
 91 the person for a violation of subsection (2) ~~paragraph (a)~~ have
 92 occurred within 5 years prior to the charged offense.

93 (4)~~(3)~~(a) A person may not be a spectator at any drag race
 94 prohibited under subsection (2).

95 (b) A person who violates ~~the provisions of~~ paragraph (a)
 96 commits a noncriminal traffic infraction, punishable as a moving
 97 violation as provided in chapter 318.

98 (5)~~(4)~~ Whenever a law enforcement officer determines that
 99 a person was engaged in a drag race or race, as described in
 100 subsection (1), the officer may immediately arrest and take such
 101 person into custody. The court may enter an order of impoundment
 102 or immobilization as a condition of incarceration or probation.
 103 Within 7 business days after the date the court issues the order
 104 of impoundment or immobilization, the clerk of the court must
 105 send notice by certified mail, return receipt requested, to the
 106 registered owner of the motor vehicle, if the registered owner
 107 is a person other than the defendant, and to each person of
 108 record claiming a lien against the motor vehicle.

109 (a) Notwithstanding any provision of law to the contrary,
 110 the impounding agency shall release a motor vehicle under the
 111 conditions provided in s. 316.193(6)(e), (f), (g), and (h), if

112 the owner or agent presents a valid driver license at the time
 113 of pickup of the motor vehicle.

114 (b) All costs and fees for the impoundment or
 115 immobilization, including the cost of notification, must be paid
 116 by the owner of the motor vehicle or, if the motor vehicle is
 117 leased or rented, by the person leasing or renting the motor
 118 vehicle, unless the impoundment or immobilization order is
 119 dismissed. All provisions of s. 713.78 shall apply.

120 (c) Any motor vehicle used in violation of subsection (2)
 121 may be impounded for a period of 30 business days if a law
 122 enforcement officer has arrested and taken a person into custody
 123 pursuant to this subsection and the person being arrested is the
 124 registered owner or coowner of the motor vehicle. If the
 125 arresting officer finds that the criteria of this paragraph are
 126 met, the officer may immediately impound the motor vehicle. The
 127 law enforcement officer shall notify the Department of Highway
 128 Safety and Motor Vehicles of any impoundment for violation of
 129 this subsection in accordance with procedures established by the
 130 department. ~~The provisions of Paragraphs (a) and (b) shall be~~
 131 applicable to such impoundment.

132 (6)~~(5)~~ Any motor vehicle used in violation of subsection
 133 (2) by any person within 5 years after the date of a prior
 134 conviction of that person for a violation under subsection (2)
 135 may be seized and forfeited as provided by the Florida
 136 Contraband Forfeiture Act. This subsection shall only be
 137 applicable if the owner of the motor vehicle is the person
 138 charged with violating ~~violation of~~ subsection (2).

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139 (7)~~(6)~~ This section does not apply to licensed or duly
140 authorized racetracks, drag strips, or other designated areas
141 set aside by proper authorities for such purposes.

142 Section 3. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 403 Derelict Motor Vehicles and Mobile Homes
SPONSOR(S): Nehr and others
TIED BILLS: IDEN./SIM. BILLS: SB 792

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: Roads, Bridges & Ports Policy Committee, Brown, Miller.

SUMMARY ANALYSIS

HB 403 amends s. 319.30, F.S., regarding derelict vehicles and mobile homes. It clarifies the requirements for destroying or dismantling motor vehicle or mobile homes, expands the definition of "certificate of title" to include titles from other states; and clarifies that a 10-year provision to determine whether a vehicle is derelict begins with the model year of the vehicle.

HB 403 makes allowances for a "seller" to apply for a derelict motor vehicle certificate, in cases where the owner is not able to apply, and requires applications to include a personal identification number.

The bill creates new prohibitions for persons engaged in the business of recovering, storing, or towing vehicles under s. 713.78, F.S. Entities in this industry may not (i) claim a lien for labor or services on a motor vehicle, (ii) claim that a motor vehicle has remained on their premises after a tenancy has terminated, or (iii) use a derelict motor vehicle certificate application in order to transport a vehicle without obtaining the title (or a certificate of destruction) for that vehicle.

The bill has an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Section 319.30, F.S., requires that when a motor vehicle or mobile home is to be dismantled, destroyed, or altered so significantly as to no longer be the motor vehicle or mobile home described in the certificate of title, the owner must surrender the title to DHSMV for cancellation. Violation of the requirement constitutes a second degree misdemeanor.

Currently, when a vehicle is sold to a salvage dealer, the statute requires that a vehicle must be accompanied by the:

- certificate of title,
- salvage certificate of title, or a
- vehicle certificate of destruction issued by DHSMV.

Alternatively, if the title has been surrendered to DHSMV, a "derelict motor vehicle certificate" from the vehicle owner attesting to the surrender of the title must accompany the vehicle.¹ Salvage motor vehicle dealers are required to record the name, address, and personal identification card number of any person delivering motor vehicles, derelicts and major parts.² Similarly, when a motor vehicle, derelict, or major part is purchased by a secondary metals recycler,³ the recycler must record the name, address, and personal identification card number of any person delivering the vehicle, derelict or part, and must obtain from the seller:

- valid certificate of title,
- valid certificate of destruction issued by DHSMV, or
- If neither of the above is available, a derelict motor vehicle certificate signed by the seller stating that the certificate of title was returned to DHSMV.

Existing law provides a process for towing and storage companies to dispose of or dismantle vehicles they lawfully possess, after a certain period of time. Section 713.78(11)(a), F.S., provides that any person regularly engaged in the business of recovering, towing, or storing vehicles or vessels who legally possesses a vehicle may apply for a certificate of destruction from the county tax collector. The

¹ Section 319.30(2)(c)2., F.S.

² Section 319.30 (6), F.S.

³ S. 538.18 (8) F.S. defines "secondary metals recycler" as an individual who is engaged, from a fixed location or otherwise, in the business of gathering or obtaining ferrous or nonferrous metals that have served their original economic purpose or is in the business of performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value.

company must first attempt to identify the owner through the methods contained in s. 713.78(6), F.S., and wait a specified period of time, depending on the age of the vehicle.

Section 713.78(11), F.S. also provides that a certificate of destruction is re-assignable a maximum of two times before dismantling or destruction of the vehicle is required, and the certificate must accompany the vehicle when sold, in lieu of a certificate of title. The application for a certificate of destruction must include an affidavit from the applicant that it has complied with all applicable requirements and, if the vehicle is not registered in Florida, by a statement from a law enforcement officer that the vehicle or vessel is not reported stolen.

Section 713.78(2), F.S., provides that a company may claim a lien on the vehicle for reasonable towing and storage services, but may not charge storing fees if the storage lasts less than 6 hours. Subsection (3) provides that companies may not claim a lien for fees or charges related to merely immobilizing a vehicle with a boot or similar device.

Proposed Changes

HB 403 amends s. 319.30, F.S., to clarify and expand several derelict and salvage vehicle issues.

Specifically, the bill amends s. 319.30(1)(c), F.S., revising the definition of "certificate of title" to include a title issued by an authorized motor vehicle department from a state other than Florida. This provision clarifies that DHSMV accepts out-of-state titles as legitimate certificates of title. This bill also amends s. 319.30(1)(e), F.S., to clarify that the model year of the vehicle counts as "year one" when defining a derelict motor vehicle.

HB 403 defines the term "seller," and applies the term throughout s. 319.30, F.S., so that, in addition to the owner of record of a derelict motor vehicle, a person who has "physical possession and responsibility for a derelict motor vehicle" may also apply for a derelict motor vehicle certificate. The bill also amends s. 319.30(1)(f), F.S., to clarify that a "derelict motor vehicle certificate" is the document issued by DHSMV after an owner or seller completes a derelict motor vehicle certificate application.

HB 403 clarifies several sections of the statute regarding title transfers, by explicitly requiring certificates of title transferred in accordance with this statute also conform to the endorsement provisions in s. 319.22, F.S.⁴

The bill amends portions of s. 319.30(2) and (7), F.S., to require that a derelict motor vehicle certificate application must be completed by the seller or owner if the title certificate, salvage title certificate, or certificate of destruction is not available. It further details the information that is required on the application, which includes a copy of the seller's or owner's personal identification card, when that identification card is something other than a Florida driver license or Florida identification card. Failure to obtain this personal identification information is penalized as a third-degree felony.

HB 403 creates a new s. 319.30(8)(f), F.S., prohibiting any person engaged in the business of recovering, towing or storing vehicles pursuant to s. 713.78, F.S., from:

- claiming a lien for performing labor or services pursuant to s. 713.58, F.S.⁵;
- claiming that a motor vehicle or mobile home has remained on the premises after tenancy has terminated pursuant to s. 715.104, F.S.⁶; or
- using a derelict motor vehicle certificate application to transport, sell, or dispose of a motor vehicle at a salvage motor vehicle dealer or a metal recycler without obtaining the title or certificate of destruction required under ss. 713.58, 715.104, or 713.78, F.S.

Violations of these prohibitions are third-degree felonies.

⁴ Section 319.22, F.S., contains the general endorsement requirements for all title transfers.

⁵ Section 713.58, F.S., generally allows for liens on personal property by persons who have provide labor or services on the property.

⁶ Section 715.104, F.S., provides a notification process for landlords in possession of former tenants' personal property, after the tenant's occupancy has terminated.

B. SECTION DIRECTORY:

Section 1 Amends s. 319.30, F.S., defining the term "seller" and revising the definitions of the terms "certificate of title," "derelict motor vehicle," and "derelict motor vehicle certificate"; revising requirements for disposition of a motor vehicle, RV, or mobile home that is sold, transported, or delivered to a salvage motor vehicle dealer or a secondary metals recycler; requiring certificates of title to conform to specified provisions; providing for the dealer or recycler to apply to the DHSMV for a derelict motor vehicle certificate if the certificate of title, salvage certificate of title, or certificate of destruction is not available; requiring the derelict motor vehicle certificate application to be completed by the seller or owner of the motor vehicle or mobile home, the seller's or owner's authorized transporter, and the dealer or recycler; requiring certain identification information be included with the application; revising the types of documentation that a secondary metals recycler must obtain; permitting recyclers to obtain salvage certificates of title from sellers or owners as a valid method of documentation; providing that a person engaged in the business of recovering, towing, or storing vehicles may not claim certain liens, claim that certain vehicles have remained on any premises after tenancy has terminated, or use the derelict motor vehicle certificate application to transport, sell, or dispose of a motor vehicle at a salvage motor vehicle dealer or metal recycler without otherwise obtaining title to the vehicle or a certificate of destruction; and providing penalties.

