Transportation Committee

Tuesday, March 28, 2006
1: 00 PM - 4:00 PM
404 HOB

Allan G. Bense
Speaker

Ray Sansom
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

Transportation Committee

Start Date and Time:	Tuesday, March 28, 2006 01:00 pm
End Date and Time:	Tuesday, March 28, 2006 04:00 pm
Location:	404 HOB
Duration:	3.00 hrs

Consideration of the following bill(s):

HB 959 Motor Vehicle Safety by Roberson
HB 989 Motor Fuel Taxes by Detert
HB 997 State Agency Law Enforcement Radio System by Benson
HB 1055 Specialty License Plates by Gibson, A.
HB 1193 CS Driving Under the Influence by Kottkamp
HB 1201 Cargo Container Inspections by Taylor
HB 1337 Driver Licenses by Ambler
HB 1415 Traffic Control by Sansom
HB 1465 Speed Limit Enforcement on State Roads by Altman
HB 1589 Specialty License Plates by Smith

NOTICE FINALIZED on 03/24/2006 15:29 by Rousseau.Tiffany

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 959 Motor Vehicle Safety
SPONSOR(S): Roberson
TIED BILLS: **IDEN./SIM. BILLS:** SB 1022

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee		Pugh BJP	Miller P.M.
2) Local Government Council			
3) Transportation & Economic Development Appropriations Committee			
4) State Infrastructure Council			
5)			

SUMMARY ANALYSIS

Public and private research on guard rails, cable barriers, clay berms, and other types of structural highway barriers indicates that, if properly placed and maintained, these systems improve the safety of public roads. The Federal Highway Administration, with assistance from the American Association of State Highway and Transportation Officials (AASHTO), other engineering associations, and state transportation agencies, continues to research and modify existing requirements for barrier systems.

The need for well-engineered guardrail and other highway barrier structures varies from state-to-state, as well as by the type of road, a road's speed limit, and the road's surrounding topographic features. One such feature common to Florida is the location of natural water bodies, canals, or drainage ditches adjacent to highways.

National and statewide statistics for traffic fatalities caused by, or related to, the absence or failure of highway barrier systems and involving water are not readily available. However, the Florida Department of Transportation (FDOT) was able to collect specific data on traffic fatalities on the State Highway System involving vehicles submerged in water. In 2004, 28 fatal crashes met the criteria and 36 people died, including 20 whose deaths may have been caused by being submerged in water.

HB 959 requires that guardrails, cable systems, or other types of roadway barriers be installed along each public road, street, and highway in Florida that is adjacent to a canal or other body of water. Public roadways in existence on July 1, 2006, and which are adjacent to water bodies, must have a barrier system installed by December 31, 2008. The barrier system must be installed and maintained by the appropriate governmental entity in compliance with FDOT standards established in rule. These standards must be designed to limit the loss of life by safely preventing an out-of-control motor vehicle from entering a canal or water body, based on a number of criteria. FDOT is directed to adopt rules to implement the provisions of this bill.

HB 959 has an estimated $268 million fiscal impact on the State Transportation Trust Fund, according to FDOT. The fiscal impact to county and municipal governments is indeterminate, according to local government advocates, although FDOT estimated a fiscal impact of $1.75 billion. The bill appears to create an unfunded mandate to local governments.

The bill, however, does not raise any constitutional or other legal issues. It takes effect July 1, 2006.

(NOTE: The sponsor will offer a strike-all amendment to limit HB 959's impact to state roads in Miami-Dade County. An explanation is in "III. C. Drafting Issues and Other Comments" below.)

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes: HB 959 does not create a tax or fee. But its requirement that all state, county, and municipal roads, as well as any private roads that are maintained by a public entity, which are adjacent to water must have guardrails or other barrier systems likely means some local governments would raise revenues to pay for this cost.

B. EFFECT OF PROPOSED CHANGES:

Background

Federal Highway Administration research reports dating back to 1987 indicate the value of guardrail and other barrier systems in preventing traffic accidents and fatalities. These barrier systems can take many forms – metal guardrails, thick metal cables, concrete barricades, and earthen berms – and to be effective must be engineered to address a highway's particular features and the type of traffic that comprises the majority of users. AASHTO has developed for federal and state transportation agencies a number of nationally accepted standards for barrier systems, and these standards are continually being tested and updated.

FDOT has an active highway-barrier installation program, having installed more than 2,645.5 miles of guardrails along state highways and the Florida Turnpike, and another 552 miles of barrier walls. The Turnpike has committed that by 2007, guardrails will run the Turnpike's entire length, from Wildwood to Homestead. Typically the guardrails or cable systems are installed as part of a construction or maintenance project.

One type of highway accident more common to Florida than to other states is out-of-control vehicles veering off a highway into an adjacent canal, drainage ditch, or natural water body. National and statewide statistics for traffic fatalities caused by, or related to, the absence or failure of highway barrier systems and involving water are not readily available. However, FDOT was able to compile statistics on 2003 and 2004 traffic accident data involving vehicles running off state roads and into water bodies. FDOT staff verified the data by pulling the written reports and reading the narrative description of the accident. FDOT's review indicated that:

- In 2004, there were 28 fatal crashes on the State Highway System where the vehicles ran off the road and into an adjacent body of water. These crashes resulted in 36 fatalities, of which 20 were possibly caused or influenced by the vehicle being submerged.
- In 2003, there were 34 crashes that met the criteria with 49 fatalities, of which 28 were possibly caused or influenced by the vehicle being submerged.

Some of these accidents were caused by drunken, medicated, speeding, or careless drivers, according to the accident reports. Also, in some accidents the vehicle went over, under, or through guardrails or fences before going into the water.

Effect of Proposed Changes

HB 959 requires that guardrails, cable systems, or other types of roadway barriers be installed along each public road, street, and highway in Florida that is adjacent to a canal or other body of water. Public roadways in existence on July 1, 2006, and which are adjacent to water bodies, must have a barrier system installed by December 31, 2008. The barrier system must be installed and maintained by the appropriate governmental entity in compliance with FDOT standards established in rule. These standards must be designed to limit the loss of life by safely preventing an out-of-control motor vehicle from entering a canal or water body, based on a number of criteria. FDOT is directed to adopt rules to implement the provisions of this bill. .

FDOT has estimated that the bill will require the agency to install about 461.5 miles of guardrails or other barriers on state highways, and that counties will have to install nearly 2,400 miles of guardrails and municipalities nearly 614 miles.

The bill will have a significant fiscal impact on the state and particularly on local governments, according to FDOT's estimates. A discussion of these costs in the "II. FISCAL ANALYSIS AND ECONOMIC IMPACT STATEMENT" below.

HB 959 takes effect July 1, 2006.

C. SECTION DIRECTORY:

Section 1: Requires guardrail and other barriers on all public highways near canals and other water bodies. Specifies requirements that must be met. Specifies deadline for completing installation. Defines "highway."

Section 2: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   HB 959 has an estimated $268 million fiscal impact on the State Transportation Trust Fund, according to FDOT.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   According to FDOT, HB 959's fiscal impact to county governments could be $1.39 billion, while municipalities may have to pay $356 million for the required guard rails and other barrier systems.

No information was available from the Florida Association of Counties. Several municipalities responded to a survey by the Florida League of Cities asking for cost estimates. Sample responses follow:

- the City of Fort Pierce indicated the cost could be $449,328 for 3.77 miles of guardrails;
- the City of Clearwater indicated the cost would be $5.85 million for guardrails along 234,225 feet (or about 44 miles) of roadway; and
- the city of North Port indicated the cost would be $1.29 million for guardrails along 16 miles of roadway.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill does not create a funding source to pay for the required improvements. As such, it appears to be an unfunded mandate on local governments.

FDOT says it likely cannot meet the December 31, 2008, deadline in the bill because more time than that would be needed to design, bid, and install the projects. Meeting the 30-month deadline also would require FDOT to divert funds from existing projects to pay for the guardrail projects, which would delay projects in the Five-Year Work Program.

However, some portion of the guardrails required under the bill will at some point be installed by FDOT as part of its ongoing highway improvement programs.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision appears to apply to HB 959 because this bill requires county and municipal governments to install hundreds of miles of guardrails and other barrier systems in fewer than 3 years – without providing a funding source. The bill does not appear to qualify for an exemption or exception. It appears to impose a Type A mandate, as defined in article VII, section 18(a) of the state constitution, because it requires local governments to spend funds or to take action requiring the expenditure of funds.

Accordingly, the bill needs to include a statement that the required activity is an important state interest and must pass by a two-thirds vote of the House and the Senate.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

HB 959 directs FDOT to adopt rules to implement the bill's provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill's sponsor plans to file a strike-all amendment that creates a pilot program for the installation of guardrails on limited access state roads in Miami-Dade County. FDOT estimates this proposal will cost about $5.386 million, which already is programmed into the 2006-2011 Work Program budgets of the Turnpike and FDOT District 6 to install guardrails where needed.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to motor vehicle safety; requiring that
3 guardrails or other barriers be installed between a
4 highway and an adjacent canal or waterway; requiring that
5 the Department of Transportation adopt rules establishing
6 certain standards governing the installation of the
7 barriers; requiring that barriers be installed for
8 existing highways by a specified date; defining the term
9 "highway"; providing for installation and maintenance of
10 required barriers by the department or the local
11 governmental entity that maintains the highway adjacent to
12 the barriers; providing an effective date.
13
14 Be It Enacted by the Legislature of the State of Florida:
15
16 Section 1. Barrier required between a highway and a canal
17 or water body.--Each highway that is adjacent to a canal or
18 other water body must have a system of guardrails, retention
19 cables, or other barriers between the highway and the canal or
20 water body which are installed and maintained in conformance
21 with standards established by rule of the Department of
22 Transportation. The standards must be designed to limit the loss
23 of life by safely preventing an out-of-control motor vehicle
24 from entering the canal or water body and may include criteria,
25 such as the width, depth, or proximity of the canal or water
26 body to the traveled way of the highway, specifying those areas
27 of the highway where barriers are required. For a highway in
28 existence on July 1, 2006, the barriers required under this

29 section must be installed on or before December 31, 2008. The
30 Department of Transportation shall adopt rules to administer
31 this section. As used in this section, the term "highway" means
32 a road, street, or other way open to the public for travel by
33 motor vehicles and whose maintenance is the responsibility of a
34 municipality, a county, or the Department of Transportation. The
35 barriers required by this section must be installed and
36 maintained by the governmental entity responsible for
37 maintaining the highway that is adjacent to a canal or water
38 body.
39 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 989 Motor Fuel Taxes
SPONSOR(S): Detert
TIED BILLS: **IDEN./SIM. BILLS:** SB 1932

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee		Pugh BJP	Miller P.M.
2) Finance & Tax Committee			
3) State Infrastructure Council			
4)			
5)			

SUMMARY ANALYSIS

Persons who use motor fuel in off-road agricultural vehicles and farm equipment, commercial fishing vessels and related equipment, and vessels and other equipment used in aquaculture operations are entitled to a refund of certain motor fuel taxes, pursuant to s. 206.41(4)(c), F.S. The refund is conditioned on the requirement that no amount of the fuel was used in any vehicle or equipment operated on state highways.

HB 989 adds a fourth category of vehicles and equipment: those used exclusively for commercial aviation purposes on airport property only. The bill also specifies that for initial applicants, the motor fuel tax refund will be retroactive to the last three calendar years.

The Department of Revenue (DOR) estimates that the amount of the retroactive refund will range from $242,380 to $450,135. Thereafter, the fiscal impact may range from $100,000 to $180,000 annually. The Revenue Estimating Conference has adopted the higher estimated amount as the consensus impact of this bill.

Most of the refund will impact the State Transportation Trust Fund, with a small portion impacting counties and municipalities who share the state-collected local-option fuel tax created pursuant to s. 206.41(1)(e), F.S.

An estimated 101 businesses qualify for the refund, according to DOR.

HB 989 raises no apparent constitutional or other legal issues.

The bill takes effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes: HB 989 refunds certain motor fuel taxes paid by vehicles and equipment used only on commercial airport properties. According to DOR's analysis, 101 companies, including airlines, fixed-based aviation operators, and independent contractors ,will benefit from the refund. .

B. EFFECT OF PROPOSED CHANGES:

Background
Florida collects several different types of motor fuel taxes, most of which are used to finance state highway and other transportation projects. Motor fuel taxes generated more than $2.2 billion in revenues in fiscal year 2005-2006.[1]

Section 206.41, F.S., lists the major motor fuel taxes, their uses, and their distribution. It also authorizes refunds of certain motor fuel taxes to persons who fall into three categories: those who purchase fuel for use in vehicles and equipment used exclusively on farm property; those who purchase fuel for commercial fishing vessels and equipment never operated on public highways; and those who purchase fuel for vessels and equipment used exclusively in aquaculture operations that is never operated on public highways. These refunds in fiscal year 2003-2004 totaled $326,000.[2]

The three motor fuel taxes which are refunded are: the motor fuel sales tax, the State Comprehensive Enhanced Transportation System Tax (SCETS), and the local-option fuel tax.

DOR has long-established programs for the collection and, where authorized, refunding of fuel tax revenues. Applications for refunds must be accompanied by a completed application, and applicants are directed to retain all invoices and receipts of fuel purposes, in the event that DOR decides to audit or inspect these records.

Effect of Proposed Changes
HB 989 amends s. 206.41(4)(c), F.S., to add vehicles and equipment used exclusively for commercial aviation purposes, and which are never used on public highways, as eligible for motor fuel tax refunds. The type of vehicles and equipment that are envisioned as qualifying for the refund include the vehicles known as "tugs" that deliver luggage, concessions, and other products to airplanes, as well trucks that never leave the airport property, generators, landscaping equipment used exclusively on airport property, and safety and rescue equipment.

Initial refund applications under this new aviation category shall be eligible for a refund equal to the three previous calendar years of fuel taxes paid, from the date of application.

DOR estimates 101 companies are eligible for the refunds. The retroactive rebate amount is estimated to total between $242,380 and $450,135. Thereafter, the fiscal impact may range from $100,000 to $180,000 annually. **(See "II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT" below.)**

The bill takes effect July 1, 2006.

[1] 2005 Florida Tax Handbook, page 86. On file with the House Transportation Committee.
[2] ibid, page 91.

C. SECTION DIRECTORY:

Section 1: Amends s. 206.41, F.S., to add commercial aviation purposes to those that are exempt from certain state fuel taxes. Defines "commercial aviation purposes." Provides for three-year retroactivity for businesses filing their initial refund applications.

Section 2: Specifies an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

According to the DOR estimates, the State Transportation Trust Fund could lose as much as $450,000 in motor fuel tax revenues because of the retroactive rebates, and between $100,000 and $180,000 annually in the future.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

According to DOR, local governments may experience a $200,000 loss in local-option fuel tax revenues from the 3-year retroactive rebate. In subsequent years, the annual loss is described as "insignificant" by DOR.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate, although private companies doing business on airport property, and which purchase fuel for vehicles that never leave airport property, are the largest group of beneficiaries of the proposed motor fuel tax refund.

These companies include American, Continental, Delta, Southwest and United Airlines, US Airways and other airlines doing business in Florida, as well as independent contractors who provide security, landscaping, or other services to airport customers and tenants, and fixed-base operators that transport fuel, concessions, and other items on airport properties.

D. FISCAL COMMENTS:

The DOR analysis prepared for the Feb. 22, 2006, Revenue Estimating Conference, used two different methodologies to calculate the bill's potential fiscal impact, and based the calculations on 2004 state sales tax returns.

One methodology calculated the total gallons of fuel used by large, mid-size, and small companies, then applied a weighted average of state fuel taxes paid on the number of gallons, to come up with a range of refund amounts. The other methodology was simpler, basically multiplying the number of gallons of fuel, on average, each of the 101 companies reported purchasing in 2004, then multiplying that by the amount of the fuel taxes, to get the total estimated fiscal impact.

The simple formula indicated the annual rebate cost would be $119,862.

The more complex formula came up with the total estimated impact as a range of three estimates. The three estimates for the cost of the three-year retroactive rebates were: $242,380; $346,257; and $450,135. The annual costs after the retroactive rebates ranged from $100,000, to $140,000, to $180,000.

The Revenue Estimating Conference by consensus decided to accept the more complex formula's high estimate as the impact of this bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   HB 989 does not: require counties or municipalities to spend funds or to take an action requiring the expenditure of funds, or reduce the authority that municipalities have to raise revenues.

   The bill does reduce the percentage of a state tax shared with counties or municipalities – in this case, the local-option fuel tax authorized under s. 206.41(1)(g), F.S. However, the Revenue Estimating Conference decided at its Feb. 22, 2006, review of this legislation that the annual impact would be "insignificant."

   The estimated $200,000 loss in local-option fuel tax revenues because of the 3-year retroactive rebate also appears to fall well below the threshold of triggering a mandate review. If the cumulative loss of state revenue-sharing does not equal or exceed an amount equal to the state's population multiplied by 10 cents, the impact is considered insignificant for mandate analysis purposes. Based on an estimated population of 19 million residents, the threshold would be $1.9 million.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

DOR appears to have sufficient existing rulemaking authority to implement the provisions of HB 989. In its analysis of HB 989, the agency indicates that it may provide by rule the refund application and filing procedures.

C. DRAFTING ISSUES OR OTHER COMMENTS:

In its analysis of HB 989, DOR writes:

> "The term 'aviation ground support vehicles' could include vehicles registered to use public highways by the Department of Highway Safety and Motor Vehicles. Since the bill authorizes refunds retroactively to 3 years prior to the date of the initial application, without either a clear definition of the term 'aviation support vehicles' or a list of qualifying aviation ground support support vehicles being included in the bill language, it would be difficult for the Department (of Revenue) to verify that gallons of motor fuel, for which a refund application is submitted, are gallons actually used in qualifying vehicles."

Bill supporters respond that DOR has existing authority to audit and inspect the records of applicants seeking refunds, and if DOR is not satisfied that the applicant has sufficient verification, the agency is under no obligation to issue the refund.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to motor fuel taxes; amending s. 206.41,
3 F.S.; providing for a refund of motor fuel taxes paid on
4 motor fuel used for certain commercial aviation purposes;
5 providing a definition; providing an effective date.
6
7 Be It Enacted by the Legislature of the State of Florida:
8
9 Section 1. Paragraph (c) of subsection (4) of section
10 206.41, Florida Statutes, is amended to read:
11 206.41 State taxes imposed on motor fuel.--
12 (4)
13 (c)1. Any person who uses any motor fuel for agricultural,
14 aquacultural, ~~or~~ commercial fishing<u>, or commercial aviation</u>
15 purposes on which fuel the tax imposed by paragraph (1)(e),
16 paragraph (1)(f), or paragraph (1)(g) has been paid is entitled
17 to a refund of such tax.
18 2. For the purposes of this paragraph, "agricultural and
19 aquacultural purposes" means motor fuel used in any tractor,
20 vehicle, or other farm equipment which is used exclusively on a
21 farm or for processing farm products on the farm, and no part of
22 which fuel is used in any vehicle or equipment driven or
23 operated upon the public highways of this state. This
24 restriction does not apply to the movement of a farm vehicle or
25 farm equipment between farms. The transporting of bees by water
26 and the operating of equipment used in the apiary of a beekeeper
27 shall be also deemed an agricultural purpose.

28 3. For the purposes of this paragraph, "commercial fishing
29 and aquacultural purposes" means motor fuel used in the
30 operation of boats, vessels, or equipment used exclusively for
31 the taking of fish, crayfish, oysters, shrimp, or sponges from
32 salt or fresh waters under the jurisdiction of the state for
33 resale to the public, and no part of which fuel is used in any
34 vehicle or equipment driven or operated upon the highways of
35 this state; however, the term may in no way be construed to
36 include fuel used for sport or pleasure fishing.
37 4. For the purposes of this paragraph, the term
38 "commercial aviation purposes" means motor fuel used in the
39 operation of aviation ground support vehicles or equipment, and
40 no part of which fuel is used in any vehicle or equipment driven
41 or operated upon the public highways of this state. Initial
42 applications for a refund of taxes paid under this section for
43 commercial aviation purposes shall apply retroactively to the
44 previous 3 calendar years from the date of initial application.
45 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 997 State Agency Law Enforcement Radio System
SPONSOR(S): Benson
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee		Pugh BJP	Miller P.M.
2) Finance & Tax Committee			
3) State Infrastructure Council			
4)			
5)			

SUMMARY ANALYSIS

In 1988, the Legislature passed a bill creating a statewide radio communications system to serve law enforcement units of state agencies, and to serve local law enforcement agencies through mutual-aid agreements, pursuant to s. 282.195, F.S. The network is referred to as the Statewide Law Enforcement Radio System (SLERS). Created the same year was s. 320.0802, F.S., which imposed a $1 annual surcharge on initial and renewal registrations required for motor vehicles, for the purpose of financing a coordinated radio system for state law enforcement agencies.

The 800 megahertz (MHz) radio system serves more than 6,500 officers in 17 state law-enforcement agencies or units. It has purchased approximately 14,000 radios for patrol cars, boats, motorcycles, and aircraft. The system will be completed in May 2006.

Last year, the advisory Task Force on State Agency Law Enforcement Communications (the Task Force). developed a list of recommended enhancements to SLERS, including new transmission towers, additional communications base stations and consoles, and creating a backup network. The list was published as part of the Senate Transportation and Economic Development Appropriations Committee Interim Project Report #2006-149.[1] The enhancements were estimated to cost between $7 million and $9 million from FY 2006-FY2011. The Task Force did not include an ongoing system of radio replacements on the list of enhancements, which would have added an estimated $8.6 million annual cost. Nor did the Task Force identify a specific funding source to pay for the enhancements, although Senate committee staff listed three funding options in their report.

HB 997 proposes levying an additional $1 surcharge on most motor vehicle registrations and depositing the revenues into the State Agency Law Enforcement Radio System Trust Fund to pay for system enhancements as identified by the Joint Task Force last year.

The surcharge is expected to raise at least $17 million a year.

HB 997 raises no apparent constitutional or other legal issues.

The bill takes effect July 1, 2006.

[1] Report available at http://www.flsenate.gov/data/Publications/2006/Senate/reports/interim_reports/pdf/2006-149ta.pdf.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes: HB 997 imposes an additional $1 surcharge on all motor vehicle registrations listed in s. 320.08, F.S., except for on mobile homes. The surcharge will raise an estimated minimum of $17 million annually, which will be used to fund continued upgrades of the state agency law enforcement radio system.

Maintain Public Security: HB 997 increases the public resources devoted to public security. The additional revenues are intended to maintain and enhance the current law enforcement radio system, which has proven to be reliable during public emergencies.

B. EFFECT OF PROPOSED CHANGES:

Background

In 1988, the Legislature created the State Technology Office (STO) and directed it to "acquire and implement a statewide radio communications system to serve law enforcement units of state agencies, and to serve local law enforcement agencies through mutual aid channels," pursuant to s. 282.195, F.S.

Created the same year was s. 320.0802, F.S., which imposed a $1 annual surcharge on initial and renewal registrations required for motor vehicles, for the purpose of financing a coordinated radio system for state law enforcement agencies. In FY 2005-2006, the surcharge raised about $18.5 million. The revenues are deposited in the State Agency Law Enforcement Radio System Trust Fund.