Section 2 Provides an effective date of July 1, 2010

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Criminal Justice Impact Conference has not yet determined a final impact. The Department of Corrections notes that because the bill creates a new penalty, it "has no data available to gauge impact of the bill on the offender and prison population."⁷ DHSMV reports that the bill has no fiscal impact on its operations.⁸

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may result in cost-avoidance for those motor vehicle owners protected by the bill's criminal prohibition against vehicle liens levied improperly by certain vehicle transporters.

D. FISCAL COMMENTS:

None.

⁷ *HB 403 Memorandum*, Tommy Maggitas, Office of Legislative Affairs, Department of Corrections, December 24, 2009.

⁸ *Agency Bill Analysis – HB 403*, Department of Highway Safety and Motor Vehicles, December 7, 2009.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to: require counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to derelict motor vehicles and mobile
 3 homes; amending s. 319.30, F.S.; defining the term
 4 "seller" and revising the definitions of the terms
 5 "certificate of title," "derelict motor vehicle," and
 6 "derelict motor vehicle certificate"; revising
 7 requirements for disposition of a motor vehicle,
 8 recreational vehicle, or mobile home that is sold,
 9 transported, or delivered to a salvage motor vehicle
 10 dealer or a secondary metals recycler; requiring
 11 certificates of title to conform to specified provisions;
 12 providing for the dealer or recycler to apply to the
 13 Department of Highway Safety and Motor Vehicles for a
 14 derelict motor vehicle certificate if the certificate of
 15 title, salvage certificate of title, or certificate of
 16 destruction is not available; requiring the derelict motor
 17 vehicle certificate application to be completed by the
 18 seller or owner of the motor vehicle or mobile home, the
 19 seller's or owner's authorized transporter, and the dealer
 20 or recycler; requiring certain identification information
 21 be included with the application; revising the types of
 22 documentation that a secondary metals recycler must
 23 obtain; permitting recyclers to obtain salvage
 24 certificates of title from sellers or owners as a valid
 25 method of documentation; providing that a person engaged
 26 in the business of recovering, towing, or storing vehicles
 27 may not claim certain liens, claim that certain vehicles
 28 have remained on any premises after tenancy has

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29 terminated, or use the derelict motor vehicle certificate
 30 application to transport, sell, or dispose of a motor
 31 vehicle at a salvage motor vehicle dealer or metal
 32 recycler without otherwise obtaining title to the vehicle
 33 or a certificate of destruction; providing penalties;
 34 providing an effective date.

35

36 Be It Enacted by the Legislature of the State of Florida:

37

38 Section 1. Paragraphs (c), (e), and (f) of subsection (1),
 39 paragraphs (b) and (c) of subsection (2), and subsection (7) of
 40 section 319.30, Florida Statutes, are amended, paragraph (v) is
 41 added to subsection (1), paragraphs (f) and (g) of subsection
 42 (8) are redesignated as paragraphs (g) and (h), respectively,
 43 and a new paragraph (f) is added to that subsection, to read:

44 319.30 Definitions; dismantling, destruction, change of
 45 identity of motor vehicle or mobile home; salvage.—

46 (1) As used in this section, the term:

47 (c) "Certificate of title" means a record that serves as
 48 evidence of ownership of a vehicle, whether such record is a
 49 paper certificate authorized by the department or by a motor
 50 vehicle department authorized to issue titles in another state
 51 or a certificate consisting of information stored in electronic
 52 form in the department's database.

53 (e) "Derelict motor vehicle" means any motor vehicle as
 54 defined in s. 320.01(1) or mobile home as defined in s.
 55 320.01(2), with or without all parts, major parts, or major
 56 component parts, which is valued under \$1,000, is at least 10

57 | model years old, beginning with the model year of the vehicle as
 58 | year one, and is in such condition that its highest or primary
 59 | value is for sale, transport, or delivery to a licensed salvage
 60 | motor vehicle dealer or registered secondary metals recycler for
 61 | dismantling its component parts or conversion to scrap metal.

62 | (f) "Derelict motor vehicle certificate" means a
 63 | certificate issued by the department which serves as evidence
 64 | that a derelict motor vehicle will be dismantled or converted to
 65 | scrap metal. The certificate is obtained by completing a
 66 | derelict motor vehicle certificate application authorized by the
 67 | department ~~completed by the derelict motor vehicle owner, the~~
 68 | ~~owner's authorized transporter when different from the owner,~~
 69 | ~~and the licensed salvage motor vehicle dealer or the registered~~
 70 | ~~secondary metals recycler and submitted to the department for~~
 71 | ~~cancellation of the title record of the derelict motor vehicle.~~
 72 | A derelict motor vehicle certificate may be reassigned only one
 73 | time if the derelict motor vehicle certificate was completed by
 74 | a licensed salvage motor vehicle dealer and the derelict motor
 75 | vehicle was sold to a secondary metals recycler.

76 | (v) "Seller" means the owner of record or a person who has
 77 | physical possession and responsibility for a derelict motor
 78 | vehicle and attests that possession of the vehicle and all
 79 | ownership rights were obtained through lawful means. A seller
 80 | does not include a towing company, repair shop, or landlord
 81 | unless the towing company, repair shop, or landlord has obtained
 82 | title, salvage title, or a certificate of destruction in the
 83 | name of the towing company, repair shop, or landlord.

84 | (2)

85 (b)1. When a motor vehicle, recreational vehicle, or
 86 mobile home is sold, transported, or delivered to a salvage
 87 motor vehicle dealer, it shall be accompanied by:

88 a. A valid certificate of title issued in the name of the
 89 seller or properly endorsed, as required in s. 319.22, over to
 90 the seller;

91 b. A valid salvage certificate of title issued in the name
 92 of the seller or properly endorsed, as required in s. 319.22,
 93 over to the seller; or

94 c. A valid certificate of destruction issued in the name
 95 of the seller or properly endorsed over to the seller.

96 2. Any person who willfully and deliberately violates this
 97 paragraph by selling, transporting, delivering, purchasing, or
 98 receiving a motor vehicle, recreational vehicle, or mobile home
 99 without obtaining a properly endorsed certificate of title,
 100 salvage certificate of title, or certificate of destruction from
 101 the owner commits a felony of the third degree, punishable as
 102 provided in s. 775.082, s. 775.083, or s. 775.084.

103 (c)1. When a derelict motor vehicle is sold, transported,
 104 or delivered to a licensed salvage motor vehicle dealer, the
 105 purchaser shall record the date of purchase and the name,
 106 address, and personal identification card number of the person
 107 selling the derelict motor vehicle, and it shall be accompanied
 108 by:

109 a. A valid certificate of title issued in the name of the
 110 seller or properly endorsed, as required in s. 319.22, over to
 111 the seller;

112 b. A valid salvage certificate of title issued in the name
 113 of the seller or properly endorsed, as required in s. 319.22,
 114 over to the seller; or

115 c. A valid certificate of destruction issued in the name
 116 of the seller or properly endorsed over to the seller.

117 2. If the certificate of title, salvage certificate of
 118 title, or certificate of destruction is not available, a
 119 derelict motor vehicle certificate application shall be
 120 completed by the seller or owner of the motor vehicle or mobile
 121 home, the seller's or owner's authorized transporter, and the
 122 licensed salvage motor vehicle dealer at the time of sale,
 123 transport, or delivery to the licensed salvage motor vehicle
 124 dealer. The derelict motor vehicle certificate application shall
 125 be used by the seller or owner, the seller's or owner's
 126 authorized transporter, and the licensed salvage motor vehicle
 127 dealer to obtain a derelict motor vehicle certificate from the
 128 department. The identifying number on the personal
 129 identification card of the seller or owner must be recorded on
 130 the derelict motor vehicle certificate application. The derelict
 131 motor vehicle certificate application must be accompanied by a
 132 copy of the seller's or owner's personal identification card
 133 when the personal identification card is something other than a
 134 Florida driver's license or Florida identification card. The
 135 licensed salvage motor vehicle dealer shall secure the motor
 136 vehicle or mobile home for 3 full business days, excluding
 137 weekends and holidays, before destroying or dismantling the
 138 derelict motor vehicle and shall follow all reporting procedures
 139 established by the department, including electronic notification

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140 to the department or delivery of the original derelict motor
 141 vehicle certificate application to an agent of the department
 142 within 24 hours after receiving the derelict motor vehicle.

143 3. Any person who willfully and deliberately violates this
 144 paragraph by selling, transporting, delivering, purchasing, or
 145 receiving a derelict motor vehicle without obtaining a
 146 certificate of title, salvage certificate of title, certificate
 147 of destruction, or derelict motor vehicle certificate
 148 application; enters false or fictitious information on a
 149 derelict motor vehicle certificate application; does not
 150 complete the derelict motor vehicle certificate application as
 151 required; does not obtain a copy of the seller's or owner's
 152 personal identification card when required; ~~or~~ does not make the
 153 required notification to the department; or destroys or
 154 dismantles a derelict motor vehicle without waiting the required
 155 3 full business days commits a felony of the third degree,
 156 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

157 (7)(a) In the event of a purchase by a secondary metals
 158 recycler, that has been issued a certificate of registration
 159 number, of:

160 1. Materials, prepared materials, or parts from any seller
 161 for purposes other than the processing of such materials,
 162 prepared materials, or parts, the purchaser shall obtain such
 163 documentation as may be required by this section and shall
 164 record the seller's name and address, date of purchase, and the
 165 personal identification card number of the person delivering
 166 such items.

167 2. Parts or prepared materials from any seller for
 168 purposes of the processing of such parts or prepared materials,
 169 the purchaser shall record the seller's name and address and
 170 date of purchase and, in the event of a purchase transaction
 171 consisting primarily of parts or prepared materials, the
 172 personal identification card number of the person delivering
 173 such items.

174 3. Materials from another secondary metals recycler for
 175 purposes of the processing of such materials, the purchaser
 176 shall record the seller's name and address and date of purchase.