The STO is now known as the Florida Enterprise Information Technology Services (EITS) and is housed within the Department of Management Services, but a key mission remains the same: to complete the Statewide Law Enforcement Radio System (SLERS). Assisting EITS in developing the SLERS is the advisory Task Force on State Agency Law Enforcement Communications (the Task Force). EITS is the project manager for SLERS and the contract manager for the state's contract with M/A-COM, the company responsible for the day-to-day operations of the SLERS. M/A-COM's contract expires June 30, 2021. The contract is paid with the revenues generated by the current $1 surcharge on vehicle registrations and renewals.

The 800 MHz radio system serves more than 6,500 officers in 17 state law-enforcement agencies or entities, and has purchased approximately 14,000 radios for patrol cars, boats, motorcycles, and aircraft. Developed in five phases regionally in Florida, SLERS will provide full coverage to state law enforcement officers by May 2006, according to EITS staff. SLERS is considered one of the best law enforcement communications systems in the nation.

In 2005, the law enforcement Task Force developed a list of recommended enhancements to SLERS, including new transmission towers, additional communications base stations and consoles, more training programs, and creation of a backup network in Tallahassee. Not included among the enhancement proposals were discussions on how to systematically pay for replacing radios that break, wear out, or become obsolete because of improved technology. Typically, radio replacement is funded through the budgets of individual state agencies each year. Law enforcement radios generally have to be replaced every six to eight years.

The Task Force's list of enhancements was published as part of the Senate Transportation and Economic Development Appropriations Committee Interim Project Report #2006-149. The enhancements were estimated to cost between $7 million and $9 million from FY 2006-FY2011. No specific funding source was identified by the Task Force to pay for the enhancements, but the Senate report lists three options:

- Option 1 – Provide $6.6 million in General Revenue to supplement the $1 surcharge revenues in the trust fund in order to fund the SLERS enhancements.
- Option 2 -- Increase the current statutory fee to $1.10 specifically to fund the enhancements to SLERS.
- Option 3 – Increase the current statutory fee by an additional 45 cents, effective in FY 2009-2010 to provide an annual revenue increase of $8.6 million to be used for radio replacement costs for state agencies.

Effect of Proposed Changes

HB 997 amends s. 320.0802, F.S., to add a $1 surcharge on motor vehicle registrations, including motorcycles and trailers, to pay for enhancements to the SLERS that were identified by the Task Force in 2005 and listed in the Florida Senate Interim Project Report #2006-149. Exempted from the additional surcharge are mobile home registrations.

The new surcharge will generate an estimated $17 million annually, to be deposited into the State Agency Law Enforcement Radio System Trust Fund and used to pay for the system enhancements.

HB 997 takes effect July 1, 2006.

C. SECTION DIRECTORY:

Section 1: Amends s. 320.0802, F.S., to levy an additional $1 surcharge on motor vehicle registrations and renewals. Provides for use of the funds. Names trust fund that is the repository for the revenues.

Section 2: Specifies an effective date of July1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   DHSMV estimates the additional $1 surcharge will generate $17 million in each of the next three years. The revenues will be deposited into the State Agency Law Enforcement Radio System Trust Fund, which is overseen by the Department of Management Services.

2. Expenditures:

   None. DHSMV says it will absorb within its existing budget and staffing the cost to reprogram its computerized registration information and billing programs.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

People will pay $1 more for each motor vehicle, motorcycle, or trailer they register in Florida each year.

D. FISCAL COMMENTS:

Based on projected cost estimates in the Senate Interim Project Report # 2006-149, a 10-cent increase in the registration surcharge would be sufficient to fund the SLERS enhancements recommended by the Task Force. Adding 45 cents more to the surcharge would cover the estimated annual $8.6 million to purchase new radios.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable because HB 997 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:

The agencies involved in implementing HB 997 have sufficient rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Agency comments:
DHSMV has recommended extending the bill's effective date to October 1, 2006, in order to give the agency more time to reprogram its computers.

Committee staff comments:
HB 997 specifically earmarks the revenues from the additional $1 surcharge for "enhancements to the state agency law enforcement radio system as identified in 2005 by the Joint Task Force on State Agency Law Enforcement Communications."

Since systematic radio replacements were not among the Task Force's 2005 recommended list of enhancements, it is unclear whether the revenues from the new $1 surcharge can be spent to purchase new radios on a scale as discussed in the Senate report.

This issue would have to be addressed as part of the appropriations process of authorizing the expenditures of funds from the State Agency Law Enforcement Radio System Trust Fund.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to the state agency law enforcement radio
3 system; amending s. 320.0802, F.S.; providing for an
4 additional surcharge on the annual motor vehicle license
5 tax; providing exceptions; directing the moneys collected
6 be used for certain enhancements to the radio system;
7 providing an effective date.
8
9 WHEREAS, during the 2004 and 2005 hurricane seasons, the
10 State of Florida experienced eight catastrophic storms within a
11 15-month period, and
12 WHEREAS, designed in 1988, the state agency law enforcement
13 radio system was able to serve law enforcement units of state
14 agencies and local law enforcement agencies through mutual aid
15 channels, and
16 WHEREAS, the state recognizes the importance of maintaining
17 a law enforcement radio system throughout the state to ensure
18 that first responders and law enforcement officers are able to
19 communicate, protect, and provide relief, and
20 WHEREAS, the state agency law enforcement radio system
21 performed as designed and was able to withstand and operate
22 effectively during all recent hurricanes, and
23 WHEREAS, recent legislative studies and agency reviews
24 indicate that the radio system should be strengthened to ensure
25 continued communication and protection by investment in the
26 infrastructure, and
27 WHEREAS, in 2005, the Joint Task Force on State Agency Law
28 Enforcement Communications conducted a review of the operations

29 and identified a number of enhancements to strengthen the system
30 for future events, and
31 WHEREAS, these permanent enhancements to the statewide
32 system should be funded by recurring funding sources, and
33 WHEREAS, all Floridians benefit from a law enforcement
34 radio system that allows constant communication throughout the
35 state during hurricane seasons, emergencies, and the normal
36 course of performing their duties, NOW, THEREFORE,
37
38 Be It Enacted by the Legislature of the State of Florida:
39
40 Section 1. Section 320.0802, Florida Statutes, is amended
41 to read:
42 320.0802 Surcharge on license tax.--There is hereby levied
43 and imposed on each license tax imposed under s. 320.08, except
44 those set forth in s. 320.08(11), a surcharge in the amount of
45 $1, which shall be collected in the same manner as the license
46 tax and deposited into the State Agency Law Enforcement Radio
47 System Trust Fund of the Department of Management Services. An
48 additional surcharge in the amount of $1 shall be levied and
49 imposed on each license tax imposed under s. 320.08, except
50 those set forth in s. 320.08(11), and deposited into the State
51 Agency Law Enforcement Radio System Trust Fund of the Department
52 of Management Services for enhancements to the state agency law
53 enforcement radio system as identified in 2005 by the Joint Task
54 Force on State Agency Law Enforcement Communications.
55 Section 2. This act shall take effect July 1, 2006.

HB 1055

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1055 Specialty License Plates
SPONSOR(S): Gibson
TIED BILLS: **IDEN./SIM. BILLS:** SB 1304

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee		Thompson J.T.	Miller P.M.
2) Transportation & Economic Development Appropriations Committee			
3) State Infrastructure Council			
4)			
5)			

SUMMARY ANALYSIS

Under current law, the annual use fees for the Live the Dream License Plate are distributed to The Dream Foundation, Inc., who retains a portion of the fees for administrative, startup and approval process costs. Thereafter 25 percent is to be used for continuing promotion and marketing of the license plate and concept. The remaining funds are distributed to the following organizations:

- Twenty-five percent to be used as grants for programs that provide research, care, and treatment for sickle cell disease,
- Twenty-five percent to the Florida chapter of the March of Dimes for programs and services that improve the health of babies through the prevention of birth defects and infant mortality,
- Ten percent to the Florida Association of Healthy Start Coalitions for help in decreasing racial disparity in infant mortality, to increase healthy birth outcomes, and for use by local Healthy Start Coalitions,
- Ten percent to the Community Partnership for Homeless, Inc., for programs that provide relief from poverty, hunger, and homelessness.
- Five percent to be used by the foundation for administrative costs directly associated with operations related to the management and distribution of proceeds.

This bill redirects the 25 percent of allocated funds for general grants for research, care, and treatment of sickle cell disease to the Sickle Cell Disease Association of Florida, Inc. The bill will not have a fiscal impact on the Department of Highway Safety and Motor Vehicles. HB 1055 takes effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Specialty license plates are listed in s. 320.08058, F.S. Specialty license plates are available to any owner or lessee of a motor vehicle who is willing to pay an annual use fee for the privilege. The legislature has enacted 106 specialty license plates to date, though only 100 are currently available for purchase. Section 320.08056, F.S., specifies annual use fees ranging from $15 to $25 for the various specialty plates, which are paid in addition to required license taxes and service charges.

Funds derived from these annual use fees are distributed to an organization or organizations in support of a particular cause or charity signified on the plate's design and designated in s. 320.08058, F.S. This section also provides for the uses of funds derived for each plate from its annual use fee. There is wide variation on the uses of these fees regarding administrative costs and marketing or promotion expenses. For example, the "Support Soccer" license plate allows 25 percent of funds to be used for promotion and marketing and 5 percent to be used for administrative costs; while the "United We Stand" license plate requires that 100 percent of funds be used for airport security grants.

The Dream Foundation, Inc., is dedicated to assisting the indigent and less fortunate through direct and indirect programs and grants. The Foundation's principal mission is to address the increasing problem with respect to access to affordable medical and dental treatment for the underprivileged.

Section 320.008058, F.S., provides the first $60,000 of revenues generated from the collection of annual fees for the "Live the Dream" specialty plate are to be distributed to The Dream Foundation, Inc., to cover start up and administration costs. All funds distributed thereafter are to be allocated as follows:

- 25 percent to the Live the Dream Foundation, Inc. for marketing and promotional costs associated with the plate;
- 25 percent distributed as grants for research, treatment, and care programs for sickle cell disease;
- 25 percent to the Florida chapter of the March of Dimes for child and infant health programs;
- 10 percent to the Florida Association of Healthy Start Coalition to decrease racial disparity, infant mortality rates, and increase healthy births;
- 10 percent to the Community Partnership for the Homeless to provide relief for poverty, homelessness, and hunger;
- 5 percent to the Live the Dream Foundation, Inc., for administrative costs associated with production, management, and distribution of the proceeds.

The Sickle Cell Disease Association of Florida, Inc. (SCDAF), is a not for profit 501(c) (3) charitable organization. SCDAF serves 16 community based chapters throughout the State of Florida and is one of 41 state based chapters serving the Sickle Cell Disease Association of America. Programs started and operated by SCDAF include:

- Sickle Cell Education and Counseling Program;
- Statewide Sickle Cell Education and Counseling Program;
- Resource Center;
- Educational Assistance Program
- Statewide Community Based Outreach Program,
- Screening and Testing Program, and

- Summer Recreation and Enhancement Camp

The Live the Dream license plate[1] was created by the legislature in 2004 by chapter 2004-337, Laws of Florida. This license plate ranks 65th in popularity for the number of license plates currently issued. The Live the Dream license plate has raised $60,925.00 from July 1, 2004 to present.

HB 1055 redirects the 25 percent of allocated funds for general grants for research, care, and treatment of sickle cell disease to the Sickle Cell Disease Association of Florida, Inc. This bill also provides an effective date of July 1, 2006.

C. SECTION DIRECTORY:

Section 1. Amends s. 320.08058, F.S., providing for redirection of allocated funds from the sale of the Live the Dream license plate.

Section 2. Provides an effective date of July 1, 2006.