177 4.a. Motor vehicles, recreational vehicles, mobile homes,
 178 or derelict motor vehicles from other than a secondary metals
 179 recycler for purposes of the processing of such motor vehicles,
 180 recreational vehicles, mobile homes, or derelict motor vehicles,
 181 the purchaser shall record the date of purchase and the name,
 182 address, and personal identification card number of the person
 183 selling such items and shall obtain the following documentation
 184 from the seller with respect to each item purchased:

185 (I) A valid certificate of title issued in the name of the
 186 seller or properly endorsed, as required in s. 319.22, over to
 187 the seller;

188 (II) A valid salvage certificate of title issued in the
 189 name of the seller or properly endorsed, as required in s.
 190 319.22, over to the seller;

191 ~~(III)-(II)~~ A valid certificate of destruction issued in the
 192 name of the seller or properly endorsed over to the seller; or

193 ~~(IV)-(III)~~ A valid derelict motor vehicle certificate
 194 obtained from the department ~~completed~~ by a licensed salvage

195 | motor vehicle dealer and properly reassigned to the secondary
 196 | metals recycler.

197 | b. If a valid certificate of title, salvage certificate of
 198 | title, certificate of destruction, or derelict motor vehicle
 199 | certificate is not available and the motor vehicle or mobile
 200 | home is a derelict motor vehicle, a derelict motor vehicle
 201 | certificate application shall be completed by the seller or
 202 | owner of the motor vehicle or mobile home, the seller's or
 203 | owner's authorized transporter, and the registered secondary
 204 | metals recycler at the time of sale, transport, or delivery to
 205 | the registered secondary metals recycler. The derelict motor
 206 | vehicle certificate application shall be used by the seller or
 207 | owner, the seller's or owner's authorized transporter, and the
 208 | registered secondary metals recycler to obtain a derelict motor
 209 | vehicle certificate from the department. The identifying number
 210 | on the personal identification card of the seller or owner must
 211 | be recorded on the derelict motor vehicle certificate
 212 | application. The derelict motor vehicle certificate application
 213 | must be accompanied by a copy of the seller's or owner's
 214 | personal identification card when the personal identification
 215 | card is something other than a Florida driver's license or
 216 | Florida identification card. The registered secondary metals
 217 | recycler shall secure the derelict motor vehicle for 3 full
 218 | business days, excluding weekends and holidays, before
 219 | destroying or dismantling the derelict motor vehicle and shall
 220 | follow all reporting procedures established by the department,
 221 | including electronic notification to the department or delivery
 222 | of the original derelict motor vehicle certificate application

223 to an agent of the department within 24 hours after receiving
 224 the derelict motor vehicle.

225 c. Any person who willfully and deliberately violates this
 226 subparagraph by selling, transporting, delivering, purchasing,
 227 or receiving a motor vehicle, recreational motor vehicle, mobile
 228 home, or derelict motor vehicle without obtaining a certificate
 229 of title, salvage certificate of title, certificate of
 230 destruction, ~~or~~ derelict motor vehicle certificate, or derelict
 231 motor vehicle certificate application; enters false or
 232 fictitious information on a derelict motor vehicle certificate
 233 application; does not complete the derelict motor vehicle
 234 certificate application as required; does not obtain a copy of
 235 the seller's or owner's personal identification card when
 236 required; or does not make the required notification to the
 237 department; or destroys or dismantles a derelict motor vehicle
 238 without waiting the required 3 full business days commits a
 239 felony of the third degree, punishable as provided in s.
 240 775.082, s. 775.083, or s. 775.084.

241 5. Major parts from other than a secondary metals recycler
 242 for purposes of the processing of such major parts, the
 243 purchaser shall record the seller's name, address, date of
 244 purchase, and the personal identification card number of the
 245 person delivering such items, as well as the vehicle
 246 identification number, if available, of each major part
 247 purchased.

248 (b) Any person who violates this subsection commits a
 249 felony of the third degree, punishable as provided in s.
 250 775.082, s. 775.083, or s. 775.084.

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251 (8)
252 (f) This section does not authorize any person that is
253 engaged in the business of recovering, towing, or storing
254 vehicles pursuant to s. 713.78 to claim a lien for performing
255 labor or services on a motor vehicle or mobile home pursuant to
256 s. 713.58, to claim that a motor vehicle or mobile home has
257 remained on any premises after tenancy has terminated pursuant
258 to s. 715.104, or to use a derelict motor vehicle certificate
259 application for the purpose of transporting, selling, or
260 disposing of a motor vehicle at a salvage motor vehicle dealer
261 or metal recycler without obtaining the title or certificate of
262 destruction required under s. 713.58, s. 713.78, or s. 715.104.
263 Any person who transports, sells, or disposes of any motor
264 vehicle or mobile home that was recovered, towed, or stored
265 pursuant to s. 713.78, who claims a lien for performing labor or
266 services on a motor vehicle or mobile home pursuant to s.
267 713.58, or who claims that a motor vehicle or mobile home has
268 remained on any premises after tenancy has terminated pursuant
269 to s. 715.104 with respect to a derelict motor vehicle
270 certificate application commits a felony of the third degree,
271 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
272 Section 2. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 609
SPONSOR(S): O'Toole
TIED BILLS:

Motor Vehicle Registration Application Forms

IDEN./SIM. BILLS: SB 488

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Roads, Bridges & Ports Policy Committee		Brown <i>RJB</i>	Miller <i>P.M.</i>
2) Transportation & Economic Development Appropriations Committee			
3) Economic Development & Community Affairs Policy Council			
4)			
5)			

SUMMARY ANALYSIS

HB 609 amends section 320.02(15), F.S., to require the Department of Highway Safety and Motor Vehicles (DHSMV) to modify motor vehicle applications and renewals to allow a \$1 voluntary contribution to be made to Florida Network of Children's Advocacy Centers, Inc.

The bill provides that the recipient may retain up to 50 percent of the revenues collected "to support the activities of the network," and "shall distribute the remainder equitably among the network members, as determined by the board of directors of the network."

DHSMV has certified that Florida Network of Children's Advocacy Centers, Inc., has complied with s. 322.081, F.S., regarding requests to establish a voluntary check-off, by submitting its letter of request, \$10,000 application fee, and approved short- and long-term marketing plans.

The bill has an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The bill amends section 320.02, F.S., to require motor vehicle applications and renewals to include a voluntary \$1 contribution to Florida Network of Children's Advocacy Centers, Inc. (FNCAC), to support the network and its members. According to FNCAC's website, it is "a membership organization dedicated to helping local communities respond to allegations of child abuse in ways that are effective and efficient... The FNCAC provides training, support, technical assistance and leadership on a statewide level to local children's and child advocacy centers and communities throughout Florida responding to reports of child abuse and neglect."¹ The bill provides that FNCAC may keep up to 50 percent of the contributions collected for its own functions, and shall equitably distribute the remaining contributions to advocacy centers and communities that are members of FNCAC.

DHSMV has provided notice that FNCAC has complied with s. 322.081, F.S., regarding requests to establish a voluntary check-off, by submitting its letter of request, \$10,000 application fee, and approved short- and long-term marketing plans.

About Motor Vehicle Registration Check-offs

During the 1998 Session, the Legislature created s. 320.023, F.S., which outlines the procedures which an organization must follow prior to seeking Legislative authorization to request the creation of a new voluntary contribution fee and establish a corresponding voluntary check-off on a motor vehicle registration application. The check-off allows a registered owner or registrant of a motor vehicle to voluntarily contribute to one or more of the authorized organizations during a motor vehicle registration transaction. Before the organization is eligible, it must submit the following requirements to DHSMV at least 90 days before the convening of the Regular Session of the Legislature:

- A request for the particular voluntary contribution being sought, describing it in general terms.
- An application fee of up to \$10,000 to defray DHSMV's costs for reviewing the application and developing the check-off, if authorized. State funds may not be used to pay the application fee.
- A short and long-term marketing strategy and a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the voluntary contributions.

DHSMV must discontinue the check-off if less than \$25,000 has been contributed by the end of the fifth year, or if less than \$25,000 is contributed during any subsequent five-year period.

¹ <http://www.fncac.org>

Section 320.02, F.S., specifies the language that must appear on the State of Florida vehicle's registration and renewal application forms. Included in s. 320.02, F.S., are options for voluntary contributions to the following corporations, trust funds, and organizations as shown in the chart below. The chart includes three additional voluntary contributions relating to registrations authorized in other sections of law.²

Registration Check-offs/Voluntary Contribution	Statutory Authorization	Effective Date	Revenue Collected w/in last 5 years	Total Revenue Collected
*Save the Manatee TF (\$2 or \$5)	1984-338, L.O.F.	7/1/1985	\$478,310	\$3,191,012
Nongame Wildlife Trust Fund (\$1)	1984-194, L.O.F.	10/1/1984	\$210,421	\$19,244,868
*Marine Resources Conservation TF (\$5) Turtle Sticker is issued	1991-215, L.O.F.	7/1/1992	\$422,228	\$1,067,533
Organ & Tissue Donor Education (\$1)	95-423, L.O.F.	7/1/1995	\$284,239	\$586,143
Highway Safety Operating Trust Fund, used to purchase child safety seats (\$2)	1995-333, L.O.F.	10/1/1995	\$253,237	\$649,751
Transportation Disadvantaged Trust Fund (\$1)	1994-306, L.O.F.	7/1/1994	\$155,605	\$362,242
Prevent Blindness Florida (\$1)	1997-300, L.O.F.	10/1/1997	\$567,325	\$968,679
Florida Mothers Against Drunk Driving, Inc. (unspecified \$)	1999-233, L.O.F.	7/1/1999	\$350,902	\$542,973
Southeastern Guide Dogs, Inc. (\$1)	2005-254, L.O.F.	7/1/2005	\$225,256	\$225,256
Miami Heart Research Institute, Inc. (\$1)	2006-44, L.O.F.	7/1/2006	\$98,465	\$98,465
Children's Hearing Help Fund (\$1)	2007-50, L.O.F.	10/1/2007	\$63,886	\$63,886
State Homes for Veterans Trust Fund (\$1)	2008-87, L.O.F.	10/1/2008	\$82,806	\$82,806
Family First (\$1)	2008-102, L.O.F.	10/1/2008	\$16,365	\$16,365
Florida Sheriffs Youth Ranches, Inc. (\$1)	2009-110, L.O.F.	7/1/2009	\$176	\$176
Total			\$3,209,221	\$27,100,155

B. SECTION DIRECTORY:

Section 1 Amends s. 320.02, F.S., adding a voluntary contribution to Florida Network of Children's Advocacy Centers, Inc., to applications for motor vehicle registration and renewal forms.

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

² Specifically, s. 320.08047, F.S., allows a \$1 voluntary contribution to be deposited into the Health Care Trust Fund for organ and tissue donor education and for maintaining the organ and tissue donor registry. Section 328.72(11), F.S., requires that vessel registration and renewal application forms include a provision allowing for a voluntary contribution of \$2 or \$5 to the Save the Manatee Trust Fund to fund an impartial scientific benchmark census of the manatee population in the state and other activities intended to provide manatee and marine mammal protection and recovery efforts. Lastly, s. 328.72(16), F.S., requires the DHSMV to offer for sale with vessel registrations a marine turtle sticker for \$5 with proceeds deposited into the Marine Resource Conservation Trust Fund to be used for marine turtle protection, research, and recovery efforts.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill will require programming modifications to DHSMV's Driver License and Motor Vehicle Information Systems, the cost of which will be paid from the \$10,000 application fee submitted by the Florida Network of Children's Advocacy Centers, Inc.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Motorists who decide to donate would pay an additional dollar for vehicle registrations and drivers' licenses.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to: require counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

29 | department to the Florida Mothers Against Drunk Driving, Inc.,
 30 | on a monthly basis.

31 | (c) The application form for motor vehicle registration
 32 | shall include language permitting the voluntary contribution of
 33 | \$1 per applicant, to be distributed quarterly by the department
 34 | to Southeastern Guide Dogs, Inc., a corporation not for profit
 35 | under s. 501(c)(3) of the Internal Revenue Code, to be used by
 36 | that organization for the purpose of breeding, raising, and
 37 | training guide dogs for the blind. Such funds may also be used
 38 | toward the costs of the required in-residence training for the
 39 | individual receiving a guide dog.

40 | (d) The application form for motor vehicle registration
 41 | shall include language permitting the voluntary contribution of
 42 | \$1 per applicant to Stop Heart Disease. The proceeds shall be
 43 | distributed quarterly by the department to the Miami Heart
 44 | Research Institute, Inc., doing business as the Florida Heart
 45 | Research Institute, a corporation not for profit under s.
 46 | 501(c)(3) of the Internal Revenue Code, to be used by that
 47 | organization for the purpose of heart disease research,
 48 | education, and prevention programs.

49 | (e) The application form for motor vehicle registration
 50 | and renewal registration must include language permitting a
 51 | voluntary contribution of \$1 per applicant, which contribution
 52 | must be distributed to the Children's Hearing Help Fund to be
 53 | used for purposes provided for the fund.

54 | (f) Notwithstanding s. 320.023, the application form for
 55 | motor vehicle registration and renewal of registration must
 56 | include language permitting a voluntary contribution of \$1 per

57 applicant to the state homes for veterans, to be distributed on
 58 a quarterly basis by the department to the State Homes for
 59 Veterans Trust Fund, which is administered by the Department of
 60 Veterans' Affairs.

61 (g) The application form for motor vehicle registration
 62 and renewal of registration must include language permitting a
 63 voluntary contribution of \$1 to Family First. Such contributions
 64 must be transferred by the department each month to Family
 65 First, a nonprofit organization.

66 (h) The application form for motor vehicle registration
 67 and renewal of registration must include language permitting a
 68 voluntary contribution of \$1 to Florida Sheriffs Youth Ranches,
 69 Inc. Such contributions must be transferred by the department
 70 each month to Florida Sheriffs Youth Ranches, Inc., a not-for-
 71 profit organization.

72 (i) The application form for motor vehicle registration
 73 and renewal registration must include language permitting the
 74 voluntary contribution of \$1 per applicant, to be distributed
 75 quarterly by the department to Florida Network of Children's
 76 Advocacy Centers, Inc. The network may retain a maximum of 50
 77 percent of the revenues to support the activities of the network
 78 and shall distribute the remainder equitably among the network
 79 members, as determined by the board of directors of the network.

80
 81 For the purpose of applying the service charge provided in s.
 82 215.20, contributions received under this subsection are not
 83 income of a revenue nature.

84 Section 2. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 643 State Road Designations

SPONSOR(S): Bush and others

TIED BILLS: IDEN./SIM. BILLS:

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Roads, Bridges & Ports Policy Committee		Johnson <i>SAS</i>	Miller <i>P.M.</i>
2)	Economic Development & Community Affairs Policy Council			
3)				
4)				
5)				

SUMMARY ANALYSIS

Section 334.071, F.S., provides for legislative designations of transportation facilities for honorary or memorial purposes, or to distinguish a particular facility. The legislative designations do not "officially" change the current names of the facilities, nor does the statute require local governments and private entities to change street signs, mailing addresses, or 911 emergency telephone-number system listings.

The bill designates that portion of N.W. 79th Street between N.W. 6th Avenue and E. 12th Avenue in Miami-Dade County as "Miss Lillie Williams Boulevard."

The bill also directs DOT to erect suitable markers designating "Miss Lillie Williams Boulevard."

Assuming that two markers are erected, DOT estimates the cost to be \$800. This expenditure is from the State Transportation Trust Fund and includes installation and maintenance costs.

The bill does not create any constitutional or other legal issues. It takes effect July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 334.071, F.S., provides for legislative designations of transportation facilities for honorary or memorial purposes, or to distinguish a particular facility. The legislative designations do not "officially" change the current names of the facilities, nor does the statute require local governments and private entities to change street signs, mailing addresses, or 911 emergency telephone-number system listings.

The statute requires the Florida Department of Transportation (DOT) to place a marker at each terminus or intersection of an identified road or bridge, and to erect other markers it deems appropriate for the transportation facility. The statute also provides that a city or county must pass a resolution in support of a particular designation before road markers are erected. Additionally, if the designated road segment extends through multiple cities or counties, a resolution must be passed by each affected local government.

Effect of Proposed Change

The bill designates that portion of N.W. 79th Street¹ between N.W. 6th Avenue and E. 12th Avenue in Miami-Dade County as "Miss Lillie Williams Boulevard."

The bill also directs DOT to erect suitable markers designating "Miss Lillie Williams Boulevard."

The bill has an effective date of July 1, 2010.

B. SECTION DIRECTORY:

Section 1 Designates the "Miss Lillie Williams Boulevard;" directs DOT to erect suitable markers.

Section 2 Provides an effective date.

¹ This is also State Road 934.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

DOT estimates that the cost to erect two suitable road markers for this designation is approximately \$800. This expenditure is from the State Transportation Trust Fund and includes installation and maintenance costs.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

While not mentioned in the bill, N.W. 79th Street is also State Road 934.

According to the resume submitted by Rep. Bush's office, Miss Lillie Williams is a former Miami-Dade County Community Action Agency member and chairwoman of the Dade Employment Economic Development Corporation. She received a B.S. from Florida A&M University in 1950, a B.S. in Behavioral Science from Shaw University in 1970, and a Masters degree in Behavioral Science from A&T State University in 1980.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB RBP 10-01 Driver's Licenses
SPONSOR(S): Roads, Bridges & Ports Policy Committee
TIED BILLS: IDEN./SIM. BILLS:

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: Roads, Bridges & Ports Policy Committee, [blank], Brown RB, Miller P.M. Rows 2-5 are empty.

SUMMARY ANALYSIS

The bill repeals unnecessary language from Chapter 322, Florida Statutes, regarding drivers' licenses.

- The bill repeals a statute creating Advisory Council on the Effects of Aging on Driving Ability and requiring a report from that council in February 2004. The advisory council issued the required report and has no other duties.
The bill also repeals an unnecessary sub-paragraph from the provisions requiring the Department of Highway Safety and Motor Vehicles and the Florida Department of Law Enforcement to work together to identify and cancel the drivers' licenses of persons failing to appear in court to defend charges of passing worthless checks.
Lastly, the bill repeals requirements relating to chauffeur's licenses, which were phased out and replaced by Commercial Driver's Licenses in the early 1990's.

The bill does not have a fiscal impact.

The bill has an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Advisory Council on the Effects of Aging on Driving Ability

In 2003 the Florida Legislature tasked the Department of Highway Safety and Motor Vehicles with a study of the effects of aging on driving ability. Section 322.181, F.S., created an advisory council, provided a list of members to be part of the council, and required the Department to issue its report by February 1, 2004. The council did so, and the report is available online at the following web address: <http://www.flhsmv.gov/ddl/atriskdriver.pdf>.

The advisory council had no other duties to perform other than issue the 2004 report. In 2008 the Legislature removed the council membership portion of this statute.

This bill repeals the remaining text of the statute.

Identifying offenders passing worthless checks.

Section 832.09, F.S., provides that any person being prosecuted for passing a worthless check may have his or her driver's license suspended when the offender fails to appear before the court and a warrant or capias for failure to appear is issued the court. Section 322.251(7), F.S., addresses the process for administering these suspensions. Sub-paragraph (a) of 322.251(7), F.S. provides notice, surrender and reinstatement requirements; while sub-paragraph (b) of the section requires the Florida Department of Law Enforcement to provide the Department of Highway Safety and Motor Vehicles with electronic access to its data for the purpose of identifying these offenders. Sub-paragraph (c) of s. 322.251(7), F.S., which requires the two departments to develop a plan to "ensure the identification" of offenders, is redundant language in light of more specific requirements in sub-paragraphs (a) and (b).

The bill repeals s. 322.251(7)(c), F.S.

Chauffeurs' Licenses

Section 322.58, F.S., enacted in 1989, provides a period of time for holders of chauffeur's licenses to transfer to uniform Commercial Driver's License requirements. The 'phasing out' period ended on April 1, 1991, after which time chauffeurs' licenses were no longer issued nor recognized as valid.

The bill repeals this section, as chauffeur's licenses have not been issued or recognized since 1991.

B. SECTION DIRECTORY:

- Section 1 Repeals s. 322.181, F.S., relating to a study of the effects of aging on driving ability.
- Section 2 Repeals s. 322.251(7)(c), F.S., relating to notice of cancellation, suspension, revocation, or disqualification of license; repealing a provision that directs the Department of Highway Safety and Motor Vehicles and the Department of Law Enforcement to implement a plan ensuring the identification of driver license records of certain persons subject to outstanding warrant or capias for passing worthless bank checks
- Section 3 Repeals s. 322.58, F.S., regarding chauffeurs' licenses, repealing provisions for licensure of such persons under the appropriate license classification
- Section 4 Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
None.
2. Expenditures:
None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None.
2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:
Not applicable because the bill does not appear to: require counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.
2. Other:
None.