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:

This bill does not appear to have a significant direct economic impact on the private sector. However, other entities that could potentially receive grant funding from the 25 percent allocation would be affected negatively because they would no longer be able to apply for the grants awarded to programs that provide research, care, and treatment for sickle cell disease. HB 1055 redirects the 25 percent of allocated funds for general grants for research, care, and treatment of sickle cell disease to the Sickle Cell Disease Association of Florida, Inc

D. FISCAL COMMENTS:

None.

[1] S. 320.08058 (49), F.S.,

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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to specialty license plates; amending s.
3 320.08058, F.S.; providing that certain proceeds from the
4 sale of Live the Dream specialty plates shall be
5 distributed to the Sickle Cell Disease Association of
6 Florida, Inc.; providing an effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Subsection (49) of section 320.08058, Florida
11 Statutes, as amended by chapter 2005-357, Laws of Florida, is
12 amended to read:
13 320.08058 Specialty license plates.--
14 (49) LIVE THE DREAM LICENSE PLATES.--
15 (a) The department shall develop a Live the Dream license
16 plate as provided in this section. Live the Dream license plates
17 must bear the colors and design approved by the department. The
18 word "Florida" must appear at the top of the plate, and the
19 words "Live the Dream" must appear at the bottom of the plate.
20 (b) The proceeds of the annual use fee shall be
21 distributed to the Dream Foundation, Inc. The Dream Foundation,
22 Inc., shall retain the first $60,000 in proceeds from the annual
23 use fees as reimbursement for administrative costs, startup
24 costs, and costs incurred in the approval process. Thereafter,
25 up to 25 percent shall be used for continuing promotion and
26 marketing of the license plate and concept. The remaining funds
27 shall be used in the following manner:
28 1. Twenty-five percent shall be distributed <u>to the Sickle</u>

29 Cell Disease Association of Florida, Inc., ~~as grants~~ for
30 programs that provide research, care, and treatment for sickle
31 cell disease.
32 2. Twenty-five percent shall be distributed to the Florida
33 chapter of the March of Dimes for programs and services that
34 improve the health of babies through the prevention of birth
35 defects and infant mortality.
36 3. Ten percent shall be distributed to the Florida
37 Association of Healthy Start Coalitions to decrease racial
38 disparity in infant mortality and to increase healthy birth
39 outcomes. Funding will be used by local Healthy Start Coalitions
40 to provide services and increase screening rates for high-risk
41 pregnant women, children under 4 years of age, and women of
42 childbearing age.
43 4. Ten percent shall be distributed to the Community
44 Partnership for Homeless, Inc., for programs that provide relief
45 from poverty, hunger, and homelessness.
46 5. Five percent of the proceeds shall be used by the
47 foundation for administrative costs directly associated with
48 operations as they relate to the management and distribution of
49 the proceeds.
50 Section 2. This act shall take effect July 1, 2006.

HB 1193

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1193 CS Driving Under the Influence
SPONSOR(S): Kottkamp
TIED BILLS: **IDEN./SIM. BILLS:** SB 2468

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Criminal Justice Committee	8 Y, 0 N, w/CS	Kramer	Kramer
2) Transportation Committee		Miller P.M.	Miller P.M.
3) Criminal Justice Appropriations Committee			
4) Justice Council			
5)			

SUMMARY ANALYSIS

Currently, a person who operates a vehicle under the influence and who by reason of such operation, causes or contributes to causing:

- Damage to the property or the person of another commits a first degree misdemeanor.
- Serious bodily injury to another, commits a third degree felony
- The death of any human being or unborn quick child commits DUI manslaughter, a second degree felony. The offense is a first degree felony if at the time of the crash, the person knew or should have known that the crash occurred and failed to give information and render aid as required by s. 316.062, F.S.

HB 1193 amends this provision to provide that any person who operates a vehicle under the influence creates a rebuttable presumption that he or she caused or contributed to causing damage to the person or property of another, serious bodily injury to another, or death to another human being or unborn quick child.

Vehicular homicide is the killing of a human being caused by the operation of a motor vehicle by another in a reckless manner likely to cause the death of, or great bodily harm to another. The bill provides that any person who drives under the influence creates a rebuttable presumption that he or she operated a motor vehicle in a reckless manner likely to cause death or great bodily harm to a human being.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government/safeguard individual liberty: The bill amends the DUI and vehicular homicide statutes to create a rebuttable presumption that a person who operated a vehicle under the influence caused damage to property or death.

B. EFFECT OF PROPOSED CHANGES:

Driving Under the Influence: Section 316.193(1), F.S. provides that the offense of driving under the influence is committed if a person is driving or in the actual physical control of a vehicle within the state and:

- The person is under the influence of alcoholic beverages, any chemical substance or any controlled substance when affected to the extent that the person's normal faculties are impaired;
- The person has a blood-alcohol level of 0.08 or more grams of alcohol per 100 milliliters of blood; or
- The person has a breath-alcohol level of 0.08 or more grams of alcohol per 210 liters of breath.

A person who is in violation of the above provision, who operates a vehicle and *who by reason of such operation, causes or contributes to causing*:

1. Damage to the property or the person of another commits a first degree misdemeanor.
2. Serious bodily injury to another, commits a third degree felony
3. The death of any human being or unborn quick child commits DUI manslaughter, a second degree felony. The offense is a first degree felony if at the time of the crash, the person knew or should have known that the crash occurred and failed to give information and render aid as required by s. 316.062, F.S.

HB 1193 amends this provision to provide that any person who drives under the influence as described in s. 316.193(1), F.S. creates a rebuttable presumption that he or she caused or contributed to causing damage to the person or property of another, serious bodily injury to another, or death to another human being or unborn quick child.

Until 1986, the DUI manslaughter statute (previously referred to as "manslaughter by intoxication") was interpreted as not requiring proof of a "causal connection between the manner of operation of the defendant's motor vehicle and the death of the victim". *Magaw v. State*, 537 So.2d 564, 565 (Fla. 1989). The Supreme Court referred to the statute as having "strict liability consequences". *Baker v. State,* 377 So.2d 17 (Fla. 1979)(upholding constitutionality of statute). In 1986 the statute was amended to "introduce causation as an element" of the offense. *Magaw*, 537 So.2d at 567; *State v. Hubbard*, 751 So.2d 552 (Fla. 1999).

Vehicular Homicide*:* Vehicular homicide is the killing of a human being, or the killing of a "viable fetus" by any injury to the mother, caused by the operation of a motor vehicle by another *in a reckless manner likely to cause the death of, or great bodily harm to, another.*[1] The degree of culpability required to prove that a driver was reckless is less than culpable negligence, which is the standard for

[1] § 782.071, F.S.

manslaughter, but more than a mere failure to use ordinary care.[2] The offense is a second degree felony. If at the time of the accident, the person knew or should have known that the accident occurred and the person failed to give information or render aid, the offense is a first degree felony.

The bill provides that for purposes of this section, a person who violates s. 316.193(1), F.S., relating to driving under the influence, creates a rebuttable presumption that he or she operated a motor vehicle in a reckless manner likely to cause death or great bodily harm to a human being.

C. SECTION DIRECTORY:

Section 1. Amends s. 316.193, F.S., relating to driving under the influence; creating rebuttable presumption.

Section 2. Amends s. 782.071, F.S., relating to vehicular homicide; creating rebuttable presumption.

Section 3. Provides effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The Criminal Justice Impact Conference has not met to consider the prison bed impact of this bill on the Department of Corrections.

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:

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[2] McCreary v. State, 371 So.2d 1024 (Fla.1979); Michel v. State, 752 So.2d 6, 12 (Fla. 5th DCA 2000)(holding that evidence supported vehicular homicide conviction where defendants had been ordered off the interstate for failing to have the proper equipment on their truck then drove the truck on a dark stretch of highway at night, without any rear warning lights, at a speed of between 22 and 24 m.p.h. and with metals rails hanging out of the back of the truck, which had no bumper)

1. Applicability of Municipality/County Mandates Provision:

   The 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:

   Currently, in order to prove a DUI manslaughter case, in addition to proving the impairment of the driver, the state must prove that by operating the vehicle, the driver caused or contributed to causing the death of a human being. HB 1193 provides that the fact that a person drove under the influence creates a rebuttable presumption that the person caused or contributed to causing the death of another human being. The bill also creates a similar presumption in the vehicular homicide statute. An issue could be raised as to whether this provision violates the Due Process Clause by unconstitutionally shifting the burden of proof to the defendant.

   A recent 5th District Court of Appeal case contained a thorough discussion on the issue of presumptions:

   > 'Inferences and presumptions are a staple of our adversary system of factfinding.' The ultimate test of the constitutional validity of any such evidentiary device is that it 'must not undermine the factfinder's responsibility at trial, based on evidence adduced by the State, to find the ultimate facts beyond a reasonable doubt.' To satisfy the requirements of due process, all inferences and presumptions must pass the 'rational connection' test, which requires, at minimum, that it must "be said with substantial assurance that the presumed fact is more likely than not to flow from the proved fact on which it is made to depend." In Allen, 442 U.S. 140, 99 S.Ct. 2213, 60 L.Ed.2d 777, the Court had occasion to consider and refine what had been its somewhat confusing past treatment of inferences and presumptions. The Allen Court examined the value of these evidentiary devices and their validity under the due process clauses contained in the Fifth and Fourteenth Amendments to the United States Constitution in light of 'the strength of the connection between the particular basic and elemental facts involved and on the degree to which the device curtails the factfinder's freedom to assess the evidence independently.' The Court used the terms 'permissive inference' and 'mandatory presumption' to describe two types of evidentiary devices that will be subjected to constitutional scrutiny.
   >
   > A permissive inference allows, but does not require, the trier of fact to infer the elemental fact from proof of a basic fact and does not place any burden on the defendant. In this situation, the basic fact may constitute prima facie evidence of the elemental fact. On the other hand, a mandatory presumption tells a factfinder that he or they must find the elemental fact upon proof of the basic fact, unless the defendant offers evidence that rebuts the presumption created by the connection between the two facts. Because of the differences in the two types of presumptions, the threshold inquiry in analysis of the constitutionality of a statutory presumption is to determine the type of presumption that the statute creates.
   >
   > If the statute creates a permissive inference, a party challenging it is generally required to demonstrate its invalidity as applied to him. Because a permissive inference allows a trier of fact to reject the inference and does not shift the burden of proof, 'it affects the application of the 'beyond a reasonable doubt' standard only if, under the facts of the case, there is no rational way the trier could make the connection permitted by the inference.' Accordingly, a permissive inference will be valid so long as, under the facts of the case, the presumed fact 'more likely than not' flows from the basic fact and the inference is not the sole basis for a finding of guilt. On the other hand, if, under the facts of the case, it is clear that the inference is the sole basis for a finding of guilt, the fact proved must be sufficient to support the inference of guilt beyond a reasonable doubt.
   >
   > *If the statute creates a mandatory presumption, the Court has generally examined the presumption on its face to determine the extent to which the basic and elemental facts coincide.*

Because the jury must accept the mandatory presumption even if it is the sole evidence of an element of the offense and because the State bears the burden of establishing guilt, the presumed fact must flow from the basic fact beyond a reasonable doubt.

State v. Rygwelski, 899 So.2d 498, 501 -502 (Fla.2nd DCA. 2005)(citations omitted)(holding that statute that provides that failure to redeliver property within five days after receipt of demand for return "is prima facie evidence of fraudulent intent" creates a permissive inference, not a mandatory presumption).