B. RULE-MAKING AUTHORITY:

N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

PCB RBP 10-01

ORIGINAL

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A bill to be entitled
An act relating to driver's licenses; repealing s.
322.181, F.S., relating to a study of the effects of aging
on driving ability; repealing s. 322.251(7)(c) , F.S.,
relating to notice of cancellation, suspension,
revocation, or disqualification of license; repealing a
provision that directs the Department of Highway Safety
and Motor Vehicles and the Department of Law Enforcement
to implement a plan ensuring the identification of driver
license records of certain persons subject to outstanding
warrant or capias for passing worthless bank checks;
repealing s. 322.58, F.S., relating to the effect of
classified licensure on persons holding a chauffeur's
license; repealing provisions for licensure of such
persons under the appropriate license classification;
providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

- Section 1. Section 322.181, Florida Statutes, is repealed.
- Section 2. Paragraph (c) of subsection (7) of section 322.251, Florida Statutes, is repealed.
- Section 3. Section 322.58, Florida Statutes, is repealed.
- Section 4. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB RBP 10-02 Outdoor Theaters
SPONSOR(S): Roads, Bridges & Ports Policy Committee
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Roads, Bridges & Ports Policy Committee		Johnson <i>SAS</i>	Miller <i>P.M.</i>
1)				
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

Chapter 555, F.S., was created in 1953, to provide for the safe ingress and egress to and from public roads by preventing hazardous conditions and locations in constructing outdoor theaters such as drive-in movie theaters. This law applies to outdoor theaters constructed after June 2, 1953. The law contains provisions for entrances and exits to the theater, minimum storage space for vehicles so they do not back-up into the highway, the location of the movie screen, the location of the tower, and the lighting of entrances and exits. The theater owner must prove compliance with these regulations before being issued an occupational license.

The bill repeals ch. 555, F.S., relating to outdoor theaters. This removes the statutory requirements concerning the ingress and egress to and from public roads that specifically apply to outdoor theaters.

The Department of Transportation has an access management program, which addresses the design and placement of driveways and medians in order to reduce traffic conflicts. The design of entrances and exits for outdoor theaters can be addressed through these access management guidelines. Other regulatory provisions of ch. 555, F.S., would be addressed through local land development regulations. Of the six drive-in theaters currently operating in Florida, the newest one opened in 1967.

The bill does not have a fiscal impact.

The bill has an effective date of July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Chapter 555, F.S., was created in 1953, to provide for the safe ingress and egress to and from public roads by preventing hazardous conditions and locations in constructing outdoor theaters such as drive-ins.¹ This law applies to outdoor theaters constructed after June 2, 1953. The law contains provisions for entrances and exits to the theater, minimum storage space for vehicles so they do not back-up into the highway, the orientation of the movie screen, the location of the tower, and lighting of entrances and exits. The theater owner must prove compliance with these regulations prior to being issued an occupational license. The last time any section of this chapter was amended was in 1979.

Proposed Changes

The bill repeals ch. 555, F.S., relating to outdoor theaters. This removes the statutory requirements concerning the ingress and egress to and from public roads that specifically apply to outdoor theaters. There are currently about six drive-in theaters operating in Florida and about 173 theaters that have closed. Of the ones that are open, the newest one was opened in 1967.²

The Department of Transportation has an access management program, which addresses the design and placement of driveways and medians in order to reduce traffic conflicts.³ The design of entrances and exits for outdoor theaters can be addressed through these access management guidelines. Other regulatory provisions of ch. 555, F.S., would be addressed through local land development regulations.

The bill has an effective date of July 1, 2010.

B. SECTION DIRECTORY:

¹ Ch. 28085, L.O.F.

² <http://www.driveintheater.com> (January 21, 2010).

³ Information on the Department of Transportation's access management program is available at <http://www.dot.state.fl.us/planning/systems/sm/accman/>.

- Section 1 Repeals ch. 555, F.S.; relating to outdoor theaters; removing provisions for entrances, exits, enclosures, vehicle storage, screen orientation, tower location, and driveway lighting; removing requirements for a qualifying certificate to prove compliance with agency regulations prior to issuance of an occupational license by the tax collector.
- Section 2 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that the counties or municipalities have to raise revenue in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

PCB RBP 10-02

ORIGINAL

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A bill to be entitled
 An act relating to outdoor theaters; repealing ch. 555,
 F.S., relating to access to public roads from outdoor
 theaters; removing provisions for entrances, exits,
 enclosures, vehicle storage, screen orientation, tower
 location, and driveway lighting; removing requirements for
 a qualifying certificate to prove compliance with agency
 regulations prior to issuance of an occupational license
 by the tax collector; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Sections 555.01, 555.02, 555.03, 555.04,
555.05, 555.07, and 555.08, Florida Statutes, are repealed.

Section 2. This act shall take effect July 1, 2010.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

In 2003, the Legislature created s. 341.0532, F.S., relating to statewide transportation corridors. Section 341.0532, F.S., designates a number of "statewide transportation corridors" that include railways, highways connecting to transportation terminals, and intermodal service centers. The specified corridors are:

1. The Atlantic Coast Corridor, including I-95, and linking Jacksonville to Miami.
2. The Gulf Coast Corridor, from Pensacola to St. Petersburg and Tampa, including U.S. 98, U.S. 19 and S.R. 27.
3. The Central Florida North-South Corridor, from the Florida-Georgia border to Naples, and Fort Lauderdale/Miami, including I-75.
4. The Central Florida East-West Corridor, from St. Petersburg to Tampa and Titusville, including I-4 and the BeeLine Expressway.
5. The North Florida Corridor, from Pensacola to Jacksonville, including I-10 and U.S. 231, S.R. 77, and S.R. 79.
6. The Jacksonville to Tampa Corridor, including U.S. 301.
7. The Jacksonville to Orlando Corridor, including U.S. 17.
8. The Southeastern Everglades Corridor, linking Wildwood, Winter Garden, Orlando, West Palm Beach via the Florida Turnpike.

Additionally, most of these corridors are also in the Strategic Intermodal System (SIS) which is a statewide network of high-priority transportation facilities, including the state's largest and most significant commercial service airports, spaceport, deepwater seaports, freight rail terminals, passenger rail and intercity bus terminals, rail corridors, waterways and highways. These facilities carry more than 99 percent of all commercial air passengers, virtually all waterborne freight tonnage, almost all rail freight, and more than 68 percent of all truck traffic and 54 percent of total traffic on the State Highway System. The facilities on SIS are designated by the Department of Transportation (DOT) based on criteria provided in ss. 339.61 through 339.64, F.S.¹

Proposed Changes

¹ A list of facilities on the SIS may be obtained at <http://www.dot.state.fl.us/planning/sis/atlas/>

The bill repeals s. 341.0532, F.S. which created the statewide transportation corridors.² As mentioned above, most of the corridors are on DOT's SIS.

The bill has an effective date of July 1, 2010.

B. SECTION DIRECTORY:

Section 1 Repeals s. 341.0532, F.S., relating to statewide transportation corridors; removing the definition of "statewide transportation corridors"; removing provisions that specify certain transportation facilities as transportation corridors.

Section 2 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect municipal or county government.

2. Other:

None

B. RULE-MAKING AUTHORITY:

² This statute may also be misplaced since ch. 341, F.S., relates to public transit.

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

PCB RBP 10-04

ORIGINAL

YEAR

1 A bill to be entitled
2 An act relating to transportation corridors; repealing s.
3 341.0532, F.S., relating to statewide transportation
4 corridors; removing the definition of "statewide
5 transportation corridors"; removing provisions that
6 specify certain transportation facilities as statewide
7 transportation corridors; providing an effective date.
8

9 Be It Enacted by the Legislature of the State of Florida:
10

11 Section 1. Section 341.0532, Florida Statutes, is
12 repealed.

13 Section 2. This act shall take effect July 1, 2010.

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2010

1 A bill to be entitled
 2 An act relating to use of an electronic wireless
 3 communications device while driving; amending s. 316.304,
 4 F.S.; prohibiting the operation of a moving motor vehicle
 5 while reading, manually writing or typing, or sending a
 6 message on an electronic wireless communications device;
 7 providing exceptions; providing penalties; providing an
 8 effective date.

9

10 Be It Enacted by the Legislature of the State of Florida:

11

12 Section 1. Section 316.304, Florida Statutes, is amended
 13 to read:

14 316.304 Use of listening or communications devices;
 15 restrictions ~~Wearing of headsets.--~~

16 (1) (a) No person shall operate a vehicle while wearing a
 17 headset, headphone, or other listening device, other than a
 18 hearing aid or instrument for the improvement of defective human
 19 hearing.

20 ~~(b)(2)~~ This subsection ~~section~~ does not apply to:

21 ~~1.(a)~~ Any law enforcement officer equipped with any
 22 communications ~~communication~~ device necessary in performing his
 23 or her assigned duties or to any emergency vehicle operator
 24 equipped with any ear protection device.

25 ~~2.(b)~~ Any applicant for a license to operate a motorcycle
 26 while taking the examination required by s. 322.12(5).

27 ~~3.(c)~~ Any person operating a motorcycle who is using a
 28 headset that is installed in a helmet and worn so as to prevent

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2010

29 the speakers from making direct contact with the user's ears so
 30 that the user can hear surrounding sounds.

31 4.-(d) Any person using a headset in conjunction with a
 32 cellular telephone that only provides sound through one ear and
 33 allows surrounding sounds to be heard with the other ear.

34 5.-(e) Any person using a headset in conjunction with
 35 communicating with the central base operation that only provides
 36 sound through one ear and allows surrounding sounds to be heard
 37 with the other ear.

38 (c)-(3) The Department of Highway Safety and Motor Vehicles
 39 shall promulgate, by administrative rule, standards and
 40 specifications for headset equipment the use of which is
 41 permitted under this subsection ~~section~~. The department shall
 42 inspect and review all such devices submitted to it and shall
 43 publish a list by name and type of approved equipment.