In *State v. Brake*, 796 So.2d 522 (Fla. 2001), the Florida Supreme Court considered the constitutionality of a statutory presumption that a person who lured or enticed a child under the age of 12 into a dwelling without the consent of the child's parent was doing so for other than a lawful purpose. In striking the presumption, the court analyzed the provision as follows:

> In assessing the constitutionality of such presumptions, the United States Supreme Court "has generally examined the presumption on its face to determine the extent to which the basic and elemental facts coincide." As the Supreme Court [has] explained ..... "a criminal statutory presumption must be regarded as 'irrational' or 'arbitrary,' and hence unconstitutional, unless it can at least be said with substantial assurance that the presumed fact is more likely than not to flow from the proved fact on which it is made to depend."
>
> In the instant case, the statute permits the State to prove the mens rea element of the offense ("for other than a lawful purpose") by proving lack of parental consent for the child to enter the structure, dwelling, or conveyance with the defendant. We cannot say with substantial assurance that a defendant's unlawful intent can be so presumed. For example, a neighbor who invites a child into their house for a perfectly innocent reason is not likely to seek parental permission.

According to the language of HB 1193, any person who operates a vehicle under the influence *creates* a "rebuttable presumption " that he or she caused damage or death. This language appears to create a "mandatory presumption" – requiring the factfinder to find that the defendant caused the harm or death unless the presumption is rebutted by the defendant. As a result, it appears that the test to be applied to the presumption is whether the presumed fact (causation of harm or death) must flow from the basic fact (operating a vehicle under the influence) beyond a reasonable doubt.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Criminal Justice Committee adopted two amendments. As filed, the bill amended the vehicular homicide statute to provide that any person who drives under the influence creates a rebuttable presumption that he or she operated a motor vehicle in a reckless manner likely to cause death or *bodily injury* to a human being. However, this statute requires proof that a person operated a motor vehicle in a reckless manner likely to cause the death of or *great bodily harm* to another. The first amendment amended the presumption to include great bodily harm instead of bodily injury to conform the two provisions.

The committee also adopted an amendment which modified the presumption relating to DUI to include damage to the person of another to conform to the rest of the statute.

CHAMBER ACTION

1 The Criminal Justice Committee recommends the following:
2
3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 A bill to be entitled
6 An act relating to driving under the influence; amending
7 s. 316.193, F.S.; providing that, if a person drives under
8 the influence of alcohol or a specified chemical or
9 controlled substance and causes damage to property or
10 person, serious bodily injury, or death to another human
11 being or unborn quick child, a rebuttable presumption is
12 created that the person caused or contributed to causing
13 damage to property or person, serious bodily injury, or
14 death to another human being or unborn quick child;
15 amending s. 782.071, F.S.; providing that, if a person
16 drives under the influence of alcohol or a specified
17 chemical or controlled substance, a rebuttable presumption
18 is created that the person operated a motor vehicle in a
19 reckless manner likely to cause death or great bodily harm
20 to another human being; providing an effective date.
21
22 Be It Enacted by the Legislature of the State of Florida:
23

24 Section 1. Subsections (1) and (3) of section 316.193,
25 Florida Statutes, are amended to read:
26 316.193 Driving under the influence; penalties.--
27 (1) A person commits ~~is guilty of~~ the offense of driving
28 under the influence and is subject to punishment as provided in
29 subsection (2) if the person is driving or in actual physical
30 control of a vehicle within this state and:
31 (a) The person is under the influence of alcoholic
32 beverages, any chemical substance set forth in s. 877.111, or
33 any substance controlled under chapter 893, when affected to the
34 extent that the person's normal faculties are impaired;
35 (b) The person has a blood-alcohol level of 0.08 or more
36 grams of alcohol per 100 milliliters of blood; or
37 (c) The person has a breath-alcohol level of 0.08 or more
38 grams of alcohol per 210 liters of breath.
39 (3) Any person:
40 (a) Who is in violation of subsection (1);
41 (b) Who operates a vehicle; and
42 (c) Who, by reason of such operation, causes or
43 contributes to causing:
44 1. Damage to the property or person of another commits a
45 misdemeanor of the first degree, punishable as provided in s.
46 775.082 or s. 775.083.
47 2. Serious bodily injury to another, as defined in s.
48 316.1933, commits a felony of the third degree, punishable as
49 provided in s. 775.082, s. 775.083, or s. 775.084.
50 3. The death of any human being or unborn quick child
51 commits DUI manslaughter, and commits:

52 a. A felony of the second degree, punishable as provided
53 in s. 775.082, s. 775.083, or s. 775.084.
54 b. A felony of the first degree, punishable as provided in
55 s. 775.082, s. 775.083, or s. 775.084, if:
56 (I) At the time of the crash, the person knew, or should
57 have known, that the crash occurred; and
58 (II) The person failed to give information and render aid
59 as required by s. 316.062.
60
61 For purposes of this paragraph, any person who violates
62 subsection (1) creates a rebuttable presumption that he or she
63 caused or contributed to causing damage to the person or
64 property of another, serious bodily injury to another, or death
65 to another human being or unborn quick child.
66
67 For purposes of this subsection, the definition of the term
68 "unborn quick child" shall be determined in accordance with the
69 definition of viable fetus as set forth in s. 782.071.
70 Section 2. Section 782.071, Florida Statutes, is amended
71 to read:
72 782.071 Vehicular homicide.--"Vehicular homicide" is the
73 killing of a human being, or the killing of a viable fetus by
74 any injury to the mother, caused by the operation of a motor
75 vehicle by another in a reckless manner likely to cause the
76 death of, or great bodily harm to, another.
77 (1) Vehicular homicide is:
78 (a) A felony of the second degree, punishable as provided
79 in s. 775.082, s. 775.083, or s. 775.084.

80 (b) A felony of the first degree, punishable as provided
81 in s. 775.082, s. 775.083, or s. 775.084, if:
82 1. At the time of the accident, the person knew, or should
83 have known, that the accident occurred; and
84 2. The person failed to give information and render aid as
85 required by s. 316.062.
86
87 This paragraph does not require that the person knew that the
88 accident resulted in injury or death.
89 (2) For purposes of this section, a fetus is viable when
90 it becomes capable of meaningful life outside the womb through
91 standard medical measures.
92 (3) For purposes of this section, any person who violates
93 s. 316.193(1) creates a rebuttable presumption that he or she
94 operated a motor vehicle in a reckless manner likely to cause
95 death or great bodily harm to a human being.
96 (4) ~~(3)~~ A right of action for civil damages shall exist
97 under s. 768.19, under all circumstances, for all deaths
98 described in this section.
99 (5) ~~(4)~~ In addition to any other punishment, the court may
100 order the person to serve 120 community service hours in a
101 trauma center or hospital that regularly receives victims of
102 vehicle accidents, under the supervision of a registered nurse,
103 an emergency room physician, or an emergency medical technician
104 pursuant to a voluntary community service program operated by
105 the trauma center or hospital.
106 Section 3. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1201 Cargo Container Inspections
SPONSOR(S): Taylor
TIED BILLS: **IDEN./SIM. BILLS:** SB 2722

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee		Pugh BJP	Miller P.M.
2) Domestic Security Committee			
3) Transportation & Economic Development Appropriations Committee			
4) State Infrastructure Council			
5)			

SUMMARY ANALYSIS

Improving the security of the U.S. transportation infrastructure is one of the challenges facing this nation's elected officials, the business sector, and citizens. The federal Transportation Security Administration and The U.S. Coast Guard, as part of the U.S. Department of Homeland Security, are responsible for evaluating transpiration-related security concerns, developing security guidelines and criteria, and implementing regulations. These measures impact security at seaports, airports, and freight and passenger railroads.

Since September 11, 2001, the state of Florida has implemented its own transportation-related security initiatives, and provided state funding to implement these programs and help pay for federal requirements. Still, there are critical and expensive security issues – such as better screening of freight shipments – which government officials and the private sector are trying to address.

HB 1201 directs the Florida Department of Transportation (FDOT) to conduct a comprehensive study of the current procedures for inspecting cargo containers at airports, seaports, and rail stations in Florida. The study should include a review of current inspection procedures; the number of inspections relative to the number of cargo containers, the type of equipment and technology available to be used in cargo container screening; and the cost of this equipment and technology.

FDOT must report its findings from the study to the Governor, the Speaker of the House of Representatives and the Senate President before July 1, 2007. In that report , FDOT must include suggested methods of. how to increase the number of inspections to 100 percent of all cargo containers; how to make available more equipment and technology to improve and increase inspections; and how to increase funding sources to pay for these program changes.

HB 1201 has a negative fiscal impact on state government of $4.5 million, the estimated cost of the study. It raises no apparent constitutional or other legal issues.

The bill takes effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

No House principles are implicated.

B. EFFECT OF PROPOSED CHANGES:

Background

Improving the security of the U.S. transportation infrastructure is the challenging responsibility of the federal government. The federal Transportation Security Administration and the U.S. Coast Guard, as well as their parent agency of the U.S. Department of Homeland Security, are responsible for evaluating transpiration-related security concerns, developing security guidelines and criteria, and implementing regulations. These measures impact security at seaports, airports, and freight and passenger railroads.

Although the federal government has taken the lead in transportation security, the state of Florida has implemented several initiatives in the last four years to improve security at its transportation hubs. These initiatives include: requirements for seaport and general-aviation airport security plans, photo identification cards for seaport workers; and flexibility in aviation and seaport state funding in order for the facilities to make security improvements required by the federal government.

Security of its transportation infrastructure is crucial for Florida, because its entire economy is intertwined with the mobility afforded by transportation systems:

- Florida has 19 major commercial service airports that serve 115 million passengers a year and transport $12 billion worth of cargo.[1]
- The state has 14 deep-water ports, which in 2002 handled more than $44 billion in international trade and handled 119.2 million tons of cargo.[2] Besides freight, several ports also have thriving cruise ship enterprises. In 2002, an estimated 13 million people sailed out of Florida ports, and spent an estimated $356 million in the state.[3]
- There are 14 major freight railroads that in 2003 transported nearly 2 million carloads (or 117 million tons) of goods and products throughout Florida and into the rest of the nation. [4]
- Passenger rail service is limited in Florida, but important to the people who regularly use it. Amtrak has four routes in Florida that in 2004 carried 913,000 passengers. The state's only commuter rail service, Tri-Rail serving Broward, Miami-Dade and Palm Beach counties, carried 2.7 million passengers in 2003.[5]

Effect of Proposed Changes

HB 1201 directs FDOT to conduct a comprehensive study of the current procedures for inspecting cargo containers at airports, seaports, and rail stations in Florida. The study would include a review of the:

- Current inspection procedures;
- Number of inspections relative to the number of cargo containers,
- Equipment and technology used and available for these inspections; and
- Costs of that equipment and technology.

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[1] Florida Aviation System Plan 2025. Prepared for FDOT and published May 2005. Copy available at http://www.cfaspp.com/Documents/Statewide%20Overview%2018%20May%202005.pdf

[2] *A Five-Year Plan to Achieve the Mission of Florida's Seaport.* Prepared by the Florida Seaport Transportation and Economic Development Council. April 2004. Copy available at: http://www.flaports.org/archive/2004.asp?Section=7

[3] ibid

[4] 2004 Florida Rail.. Prepared for FDOT. June 2005. Copy available at: http://www.dot.state.fl.us/rail/Publications/2004Plan

[5] ibid.

FDOT must report its findings from the study to the Governor, the Speaker of the House of Representatives and the Senate President before July 1, 2007.

The report must include the following suggestions:

- How to increase the number of inspections to 100 percent of all cargo containers;
- How to make more equipment and technology available to improve and increase inspections; and
- What funding sources may be available to improve and increase the number of cargo inspections.

HB 1201 does not specify how FDOT will fund the study, so the agency anticipates contracting the study to a private consulting firm and paying for the study with existing funds.

HB 1201 takes effect July 1, 2006.

C. SECTION DIRECTORY:

Section 1: Directs FDOT to perform a study on cargo inspection. Lists issues to be studies. Requires report to Governor and Legislature by July 1, 2007.

Section 2: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   FDOT anticipates spending about $4.5 million from the State Transportation Trust Fund on the study, which will be contracted to a private consulting firm.

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:

A mandates analysis of HB 1201 is not applicable because 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:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

FDOT staff says that the federal Department of Homeland Security and other federal agencies are clearly responsible for cargo inspections, not the individual states. According to FDOT, the states' role in this and other security issues is to implement the laws passed by Congress and the regulations promulgated by federal agencies.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to cargo container inspections; directing
3 the Department of Transportation to make a study of
4 procedures and equipment used to inspect cargo containers
5 at airports, seaports, and railroad stations; requiring a
6 report to the Governor and Legislature; providing for
7 content of the report; providing an effective date.
8
9 Be It Enacted by the Legislature of the State of Florida:
10
11 Section 1. Cargo container inspections; study by the
12 Department of Transportation.--The Department of Transportation
13 is directed to conduct a comprehensive study of current
14 procedures for inspecting cargo containers at airports,
15 seaports, and railroad stations in this state. The study shall
16 include a review of the current inspection procedures, number of
17 inspections relative to the total number of cargo containers,
18 equipment and technology used and available for the inspections,
19 and the costs of that equipment and technology. The department
20 shall report its findings to the Governor, the President of the
21 Senate, and the Speaker of the House of Representatives before
22 July 1, 2007. The report shall also include suggested methods to
23 increase the number of inspections to 100 percent of all cargo
24 containers, equipment and technology available to improve and
25 increase the number of inspections, and funding sources to help
26 defray the costs of improving and increasing the number of
27 inspections.
28 Section 2. This act shall take effect July 1, 2006.

HB 1337

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1337 Driver Licenses
SPONSOR(S): Ambler
TIED BILLS: **IDEN./SIM. BILLS:** SB 2672

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee		Thompson J.T.	Miller P.M.
2) Health Care General Committee			
3) Transportation & Economic Development Appropriations Committee			
4) State Infrastructure Council			
5)			

SUMMARY ANALYSIS

Currently, the Department of Highway Safety & Motor Vehicles (DHSMV) mails renewal notices that direct eligible licensees to appear at a driver license office for in-person renewal or to transmit the completed renewal notice and the fees to the DHSMV by mail, electronically, or telephonically within the 30 days preceding the licensee's birthday for a license extension. DHSMV may issue 6-year license extensions by mail, electronic, or telephonic means without vision examinations for drivers who have no convictions or suspensions and who are not over 79 years of age. Licensed drivers are eligible for two consecutive license extensions without a required vision examination. Those individuals who are over 79 years of age are required to undergo a mandatory vision test and provide proof of meeting the statutory vision standards to be eligible to renew their driving privilege. The fees for license renewals are the same for all applicants, regardless of the validity period of the license.

HB 1337 requires all applicants, regardless of age, to submit to a vision test when applying for the renewal of a driver's license, either in person or through the submission of a report by an authorized and appropriate medical professional. The bill includes ophthalmologists in the list of medical professionals authorized to submit these reports. The bill also restricts the validity period of licenses for individuals in a specified age range and reduces the renewal costs to alleviate the increase in frequency of renewals:

Age	License Period	Fee
69 and under	4 or 6 Years	$15.00
70 – 79	3 Years	$7.50
80 – 89	2 Years	$5.00
90 and over	1 Year	$2.50

The bill's mandatory vision tests and revisions to the duration of renewal licenses issued to people 70 years of age and older would have a significant workload impact on DHSMV. The bill will require funding for an estimated 140 additional FTEs, facilities, equipment and programming at an estimated cost of $10.1 million for the first year and $7.6 million for the second year. See the Fiscal Comments section of this analysis for more details.

The bill would take effect July 1, 2006.

[Note: The bill's sponsor intends to offer an amendment to the bill that, if adopted, would delete the reduced license periods for drivers between 70 and 89 years old, and that would limit drivers 90 years old and older to a 1-year license.]

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government—HB 1337 requires vision exams for all driver license renewals and shortens the time between renewals for drivers over the age of seventy.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Driver's License Examination Requirements
The Department is currently required by s. 322.18, F.S to examine every first time applicant, regardless of age, prior to the issuance of an original Florida driver license. The examination includes a test of eyesight and hearing, ability to read and understand highway signs, knowledge of traffic laws, and a demonstration of motor vehicle operation skills. However, a new Florida resident with a valid out-of-state license may reciprocate his or her license and only be required to pass the eye exam.

Once a license is issued, the DHSMV continuously monitors driver performance through reexaminations of drivers appearing to be incompetent. On written notice of at least 5 days, the DHSMV, having good cause, may require a licensed driver to submit to an examination or reexamination[1]. "Good cause" includes, but is not limited to, the recommendation from a court, a law enforcement agency, or a physician.

A licensee may also be subject to reexamination by the DHSMV upon renewal. The examination consists of tests of the licensee's eyesight and hearing and his or her ability to read and understand highway signs and pavement markings.

Driver's License Issuance Periods
Pursuant to, s. 322.18, F.S., an initial driver license issuance is generally valid for 6 years, concurrent with the applicant's birthday. If an applicant establishes his or her identity for a driver's license using either an employment authorization card or a proof of nonimmigrant classification (both are issued by the United States Department of Homeland Security), then the driver's license expires 2 years after the date of issuance or upon the expiration date cited on the Department of Homeland Security documents, whichever date first occurs. In addition, commercial driver's licenses with hazardous-materials endorsements are only valid for 4 years.

A renewal driver's license is valid for 4 years. However, if the applicant's driving record includes no convictions for the preceding 3 years, or no revocations, disqualifications, or suspensions over the preceding 7 years, the renewal driver's license is valid for 6 years.

Currently, the DHSMV may issue 4-year and 6-year license extensions by mail, electronic, or telephonic means without a vision examination for drivers who are not over 79 years of age, unless renewal applicants are directed by the DHSMV to appear for an in-person examination. Licensed drivers are eligible for two consecutive license extensions without a required examination by the DHSMV. Therefore, the maximum time from the original driver license issuance to the end of the second license renewal could be a maximum of 18 years (6-year original license and 2 mail-in or electronic renewal periods of 6 years each equaling 18 years.)

However, a licensee who is otherwise eligible for a renewal license and who is over 79 years of age must:

[1] Section 322.221, F.S.

- Submit to and pass a vision test administered at any driver's license office; or
- If applying for an extension by mail, submit to a vision test administered by a licensed physician or optometrist.

The physician or optometrist must send the results of the test to the DHSMV on the proper department form signed by the physician or optometrist, or may do so by electronic means. The renewal applicant must meet vision standards equivalent to DHSMV's vision test. Also, a licensee who is over 79 years of age may not submit an application for extension by electronic or telephonic means, unless a physician or optometrist has already electronically submitted the results of a vision test to DHSMV.

Driver's License Fees
The fee for an original operator's (class D) driver's license is $20 and the fee for renewal or extension is $15. Driver license fees are set out in s. 322.21, F.S. The renewal fee is applicable for both a 4 and 6-year license. Driver license fees are deposited into the General Revenue Fund.

Effect of Proposed Changes

Driver's License Examination Requirements
HB 1337 amends s. 322.18, F.S., to require all individuals to submit to a vision test when applying for the renewal of their driver's license, either in person or through the submission of a report by an authorized and appropriate medical professional. The request cannot be submitted more than six months prior to the application for renewal. The bill specifically includes ophthalmologists in the list of appropriate medical professionals authorized to submit these reports.

Driver's License Issuance Periods
The bill revises s. 322.18, F.S., to provide the following age-based issuance periods for driver licenses:
- 3 years for applicants who are at least 70 years old but less than 80 years old;
- 2 years for applicants who are at least 80 but less than 90; and
- 1 year for applicants who are 90 years old and older.

Driver's License Fees
This bill also amends s. 322.21, F.S., to revise the fee structure for licenses based on the reduced license issuance periods. The bill makes the following changes to the renewal or extension of a class E driver's license or of a license restricted to motorcycle use only:

- A license issued for 4 or 6 years would be $15;
- A license issued for 3 years would be $7.50;
- A license issued for 2 years would be $5; and
- A license issued for 1 year would be $2.50.

The following table summarizes the changes to driver's license issuance periods and fees that would result if the bill becomes law:

Age	License Period	Fee
69 and under	4 or 6 Years	$15.00
70 – 79	3 Years	$7.50
80 – 89	2 Years	$5.00
90 and over	1 Year	$2.50

According to DHSMV, approximately 2 million license renewals are issued annually through its field offices and headquarters' central issuance processing system. The vast majority of these would be subject to the mandatory vision-testing requirement of the bill. Because of the bill's vision test requirements, the percentage of individuals using either electronic or telephonic means to renew would

likely decrease as individuals may be more likely to renew at a field issuance office where vision tests are free of charge as opposed to visiting a licensed medical professional. This would result in a corresponding increase in the number of individuals who will go to a field issuance office to renew their driver's license. The bill's revisions to the duration of renewal licenses issued to people 70 years of age and older would have a significant workload impact on DHSMV.

Additional examiners and office manager positions would be required to process the increased number of individuals expected to renew in a field issuance office rather than utilizing a convenience method, as well as processing the additional renewal activity for those drivers aged 70 and older. For information on the fiscal impacts of the bill, see the Fiscal Comments section of this analysis.

C. SECTION DIRECTORY:

Section 1. Amends s. 322.18, F.S., to eliminate the age requirement for vision tests and to require a vision test for all license renewals; to add ophthalmologists to the list of people who may submit vision test results; to require the submission of the vision test results no more than 6 months prior to the date of the application for renewal; to limit the duration of licenses issued to applicants in specified age ranges.

Section 2. Amends s. 322.21, F.S., to provide for a schedule of reduced renewal fees for persons who must renew specified licenses more frequently.

Section 3. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See FISCAL COMMENTS section, below.

2. Expenditures:

   See FISCAL COMMENTS section, below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent that the bill requires all applicants, regardless of age, to submit to a vision test when applying for the renewal of a driver's license, and adds ophthalmologists to the list of appropriate medical professionals authorized to submit reports for these tests, some individuals may visit ophthalmologists or other licensed physicians for these mandatory vision tests.

D. FISCAL COMMENTS:

According to the DHSMV, requiring all applicants regardless of age to submit to a vision test when applying for the renewal of a driver's license in person or through the submission of a report by an authorized and appropriate medical professional will result in approximately a $9.4 million revenue loss to the General Revenue Fund over a 6 year period as a result of revenue deferral. The bill will also

require funding for 140 additional positions, facilities and equipment at an estimated cost of $9.9 million for the first year and $7.6 million for the second year. However, these estimates may be overstated to some degree because they are based on the assumption that all persons age 80 and over will renew their driver's licenses. DHSMV reports that in the last two years approximately 53 percent of drivers in this age bracket actually applied for renewal.

DHSMV also estimates that the bill will require contracted programming modifications to the Driver License Information System at a cost of $162,000 to implement.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions 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:

No exercise of rulemaking authority is required to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Agency Comments:
DHSMV recommends that the effective date be changed to February 1, 2007 to allow sufficient time for implementation of the bill's requirements.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to driver licenses; amending s. 322.18,
3 F.S.; eliminating an age requirement relating to vision
4 tests; requiring a vision test for all renewals of a
5 license; providing for submission of test results by a
6 physician, ophthalmologist, or optometrist; requiring such
7 submission prior to a licensee using certain renewal
8 procedures; limiting the duration of licenses issued to
9 applicants in specified age ranges; amending s. 322.21,
10 F.S.; providing a schedule of reduced renewal fees for
11 persons who must renew specified licenses more frequently
12 due to their age; providing an effective date.
13
14 Be It Enacted by the Legislature of the State of Florida:
15
16 Section 1. Subsections (2) and (5) of section 322.18,
17 Florida Statutes, are amended, and subsection (10) is added to
18 that section, to read:
19 322.18 Original applications, licenses, and renewals;
20 expiration of licenses; delinquent licenses.--
21 (2) <u>Except as limited by subsection (10),</u> each applicant
22 who is entitled to the issuance of a driver's license, as
23 provided in this section, shall be issued a driver's license, as
24 follows:
25 (a) An applicant applying for an original issuance shall
26 be issued a driver's license which expires at midnight on the
27 licensee's birthday which next occurs on or after the sixth
28 anniversary of the date of issue.