44 (2) (a) No person shall operate a moving motor vehicle
 45 while reading, manually writing or typing, or sending a message
 46 on an electronic wireless communications device.

47 (b) This subsection does not apply to a person operating
 48 an authorized emergency vehicle or using an electronic wireless
 49 communications device to:

- 50 1. Report illegal activity;
- 51 2. Summon medical or other emergency help; or
- 52 3. Prevent injury to a person or property.

53 (3)-(4) A violation of this section is a noncriminal
 54 traffic infraction, punishable as a nonmoving violation as
 55 provided in chapter 318.

56 Section 2. This act shall take effect October 1, 2010.

1 A bill to be entitled
 2 An act relating to driving safety; creating the "Ronshay
 3 Dugans Act"; designating Drowsy Driving Prevention Week;
 4 encouraging the Department of Highway Safety and Motor
 5 Vehicles and the Department of Transportation to educate
 6 the law enforcement community and the public about the
 7 relationship between fatigue and driving performance;
 8 creating s. 316.6152, F.S.; providing definitions;
 9 restricting use of mobile telecommunications devices by
 10 school bus drivers; providing exceptions; providing
 11 penalties; providing effective dates.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. This act may be cited as the "Ronshay Dugans
 16 Act."

17 Section 2. (1) The first week of September is designated
 18 as "Drowsy Driving Prevention Week" in this state.

19 (2) During Drowsy Driving Prevention Week, the Department
 20 of Highway Safety and Motor Vehicles and the Department of
 21 Transportation are encouraged to educate the law enforcement
 22 community and the public about the relationship between fatigue
 23 and driving performance and the research showing fatigue to be
 24 as much of an impairment as alcohol and as dangerous while
 25 operating a motor vehicle.

26 Section 3. Effective October 1, 2010, section 316.6152,
 27 Florida Statutes, is created to read:

28 316.6152 School bus driver; use of mobile
 29 telecommunications device.--

30 (1) For purposes of this section:

31 (a) "Commercial mobile radio service" has the same meaning
 32 as in 47 C.F.R. s. 20.3.

33 (b) "Mobile telecommunications device" means a wireless
 34 telephone or other device used to access the services of a
 35 commercial mobile radio service for the purpose of sending or
 36 receiving voice, text, or other data, including, but not limited
 37 to, computer data, electronic mail, electronic messages, games,
 38 music, images, and video. The term "mobile telecommunications
 39 device" includes, but is not limited to, a cellular telephone,
 40 cellular telephone accessory device, computer, game machine,
 41 personal digital assistant, and text messaging device but does
 42 not include a pager as defined in 47 C.F.R. s. 22.99.

43 (2) (a) A person who is driving or in actual physical
 44 control of a public or nonpublic school bus shall not use any
 45 mobile telecommunications device.

46 (b) This subsection does not apply:

47 1. When the school bus is stopped and the engine is not
 48 running or when the school bus is stopped completely outside the
 49 normal flow of traffic; or

50 2. When the person who is driving or in actual physical
 51 control of the school bus is using the device to contact one of
 52 the following regarding an emergency situation:

53 a. A school administrator.

54 b. A law enforcement agency.

55 c. A firefighting service.

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2010

56 d. An emergency communications E911 system service.
 57 e. A hospital or emergency rescue service.
 58 (3) A person who violates paragraph (2)(a) commits a
 59 misdemeanor of the second degree, punishable as provided in s.
 60 775.082 or s. 775.083.
 61 Section 4. Except as otherwise expressly provided in this
 62 act, this act shall take effect upon becoming a law.

1 A bill to be entitled
 2 An act relating to use of an electronic communications
 3 device while driving; creating s. 316.3035, F.S.;
 4 prohibiting composing, sending, reading, or viewing a text
 5 message on an electronic communications device while
 6 operating a motor vehicle on a roadway; providing a
 7 definition; providing exceptions; providing for
 8 construction; providing penalties; providing an effective
 9 date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Section 316.3035, Florida Statutes, is created
 14 to read:

15 316.3035 Use of electronic communications devices.--

16 (1) A person shall not operate a motor vehicle while using
 17 an electronic communications device to compose, send, read, or
 18 view a text-based communication if the motor vehicle is on a
 19 roadway as defined in s. 316.003(42). "Text-based communication"
 20 means any digital communication manually created by a person to
 21 be transmitted electronically between physical devices and
 22 includes text messaging, e-mail, instant messaging, paging, and
 23 a command or request to access an Internet site.

24 (2) This section does not apply to:

25 (a) A police officer or emergency medical services
 26 personnel in the performance of official duties.

27 (b) A person requesting medical or emergency assistance.

28 (c) A person reporting illegal activity, a traffic

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2010

29 | accident or crash, or a road hazard that threatens drivers.

30 | (d) A member of the Armed Forces of the United States
 31 | while operating a military vehicle.

32 | (e) A person in a motor vehicle at rest in a shoulder lane
 33 | or lawfully parked.

34 | (3) This section shall not be construed to authorize the
 35 | seizure and forfeiture of an electronic communications device
 36 | unless otherwise provided by law.

37 | (4) A violation of this section is a noncriminal traffic
 38 | infraction, punishable as a nonmoving violation as provided in
 39 | chapter 318.

40 | Section 2. This act shall take effect July 1, 2010.

1 A bill to be entitled
 2 An act relating to the use of cellular telephones;
 3 prohibiting the use of a cellular telephone while
 4 operating a motor vehicle except when using a headset or
 5 hands-free device; providing exemptions; providing a
 6 penalty; providing for enforcement only as a secondary
 7 offense; providing an effective date.

8

9 Be It Enacted by the Legislature of the State of Florida:

10

11 Section 1. Cellular telephones.--

12

13 (1) Except when using a headset pursuant to s. 316.304,
 14 Florida Statutes, or a hands-free device, a person may not
 15 operate a motor vehicle on a street or highway while dialing or
 16 sending a telephone call on a cellular telephone or while
 17 listening to or speaking on a cellular telephone, as defined in
 18 s. 817.4821, Florida Statutes.

18

19 (2) This section does not apply to:

20

21 (a) A law enforcement officer or an emergency vehicle
 22 operator using a cellular telephone in the line of duty;

21

22 (b) A person using a cellular telephone in order to report
 23 illegal activity;

23

24 (c) A person using a cellular telephone in order to summon
 25 medical or other emergency help; or

25

26 (d) A person using a cellular telephone in order to
 27 prevent injury or damage to a person or property.

27

28 (3) A violation of this section is a noncriminal traffic
 29 infraction, punishable as a nonmoving violation as provided in

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2010

29 chapter 318, Florida Statutes. However, this section may be
 30 enforced by a state or local law enforcement officer only as a
 31 secondary action when the operator of a motor vehicle has been
 32 detained for a suspected violation of any provision of chapter
 33 316, chapter 320, or chapter 322, Florida Statutes.

34 Section 2. This act shall take effect July 1, 2010.

1 A bill to be entitled
 2 An act relating to the use of cellular telephones;
 3 providing a short title; prohibiting the use of a cellular
 4 telephone while operating a motor vehicle except when
 5 using a headset or hands-free device; providing
 6 exemptions; providing a penalty; providing for enforcement
 7 only as a secondary offense; providing an effective date.

8
 9 Be It Enacted by the Legislature of the State of Florida:

10
 11 Section 1. This act may be cited as "Heather's Law."

12 Section 2. Cellular telephones.-

13 (1) Except when using a headset as allowed in s. 316.304,
 14 Florida Statutes, or a hands-free device, a person may not
 15 operate a motor vehicle on the highways of this state while
 16 dialing or sending a telephone call or text message on a
 17 cellular telephone or while listening to or speaking on a
 18 cellular telephone. As used in this section, the term "cellular
 19 telephone" has the same meaning as in s. 817.4821, Florida
 20 Statutes.

21 (2) This section does not prohibit the use of a cellular
 22 telephone for safety or law enforcement purposes if the use is
 23 approved by the Department of Highway Safety and Motor Vehicles.

24 (3) A violation of this section is a noncriminal traffic
 25 infraction, punishable as a nonmoving violation as provided in
 26 chapter 318, Florida Statutes. However, this section may be
 27 enforced by a state or local law enforcement agency only as a
 28 secondary action when the operator of a motor vehicle has been

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2010

29 | detained for a suspected violation of chapter 316, chapter 320,
30 | or chapter 322, Florida Statutes.

31 | Section 3. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 475 School Speed Zones

SPONSOR(S): Gonzalez and others

TIED BILLS: IDEN./SIM. BILLS:

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Roads, Bridges & Ports Policy Committee		Johnson	Miller
2)	Military & Local Affairs Policy Committee			
3)	PreK-12 Policy Committee			
4)	Economic Development & Community Affairs Policy Council			
5)				

SUMMARY ANALYSIS

Section 316.1895, F.S., provides for the establishment and enforcement of school speed zones for both public and private schools.

The bill creates the "Shaye Patrick Martin Safety Act." The bill amends s. 316.1895, F.S., in the following ways:

- Requires the Department of Transportation's (DOT) uniform system of traffic control devices to include vehicle speed cameras.
- Requires school zones to include transitional speed areas for 50 yards after a school zone, with a speed limit five miles per hour greater than the speed limit in the school zone.
- Requires each school zone to be equipped with vehicle speed cameras to record speeding vehicles in a school zone. Requires the cameras to meet Department of Transportation specifications.

At this time, law enforcement is not authorized to issue citations for speeding violations based only on photographic evidence, but is required to observe the violation or if the citation is issued as the result of a traffic crash investigation. The bill also appears to conflict with statutes relating to speed calculating devices and standards related to a law enforcement officer observing a traffic violation.

The bill has a \$73.4 million negative nonrecurring fiscal impact on DOT for signage and the design and construction associated with speed camera installation. Additionally, DOT estimates annual recurring costs of \$177,000.

For local governments, the bill has a \$436.4 million negative nonrecurring fiscal impact, for signage and the design and construction associated with speed camera installation and a \$1.053 million recurring negative fiscal impact for operating costs.

The bill has an effective date of July 1, 2010.

DRAFT

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

This bill was proposed by Project Citizen Students at Miami Lakes Middle School.¹

Current Situation

According to the Department of Highway Safety and Motor Vehicles (DHSMV), 2,107 pedestrians age 19 and under were involved in crashes in 2008. In the same year, 49 pedestrians age 19 and under were killed in crashes.² DHSMV does not have statistics on how many of these injuries or deaths were in school zones. In 2009, 23,119 traffic citations were issued for speeding in a school zone.

School Zones

Pursuant to direction contained in s. 316.0745(1), F.S., the Department of Transportation (DOT) has adopted a uniform system of traffic control devices for use on the streets and highways of the state, known as the Manual on Uniform Traffic Control Devices³ (MUTCD), which is the national standard for traffic and pedestrian control devices and is adopted by all fifty states. Pursuant to those standards, DOT has published its Procedure No. 750-010-027-h, "Establishing School Zones and Crossings," to define the criteria and standards to be used in establishing school zones and school crossings on the State Highway System roadways that surround schools, both public and private.⁴

¹ "Project Citizen is a curricular based program for middle, secondary and post-secondary students and adult groups that promotes competent and responsibility in local and state government." *Project Citizen Brochure*
<http://www.civiced.org/index.php?page=introduction>

² Department of Highway Safety and Motor Vehicles, *Traffic Crash Statistics Report 2008*.
<http://www.flhsmv.gov/hsmvdocs/CS2008.pdf>

³ The MUTCD defines the standards used by road managers nationwide to install and maintain traffic control devices on all streets and highways. The MUTCD is published by the Federal Highway Administration (FHWA) under 23 Code of Federal Regulations (CFR), Part 655, Subpart F, and incorporated by reference in Rule 14-15.010, Florida Administrative Code.

⁴ A copy of DOT Procedure No. 750-010-027h, may be obtained from DOT's website at
<http://www2.dot.state.fl.us/proceduraldocuments/procedures/bin/750010027.pdf>

Section 316.1895, F.S., provides for the establishment and enforcement of school speed zones for both public and private schools. The law requires DOT to adopt a uniform system of traffic and pedestrian control devices for use on the streets and highways surrounding the schools. Additionally, DOT is required to install and maintain, at the request of the appropriate local government, traffic and pedestrian control devices on state-maintained roads for prekindergarten early-intervention schools that receive federal Headstart funding.

As noted in DOT's procedure, school zones⁵ are intended to protect the safety of students. However, engineering analysis has shown that at many locations, traffic controls requested are unnecessary, costly, and tend to lessen respect for controls that are warranted. Regardless of the school location, safe and effective traffic control can best be obtained through uniform application of policies, practices, and standards developed through engineering studies.

School zone speeds are selected on the basis of an engineering analysis of the specific site, which analysis should include a vehicle spot speed study and a pedestrian group size study, as well as a vehicle gap size study to document the length of time needed for adequate gaps in traffic and the number of adequate gaps occurring when children are present at the crossing under review. If the analysis shows that a reduced speed school zone is warranted and a request is received from the local government, a reduced speed zone is used at school crossings at signalized intersections at locations adjacent to or near school property.

In accordance with the uniform application contained in the MUTCD, the traffic engineering practice in Florida, as well as nationally, is that only public or private elementary, middle schools, or federally funded Headstart facilities providing a full-time educational program are eligible for markings, signs, and other traffic control devices. Again, this may or may not include a reduced speed zone. Other educational institutions and facilities are not eligible but may be considered for other types of traffic control devices such as pedestrian crossing signs or warning signs for a playground or driveway entrance. Further, traffic control devices are not normally needed at a high school⁶, and installation on a blanket basis is discouraged. But when special circumstances occur, they should be addressed on a case-by-case basis, used only when needed, and justified by an engineering study of the subject location. When a determination is reached, based upon a study, that a reduced speed school zone is warranted, the speed is selected, again, on the basis of the engineering analysis performed at the specific site.

Section 316.1895(3), F.S., requires DOT to maintain school zones on state-maintained roads; however, DOT may enter into an agreement with a municipality or county to maintain a speed zone on a state-

⁵ "School zone" is defined in DOT Procedure No. 750-010-027-h as "That portion of a street or highway located within a school area that is subject to a reduced speed limit at certain times of the day. A school zone is defined by traffic control devices and is normally adjacent to the school property. It may be established at other locations when justified by an engineering study. School zones are not to be applied in a blanket manner for all streets and highways within a school area."

⁶ In fact, not only are reduced speed school zones not normally needed at a high school, but even the use of a school crossing at a high school is discouraged. Arizona engineers reviewed 15 mile per hour legislation that addressed all schools and determined that school crossings should not be used at high schools: Additionally, there was consensus that using school crossings at high schools threatened their effectiveness at elementary schools. Not only did the number of school crossings, but older students failed to obey crossing guards, antagonized motorists, and generally, created substantial disrespect for the concept. The state recognized that high school students are generally old enough to know how to be responsible pedestrians and to even drive their own vehicles, Arizona decided to treat high school students as other states do by using traditional methods prescribed in the *Manual on Uniform Traffic Control Devices*.

"School crossings should not be used for high school students. Instead, provisions outlined in Parts II, III and VII of the MUTCD have proven to successfully accommodate high school students. It is important to preserve the integrity of the school crossing so it can continue to provide its intended protection for younger students. Experience has shown that while doing more certainly costs more, it may not always result in safe conditions and often can be counter-productive." *Arizona Guidelines on School Crossings*.

maintained road.⁷ Counties are responsible for maintaining school zones located outside of a municipality and on a county road. Municipalities are responsible for maintaining school zones located within the municipality.

Current law requires the speed limit in a school zone to be not less than 15 miles per hour except by local regulation or more than 20 miles per hour in an urbanized area.⁸ These speed limits may be in force only 30 minutes before, during, and 30 minutes after the periods of time when pupils are arriving at a regularly scheduled breakfast program or regularly scheduled school session, and leaving a regularly scheduled school session. A violation of the speed limit in a school zone is a moving violation, punishable pursuant to ch. 318, F.S. Section 316.1895(6), F.S., provides that beginning July 1, 2008, new school speed zones or in speed zones that are getting replacement signing, "Speeding Fines Doubled" signs are required to be installed.

Traffic Cameras

Cameras are permitted by current Florida law to enforce violations of payment of tolls.⁹ For example, toll facility operators use a digital camera to capture an image of the vehicle's license plate as the vehicle travels through the tolling zone. If the system receives payment from a SunPass, the image is deleted. If no payment is received, the image is processed for video tolling or is considered a toll violation and a Uniform Traffic Citation is issued.

In response to the city of Pembroke Pines' inquiry regarding the use of unmanned cameras to enforce violations of traffic signals, the Attorney General issued an advisory legal opinion on July 12, 2005.¹⁰ The opinion concluded that it was within the local government's scope of authority "to enact an ordinance authorizing the city:

- to monitor violations of traffic signals within the city and to use unmanned cameras to monitor intersections and record traffic violations;
- to monitor violations of traffic signals within the city and to use unmanned cameras to record the license tag numbers of cars involved in such violations; and
- to advise a car owner that his or her license tag number has been recorded in a violation of the traffic laws."

The problem identified by a 1997 Attorney General opinion¹¹ was whether unmanned electronic traffic infraction detectors may independently be used as the basis for issuing citations for violations of traffic laws. Current statute requires that citations be issued when an officer "observes the commission of a traffic infraction."¹² The 1997 Attorney General opinion concluded that nothing precludes the use of unmanned cameras to record violations of s. 316.075, F.S., but "a photographic record of a vehicle violating traffic control laws may not be used as the basis for issuing a citation for such violations." The 2005 opinion reached the same conclusion, stating, "legislative changes are necessary before local governments may issue traffic citations and penalize drivers who fail to obey red light indications on traffic signal devices" as collected from a photographic record from unmanned cameras monitoring intersections.

⁷ For school zones on state roads, DOT maintains any signs and pavement markings. However, for flashing signal beacons, DOT will install them, but the municipality or county is responsible for the signal's maintenance.

⁸ The statute references s. 334.03, F.S., which defines "urbanized area" as "a geographic region comprising as a minimum the area inside the United States Bureau of the Census boundary of an urban place with a population of 5,000 or more persons, expanded to include adjacent developed areas as provided for by Federal Highway Administration regulations."

⁹ s. 316.1001(2)(d), F.S.

¹⁰ Attorney General Opinion 05-41.

¹¹ Attorney General Opinion 97-06.

¹² s. 316.640(5)(a), F.S.

While various municipalities have installed red light cameras, it has been done through local ordinances, and is considered a civil code violation. The fines vary by municipality and a violation does not impact the vehicle owner's driving record. However, there are pending lawsuits in multiple jurisdictions regarding the legality of municipal ordinances permitting traffic infraction detectors.¹³

Proposed Changes

The bill creates the "Shaye Patrick Martin Safety Act."¹⁴

The bill amends various subsections of s. 316.1895, F.S., relating to the establishment, designation, and enforcement of school speed zones. The bill amends DOT's requirement in to adopt a uniform system of traffic and pedestrian control devices for use surrounding schools to include vehicle speed cameras. However, the definition of "Traffic Control Device" in the Federal Highway Administration's *Manual on Uniform Traffic Control Devices*, which DOT incorporates by reference into its rules, does not appear to include vehicle speed cameras.¹⁵

The bill requires school zones to include transitional speed areas for 50 yards before and after the slower posted school speed limit.¹⁶ This transitional speed limit is to be five miles per hour higher than the slower posted speed limit in a school zone. The *Manual on Uniform Traffic Control Devices* does not recognize transitional speed areas as traffic control devices for use in school zones.¹⁷ While current law limits when school zone speed limits are in effect, the bill does not appear to limit when the transitional speed zones are in effect.

The bill requires each school speed zone to be equipped with speed cameras to record images of the driver and the license plate of a motor vehicle exceeding the speed limit within the school zone. The bill requires that the vehicle speed cameras installed in school zones conform to the specifications adopted by DOT pursuant to s. 316.0745.¹⁸ It is not clear as to whether or not the use of speed cameras only applies during the times that the school zone speed is in effect.