29 (b) An applicant applying for a renewal issuance or
30 renewal extension shall be issued a driver's license or renewal
31 extension sticker which expires at midnight on the licensee's
32 birthday which next occurs 4 years after the month of expiration
33 of the license being renewed, except that a driver whose driving
34 record reflects no convictions for the preceding 3 years shall
35 be issued a driver's license or renewal extension sticker which
36 expires at midnight on the licensee's birthday which next occurs
37 6 years after the month of expiration of the license being
38 renewed.
39 (c) Notwithstanding any other provision of this chapter,
40 if an applicant establishes his or her identity for a driver's
41 license using a document authorized under s. 322.08(2)(c)5., the
42 driver's license shall expire in accordance with paragraph (b).
43 After an initial showing of such documentation, he or she is
44 exempted from having to renew or obtain a duplicate in person.
45 (d) Notwithstanding any other provision of this chapter,
46 if an applicant establishes his or her identity for a driver's
47 license using a document authorized in s. 322.08(2)(c)6. or 7.,
48 the driver's license shall expire 2 years after the date of
49 issuance or upon the expiration date cited on the United States
50 Department of Homeland Security documents, whichever date first
51 occurs.
52 (e) Notwithstanding any other provision of this chapter,
53 an applicant applying for an original or renewal issuance of a
54 commercial driver's license as defined in s. 322.01(7), with a
55 hazardous-materials endorsement, pursuant to s. 322.57(1)(e),
56 shall be issued a driver's license that expires at midnight on

57 the licensee's birthday that next occurs 4 years after the month
58 of expiration of the license being issued or renewed.
59 (5) All renewal driver's licenses may be issued after the
60 applicant licensee has been determined to be eligible by the
61 department.
62 (a) A licensee who is otherwise eligible for renewal ~~and~~
63 ~~who is over 79 years of age~~:
64 1. Must submit to and pass a vision test administered at
65 any driver's license office; or
66 2. Must, if the licensee applies for an extension by mail
67 as provided in subsection (8), ~~must~~ submit to a vision test
68 administered by a physician or ophthalmologist licensed under
69 chapter 458 or chapter 459, or an optometrist licensed under
70 chapter 463, no more than 6 months prior to the date of the
71 application for extension, must send the results of that test to
72 the department on a form obtained from the department and signed
73 by such health care practitioner, and must meet vision standards
74 that are equivalent to the standards for passing the
75 departmental vision test. The physician, ophthalmologist, or
76 optometrist may submit the results of a vision test by a
77 department-approved electronic means.
78 (b) A licensee ~~who is over 79 years of age~~ may not submit
79 an application for extension under subsection (8) by electronic
80 or telephonic means, unless the results of a vision test have
81 been electronically submitted in advance by the physician,
82 ophthalmologist, or optometrist.
83 (10) Notwithstanding any other provision of this chapter,
84 an applicant 70 years of age or older on the date of application

85 shall receive the original issuance or renewal to which he or
86 she is otherwise entitled, but for no longer than the duration
87 provided in this paragraph. The duration of a license issued to
88 an applicant whose age is within any of the following ranges
89 shall be as follows:
90 (a) At least 70 but less than 80 years old .... 3 years.
91 (b) At least 80 but less than 90 years old .... 2 years.
92 (c) At least 90 years old ..... 1 year.
93 Section 2. Paragraph (c) of subsection (1) of section
94 322.21, Florida Statutes, is amended to read:
95 322.21 License fees; procedure for handling and collecting
96 fees.--
97 (1) Except as otherwise provided herein, the fee for:
98 (c) The renewal or extension of a Class E driver's license
99 or of a license restricted to motorcycle use only is based on
100 the duration of the license, as provided in s. 322.18(2) and
101 (10), as follows:
102 1. Four or 6 years ..... $15.
103 2. Three years ..... $7.50.
104 3. Two years ..... $5.
105 4. One year ..... $2.50.
106
107 ~~$15, except that~~ A delinquent fee of $1 shall be added for a
108 renewal or extension made not more than 12 months after the
109 license expiration date. The fee provided in this paragraph
110 shall include the fee for driver's education provided by s.
111 1003.48.
112 Section 3. This act shall take effect July 1, 2006.

HB 1415

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1415 Traffic Control
SPONSOR(S): Sansom and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1878(i)

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee		Pugh BJP	Miller P.M.
2) State Infrastructure Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

State law generally prohibits activities that obstruct the free flow of traffic on public roadways and pose safety hazards to motorists and pedestrians. Sections 316.2045 and 337.406, F.S., provide some limited exceptions and require state or local authorizations for certain uses. Solicitation of funds by federally-recognized non-profit organizations or by charitable groups registered under chapter 496, F.S., is largely prohibited on state-maintained roads, while local governments have authority to permit such activities on non-state-maintained roads.

HB 1415 exempts organizations that are qualified under s. 501(c)(3) of the Internal Revenue Code and which are registered under chapter 496, F.S., and persons acting on behalf of these organizations, from needing permits from local governments before they can engage in solicitation along non-state-maintained roadways.

HB 1415 may have a minimal fiscal impact on some local governments due to a reduction in permit fees, and no fiscal impact to state government. The bill raises no apparent constitutional or other legal issues.

The bill takes effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard Individual Liberty: HB 1415 increases the options of private charitable or nonprofit organizations to conduct their fundraising activities without additional government interference.

B. EFFECT OF PROPOSED CHANGES:

Current Situation
Section 316.2045, F.S., generally prohibits the obstruction of public streets, highways, and roads – whether maintained by the state or local governments – and addresses issues of permittable activities, penalties for violators, and an exemption for vehicles collecting solid waste or recyclable or recovered materials.

The section:

- Designates as a pedestrian violation, punishable by a $15 fine plus court costs, when a person willfully obstructs the free, convenient, and normal use of any public street, highway, or road by impeding, hindering, stifling, retarding, or restraining vehicular traffic, by standing or approaching a motor vehicles, or by endangering the safe movement of vehicles or pedestrians.
- Requires permits for the use of any portion of a state-maintained road or right-of-way, pursuant to the conditions in s. 337.406, F.S. Under that section of law, local governments may obtain permits from FDOT for parades and other activities that require closing any road on the State Highway System to normal traffic.
- Further provides that it is unlawful, without proper authorization or a lawful permit, for any person or persons to willfully obstruct the free, convenient, and normal use of any public street, highway, or road in order to solicit. A violation of this provision is a second-degree misdemeanor, punishable by a fine of up to $500 or imprisonment for up to 60 days.
- Organizations qualified under s. 501(c)(3) of the Internal Revenue Code as non-profits and registered pursuant to chapter 496, F.S., or persons or organizations acting on their behalf are exempted from needing a state permit or authorization for activities on non-state-maintained roads. Chapter 496, F.S., regulates charitable solicitation in Florida, and specifies that charities and certain other non-profit organizations register with the Department of Agriculture and Consumer Services, disclose a variety of background and financial information, and pay a registration fee ranging from $10 to $400, depending on the previous year's fundraising amount. The department annually publishes a book listing all of the registered charities and organizations, and their previous year's revenue and expenses. The 2005-2006 edition of the "Gift Givers' Guide" is 932 pages and includes an estimated 10,000 organizations.
- Local governments may require permits for the use of any street, highway, or road that is not maintained by the state. Non-state maintained roadways are defined as either county, municipal, or private roads which a local government has agreed through a contractual arrangement to maintain.

Numerous Florida cities and counties have adopted ordinances that establish permitting requirements for persons and groups that want to solicit charitable donations; the exact number is unavailable. A review of several local ordinances indicates the requirements vary from community to community.

Effect of Proposed Changes
HB 1415 preempts local governments from requiring permits for the use of non-state-maintained roadways from organizations that are qualified under s. 501(c)(3) of the Internal Revenue Code and which are registered under chapter 496, F.S., and from persons acting on behalf of these organizations.

Local ordinances requiring permits for charitable or non-profit solicitation activities on non-state-maintained roads, and any ordinances prohibiting that activity, would not apply to qualified organizations.

HB 1415 takes effect upon becoming law.

C. SECTION DIRECTORY:

Section 1: Amends s. 316.2045, F.S., to exempt from local-government permitting certain charitable and non-profit solicitation activities on non-state-maintained roadways.

Section 2: Specifies an effective date of July 1, 2006.

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:

   Indeterminate, but probably minimal. Local governments that collect a fee for issuing permits to charitable and non-profit organizations wanting to solicit contributions along non-state-maintained roadways would lose that revenue source.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. Charitable or non-profit organizations that have not participated in roadside solicitation because they could not meet local-government permitting requirements or because the activity was banned may be able to collect more contributions, which could benefit persons in their local communities.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   HB 1415 does not: require counties or municipalities to spend funds or to take an action requiring the expenditure of funds; reduce the percentage of a state tax shared with counties or municipalities; or reduce the authority that municipalities have to raise revenues.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Local governments are exempt from rulemaking under chapter 120, F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The sponsor's intent is to allow non-profits and charitable organizations to engage in fund-raising activities on non-state-maintained roadways. However, the proposed language appears to broadly exempt these organizations from needing a permit to use a non-state-maintained road for any purpose, such as parades, performances, carnivals or other activities that may not involve fund-raising.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to traffic control; amending s. 316.2045,
3 F.S.; exempting certain nonprofit organizations from
4 permit requirements related to obstructing streets or
5 roads for solicitation purposes; providing an effective
6 date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Subsection (3) of section 316.2045, Florida
11 Statutes, is amended to read:
12 316.2045 Obstruction of public streets, highways, and
13 roads.--
14 (3) Permits for the use of any street, road, or right-of-
15 way not maintained by the state may be issued by the appropriate
16 local government. <u>An organization that is qualified under s.</u>
17 <u>501(c)(3) of the Internal Revenue Code and registered under</u>
18 <u>chapter 496 or a person acting on behalf of that organization is</u>
19 <u>exempt from this subsection for activities on streets or roads</u>
20 <u>that are not maintained by the state.</u>
21 Section 2. This act shall take effect July 1, 2006.

HB 1465

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1465 Speed Limit Enforcement on State Roads
SPONSOR(S): Altman
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 2020

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee		Thompson J.T.	Miller P.M.
2) Transportation & Economic Development Appropriations Committee			
3) State Infrastructure Council			
4)			
5)			

SUMMARY ANALYSIS

HB 1465 requires the Florida Department of Transportation (FDOT) to establish "enhanced penalty zones" on state highways where there is an increased risk of crashes or damage caused by crashes. FDOT would be authorized to establish speed limits within the zones. Current fines would be increased by $50 for any person convicted of exceeding the speed limit in an enhanced penalty zone. Additionally, speeding in a posted construction zone will result in a doubling of normal fines regardless of whether construction workers are present. FDOT and the Department of Highway Safety and Motor Vehicles (DHSMV) are directed to jointly study and identify by July 1, 2007, improvements to reduce Florida's traffic fatalities by one-third.

The fiscal impact incurred by the DHSMV would be indeterminate and the fiscal impact to the FDOT relating to establishing enhanced penalty zones is unknown due to the indeterminate number of zones to be designated. FDOT indicated the cost of conducting the highway safety and transportation issue study would be approximately $500,000.