As previously discussed, Florida's speed limit statutes can only be enforced when the violation occurs in the presence of law enforcement officers or as the result of a traffic crash investigation. Law enforcement officers are not authorized to enforce speed laws based solely on photographic evidence. Therefore, there may not be any increase in violations being cited due to speed cameras. Section 316.1905, F.S., addresses speed calculating devices and provides that the device must be tested at

¹³ "West Palm Beach attorney Jason Weisser [will] sue the city. It would be the lawyer's ninth such suit against cities throughout Florida using red-light cameras, including Orlando, Miami Gardens and Aventura." *Bradenton facing red-light camera lawsuit*, Bradenton Herald, August 25, 2009. See also, *Pembroke Pines sued over red light cameras*, Sun-Sentinel, November 14, 2009 (A class-action suit with "roughly two dozen drivers," also represented by Weisser); *Lawsuit filed against city's red-light camera program*, Tampa Tribune, Aug. 7, 2009 (driver suing Temple Terrace);

¹⁴ Shaye Patrick Martin was an eight year old boy hit by a car and killed while walking to school on May 5, 2006.

¹⁵ The *Manual on Uniform Traffic Control Devices*, defines "Traffic Control Device" as " a sign, signal, marking, or other device used to regulate, warn, or guide traffic, placed on, over, or adjacent to a street, highway, private road open to public travel, pedestrian facility, or shared-use path by authority of a public agency or official having jurisdiction, or, in the case of a private road open to public travel, by authority of the private owner or private official having jurisdiction.

¹⁶ Section 7B.11 of the *Manual on Uniform Traffic Control Devices*, 2003 Edition, provides the following guidance on school speed zones. "The reduced speed zone should begin either at a point 60m (200 ft) from the crosswalk, or at a point 30 m (100 ft) from the school property line, based on whichever is encountered first as the traffic approaches the school."

¹⁷ Local governments are required to adhere to this uniform system.

¹⁸ Section 316.0745, F.S., relates to uniform signals and devices.

least once every six months, provides evidence requirements to show that the device was working properly, and entitles the accused to having the officer operating the device testify in court. Section 316.1906, F.S., addresses radar speed-measuring devices and provides guidelines as to when evidence from a radar speed-measuring device is admissible regarding unlawful speed citations. The standards include the officer completing a radar training course, the officer has made independent determination that the vehicle was speeding, and the evidence is obtained when conditions permit the clear assignment of speed to a single vehicle. It does not appear that speed cameras meet these criteria.

The bill also lacks specifics regarding the entire enforcement process of the speed cameras. Such specifics would include signage requirements for speed cameras, fines, procedures for issuing and contesting violations, and oversight and accountability measures.

The bill does not indicate if there is a minimum speed over the speed limit that the vehicle must be going before it is photographed. It is also unclear if the photo enforcement would only apply when the reduced speed is in effect or when school is not in session. Additionally, the bill does not address what happens to the photographs and any penalties associated with photo enforcement of a school speed zone.

According to DOT, the bill requires transitional speed areas, including associated cameras, signing, pavement markings, etc., at every school zone in the state without reference to any engineering study supporting, or mitigating against such installation. Additionally, depending on the location and configuration of any given school, installation of the transitional areas required by the bill may be physically impossible. Installing specific signage may also be impossible due to inadequate sign space.

The bill has an effective date of July 1, 2010.

B. SECTION DIRECTORY:

Section 1 Provides a short title.

Section 2 Amends s. 316.1895, F.S., relating to school speed zones; providing for transitional speed areas before and after the slowest established speed limit within a school zone; requiring the installation of vehicle speed cameras in school zones to record an image of the driver and the license plate of a motor vehicle exceeding a speed limit within a school zone; providing such cameras to be included in the DOT's uniform system of traffic control devices; providing penalties for violation of a speed limit within a school zone.

Section 3 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Since Florida law does not authorize the use of photographic evidence for issuing traffic citations, the bill may not increase the number of citations issued. If the number of citations issued does not increase, there will be no additional revenue to the state.

2. Expenditures:

According to DOT, there are 422 school zones on the state highway system. It estimates that each school zone will require two cameras at \$55,000 each (total \$110,000). The total cost of these cameras is approximately \$46.4 million. DOT also estimates \$64,000 in design and construction

costs for each school zone for a total cost of approximately \$27 million. This cost is not programmed into DOT's work program.

For recurring costs, DOT expects monthly recurring maintenance costs of \$35 per site for an annual cost of \$177,240.

If the Department of Highway Safety and Motor Vehicles determines that it is necessary to create a new, separate charge code of the offenses in the bill, it would require approximately 60 hours of programming. However, if it uses existing charge codes, no programming will be necessary.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Since Florida law does not authorize the use of photographic evidence in issuing a speeding citation, the bill may not increase the number of citations issued. If the number of citations issued does not increase, there will be no additional revenue to the local governments.

2. Expenditures:

Based on s. 316.1895(3)(b) and (c), F.S., the municipalities and counties will be required to install and maintain the signs for the transitional speed zones and speed cameras in school zones they are responsible for maintaining and will incur expenses in doing so.

Based on Department of Education data, there are a total of 2,930, public elementary, middle, and combination schools in the state.¹⁹ Backing out the 422 school zones on state roads, leaves 2,508 schools for municipalities and counties to maintain school zones. Based on the cost data from DOT, the cost of speed cameras is estimated at \$275.9 million. The cost of design and construction will be approximately \$160.5 million. These costs do not reflect the costs for school zones for private schools.

Based on the information provided by DOT, the annual recurring maintenance cost will be approximately \$1.1 million.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The makers of speed cameras should see an increase in revenue from the purchase of school speed cameras.

D. FISCAL COMMENTS:

Since Florida law does not authorize the use of photographic evidence in issuing a speeding citation, the bill may not increase the number of citations issued.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision appears to apply to this bill because it requires municipalities and counties to place speed zone cameras in each school zone it maintains; however, an exception applies since DOT is a similarly situated entity which is required to place speed zone cameras in each school zone it maintains. Additionally, there is an exemption for laws creating, modifying, or repealing noncriminal infractions, which may apply to this bill.

¹⁹ Florida Department of Education Website, <http://www.fldoe.org/eias/flmove/florida.asp> (February 5, 2010).

2. Other:

None

B. RULE-MAKING AUTHORITY:

While the bill does not provide a specific grant of rulemaking authority, it requires DOT to adopt specifications for vehicle speed cameras.

C. DRAFTING ISSUES OR OTHER COMMENTS:

While the bill requires speed cameras to record images of speeding drivers within school zones, there is no indication as to what is supposed to be done with the photos.

The bill appears to conflict with current laws regarding the issuance of speeding violations, including that it must be witnessed by a law enforcement officer or be the result of a traffic crash, the right of the accused to have the officer operating the detection device testify in court, and the independent visual determination the vehicle was speeding. Based on this, it is possible that a court may overturn a violation from a speed camera in a school zone because the violation was not witnessed by a law enforcement officer, and that the driver cannot have the officer operating the detection device testify in court, since there is no one actually operating the device.

The Department of Highway Safety and Motor Vehicles recommends an October 1, 2010, effective date in order to implement any necessary programming updates.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

29 (b) The Department of Transportation shall compile,
 30 publish, and transmit a manual containing all specifications and
 31 requirements with respect to the system of devices established
 32 pursuant to paragraph (a) to the governing body of each county
 33 and municipality in the state, and the Department of
 34 Transportation and each county and municipality in the state
 35 shall install and maintain such traffic and pedestrian control
 36 devices in conformity with such uniform system.

37 (5) A school zone shall include transitional speed areas
 38 for a distance of 50 yards before and after the slower posted
 39 speed limit. The slower posted speed limit in a school zone may
 40 not be less than 15 miles per hour except by local regulation
 41 or. No school zone speed limit shall be more than 20 miles per
 42 hour in an urbanized area, as defined in s. 334.03. The speed
 43 limit in the transitional speed area of a school zone shall be 5
 44 miles per hour higher than the slower posted speed limit in the
 45 school zone. School zone ~~Such~~ speed limits ~~limit~~ may be in force
 46 only during those times 30 minutes before, during, and 30
 47 minutes after the periods of time when pupils are arriving at a
 48 regularly scheduled breakfast program or a regularly scheduled
 49 school session and leaving a regularly scheduled school session.

50 (6) Permanent signs designating school zones and school
 51 zone speed limits shall be uniform in size and color, and shall
 52 have the times during which the restrictive speed limits are
 53 ~~limit is~~ enforced clearly designated thereon. Flashing beacons
 54 activated by a time clock, or other automatic device, or
 55 manually activated may be used as an alternative to posting the
 56 times during which the restrictive school speed limits are ~~limit~~

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57 | ~~is~~ enforced. Beginning July 1, 2008, for any newly established
 58 | school zone or any school zone in which the signing has been
 59 | replaced, a sign stating "Speeding Fines Doubled" shall be
 60 | installed within the school zone. The Department of
 61 | Transportation shall establish adequate standards for the signs
 62 | and flashing beacons.

63 | (8) (a) Nothing in this section ~~herein~~ shall prohibit the
 64 | use of automatic traffic control devices for the control of
 65 | vehicular and pedestrian traffic at school crossings.

66 | (b) Each school zone shall be equipped with vehicle speed
 67 | cameras to record images of the driver and the license plate of
 68 | a motor vehicle exceeding a speed limit within the school zone.
 69 | Vehicle speed cameras installed in school zones must conform to
 70 | the specifications adopted by the Department of Transportation
 71 | pursuant to s. 316.0745.

72 | (10) A person may not drive a vehicle on a roadway
 73 | designated as a school zone at a speed greater than that posted
 74 | in the school zone in accordance with this section. A violation
 75 | of a the speed limit limits established pursuant to this section
 76 | is a noncriminal traffic infraction, punishable ~~must be cited~~ as
 77 | a moving violation, ~~punishable~~ as provided in chapter 318.

78 | Section 3. This act shall take effect July 1, 2010.



ROADS, BRIDGES & PORTS POLICY COMMITTEE

Amendment Packet

**Wednesday, February 17, 2010
9:00 A.M. – 12:00 P.M.
404 HOB**

**Larry Cretul
Speaker**

**Gary Aubuchon
Chair**

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 97 (2010)

Amendment No. 1

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: Roads, Bridges, and Ports
2 Policy Committee
3 Representative Soto offered the following:

4

5 **Amendment**

6 Remove line 79 and insert:

7 (c) Any person who commits a third or subsequent violation
8 of subsection

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 97 (2010)

Amendment No. 2

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: Roads, Bridges, and Ports
2 Policy Committee
3 Representative Soto offered the following:

4

5 **Amendment**

6 Remove line 142 and insert:

7 Section 3. This act shall take effect October 1, 2010.