Provides an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote Personal Responsibility—To the extent that enhanced penalty zones will allow for more effective enforcement of the speed limit, the bill tends to increase personal accountability of drivers for failure to comply with the law.

B. EFFECT OF PROPOSED CHANGES:

Background

According the National Highway Traffic Safety Administration (NHTSA), a crash is considered speed-related if the driver was charged with a speed-related offense or if an officer indicated racing, driving too fast for conditions, or exceeding the posted speed limit was a contributing factor in the crash. Based on DHSMV statistics, excessive speed was a contributing factor in 13.44 percent of all fatal crashes in 2004 making it the fourth overall contributing cause after careless driving, failure to yield right-of-way, and alcohol. The probability of death, disfigurement, or debilitating injury grows with higher speed at impact. Such consequences double for every 10 miles per hour (m.p.h.) over 50 m.p.h. a vehicle travels.

Section 316.183, F.S., requires all persons driving a vehicle on a highway to travel at no greater speed than is "reasonable and prudent" under the present conditions and as necessary to avoid actual and potential hazards, and to control the vehicle's speed "as may be necessary to avoid colliding with any person, vehicle, or other conveyance or object." The maximum speed limit on all streets or highways is 30 m.p.h. in business or residence districts and 55 m.p.h. at all other locations. However, counties and municipalities may set a maximum speed limit of 20 or 25 m.p.h. on local roads if an investigation determines this is reasonable. The minimum speed limit on all Interstate highways is 40 m.p.h., except when the posted maximum speed limit is 70 m.p.h., the minimum speed limit is 50 m.p.h.

Section 316.187, F.S., provides FDOT the authority to establish reasonable and safe speed limits on any highway outside of a municipality or upon any state road within or outside of a municipality. The maximum allowable speed for limited access highways is 70 m.p.h. The maximum allowable speed limit on any other rural, four or more lane highway divided by a median strip is 65 miles per hour. The FDOT may set maximum and minimum speed limits for other roads under its authority as it deems safe and advisable, up to a maximum of 60 m.p.h.

Section 316.0745, F.S., directs FDOT to adopt a uniform system of traffic control devices, including regulatory speed signs, for use on the streets and highways of the state.

Section 318.18, F.S., relating to penalties for speeding, provides for moving violations involving unlawful speed, the fines are as follows:

For speed exceeding the limit by:	Fine:
1-5 m.p.h.	Warning
6-9 m.p.h.	$ 25
10-14 m.p.h.	$100
15-19 m.p.h.	$125
20-29 m.p.h.	$150
30 m.p.h. and above	$250

In posted construction zones, the fine for excessive speed is doubled if the violation occurs when construction workers are present or immediately adjacent to the roadway under construction. Revenue collected from fines is distributed between the state and local governments.

Speeding violations typically result in assessment of 3 points against the violator's driver's license, unless the infraction or offense is among those considered as more serious. For example, speeding in excess of 15 mph over the posted limit requires an assessment of 4 points, and speeding resulting in a crash requires an assessment of 6 points. Section 322.27, F.S., sets out the points system for traffic violations.

HB 1465 creates s. 316.1893, F.S., establishing the Legislature's intent to maximize public safety and prevent vehicular fatalities by prioritizing the enforcement of speeding laws on the segments of the state's highways that have the most dangerous incidence of fatalities. The bill requires FDOT to establish enhanced penalty zones on state highways where there is a high incidence of fatal crashes by July 1, 2008, and grants FDOT authority to set maximum and minimum speed limits within the enhanced penalty zones. The bill also directs the FDOT to adopt a uniform system of traffic control devices for use in conjunction with enhanced penalty zones.

The bill also directs the DHSMV to annually publish the date, time, and number of citations issued both in and outside enhanced penalty zones and to make available statistical information based on the traffic citations issued inside the enhanced penalty zones.

HB 1465 directs FDOT and DHSMV to jointly conduct a study of highway safety and transportation issues to identify measures to reduce highway traffic fatalities by one-third of the 2005 traffic fatality statistic. Results of the study must be presented to Governor, President of the Senate, and the Speaker of the House of Representatives by July 1, 2007.

The bill amends s. 318.18, F.S., to remove the existing conditional requirement for workers to be present in a construction zone for violations that would result in a doubling of fines for speeding in a posted construction zone. The bill increases fines for persons cited for exceeding the speed limit in an enhanced penalty zone by $50. The fines will be assessed as follows:

For speed exceeding the limit by:	Fine:	Enhanced Penalty Zone Fine:	Posted Construction Zone Fine:
1-5 m.p.h.	Warning	$50	Warning
6-9 m.p.h.	$ 25	$75	$50
10-14 m.p.h.	$100	$150	$200
15-19 m.p.h.	$125	$175	$250
20-29 m.p.h.	$150	$200	$300
30 m.p.h. and above	$250	$300	$500

The bill amends s. 318.14, F.S., to correct cross references relating to the distribution and monthly payment of civil penalties by county courts. The bill reenacts certain provisions of ss. 318.14, 318.15, 318.21, 402.40, and 985.406, F.S. for the purpose of incorporating the amendment made by this bill to s. 318.18, F.S.

C. SECTION DIRECTORY:

Section 1. Creates s. 316.1893, F.S., to provide legislative intent to prevent vehicular fatalities by prioritizing enforcement on segments of highways that have a high incidence of fatalities, to provide for establishment by DOT of enhanced penalty zones on state roads by July 1, 2008, to authorize DOT to set maximum and minimum speed limits within those zones, to direct DOT to adopt a uniform system of traffic control devices to be used within the zones, to provide penalties for the operation of a vehicle at

a speed greater than that posted in the enhanced penalty zone, to direct DHSMV to tabulate citations and calculate statistical information within these zones.

Section 2. Directs the DHSMV, DOT and DOE to conduct a study of highway safety and transportation issues and report to the Governor and the Legislature no later than July 1, 2007.

Section 3. Amends s. 318.18, F.S., to remove the condition that construction zone workers must be present for an increased penalty for violation of posted speed in a construction zone, and providing penalties for a violation of posted speed in an enhanced penalty zone.

Section 4. Amends s. 318.21, F.S., to correct cross-references to conform changes made by the act.

Section 5. Reenacting s 318.14(2), (5), and (9), F.S., for the purpose of incorporating the amendment made by this bill to section 318.18, F.S.

Section 6. Reenacting s 318.15(1) (a) and (2), F.S., for the purpose of incorporating the amendment made by this bill to section 318.18, F.S.

Section 7. Reenacting s 318.21(7), F.S., for the purpose of incorporating the amendment made by this bill to section 318.18, F.S.

Section 8. Reenacting s 402.40(4) (b), F.S., for the purpose of incorporating the amendment made by this bill to section 318.18, F.S., and

Section 9. Reenacting s 985.406(4) (b), F.S., for the purpose of incorporating the amendment made by this bill to section 318.18, F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See FISCAL COMMENTS section, below.

2. Expenditures:

   See FISCAL COMMENTS section, below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   See FISCAL COMMENTS section, below.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See FISCAL COMMENTS section, below.

D. FISCAL COMMENTS:

Establishing "enhanced penalty zones" may result in the issuance of an increased number of citations, and the assessment of additional traffic penalties and court costs. However, because it is impossible to

forecast how many additional violations will occur and be cited, the fiscal impact on state and local governments is unknown. Also, signage and enforcement efforts could have a deterrent effect on drivers who speed, thereby reducing the number of speeding citations issued.

To the extent that the bill could prevent vehicular fatalities by prioritizing enforcement on segments of highways that have a high incidence of fatalities, crash-related injuries and deaths could be reduced thereby decreasing associated medical and insurance costs.

The fiscal impact to the FDOT relating to establishing enhanced penalty zones is unknown due to the indeterminate number of zones to be designated. Each zone would require an engineering analysis for length, signage, and sign installation. FDOT indicated the cost of conducting the highway safety and transportation issue study would be approximately $500,000.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable because this 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:

HB 1465 does not require any grant or exercise of rule-making authority to implement its provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to speed limit enforcement on state roads;
3 creating s. 316.1893, F.S.; providing legislative intent;
4 providing for establishment by the Department of
5 Transportation of enhanced penalty zones on state roads;
6 authorizing the department to set speed limits within
7 those zones; directing the department to adopt a uniform
8 system of traffic control devices to be used within the
9 zones; prohibiting operation of a vehicle at a speed
10 greater than that posted in the enhanced penalty zone;
11 directing the Department of Highway Safety and Motor
12 Vehicles to tabulate citations issued within enhanced
13 penalty zones and make available certain information;
14 directing the Department of Transportation, the Department
15 of Highway Safety and Motor Vehicles, and the Department
16 of Education to conduct a study and report to the Governor
17 and the Legislature for certain purposes; amending s.
18 318.18, F.S.; removing a condition for an increased
19 penalty for violation of posted speed in a construction
20 zone; providing penalties for violation of posted speed in
21 an enhanced penalty zone; amending s. 318.21, F.S.;
22 correcting cross-references to conform to changes made by
23 the act; reenacting ss. 318.14(2), (5), and (9),
24 318.15(1)(a) and (2), 318.21(7), 402.40(4)(b), and
25 985.406(4)(b), F.S., relating to noncriminal traffic
26 infraction procedures, failure to comply with civil
27 penalty or to appear, disposition of civil penalties by
28 county courts, child welfare training, and juvenile

29 justice training academies, respectively, for the purpose
30 of incorporating the amendment made to s. 318.18, F.S., in
31 references thereto; providing an effective date.
32
33 Be It Enacted by the Legislature of the State of Florida:
34
35 Section 1. Section 316.1893, Florida Statutes, is created
36 to read:
37 316.1893 Establishment of enhanced penalty zones;
38 designation.--
39 (1) It is the intent of the Legislature to prevent
40 vehicular fatalities by prioritizing enforcement on segments of
41 highways that have a high incidence of fatalities. Enforcement
42 shall also be prioritized during the times that fatalities most
43 often occur. The enforcement of these zones shall be in a way
44 that maximizes public safety.
45 (2) No later than July 1, 2008, the Department of
46 Transportation shall identify enhanced penalty zones on state
47 roads where there is a high incidence of fatalities.
48 (3) The Department of Transportation, pursuant to the
49 authority granted under s. 316.187, is authorized to set such
50 maximum and minimum speed limits for travel within enhanced
51 penalty zones as it deems safe and advisable.
52 (4) The Department of Transportation shall adopt a uniform
53 system of traffic control devices for use in conjunction with
54 enhanced penalty zones pursuant to the authority granted under
55 s. 316.0745.

56 (5) A person may not drive a vehicle on a roadway
57 designated as an enhanced penalty zone at a speed greater than
58 that posted in the enhanced penalty zone in accordance with this
59 section. A person who violates the speed limit within a legally
60 posted enhanced penalty zone established under this section
61 commits a moving violation, punishable as provided in chapter
62 318.
63 (6) The Department of Highway Safety and Motor Vehicles
64 shall annually publish the date, time, and number of citations
65 issued both in and outside enhanced penalty zones and shall make
66 available statistical information based thereon as to the number
67 and circumstances of traffic citations inside an enhanced
68 penalty zone.
69 Section 2. The Department of Transportation, the
70 Department of Highway Safety and Motor Vehicles, and the
71 Department of Education shall jointly conduct a study of highway
72 safety and transportation issues as they relate to public
73 safety, including, but not limited to, engineering, enforcement,
74 and policy, to identify measurable improvements to reduce
75 highway traffic fatalities by one-third of the 2005 traffic
76 death statistics. The results of the study shall be presented to
77 the Governor, the President of the Senate, and the Speaker of
78 the House of Representatives no later than July 1, 2007, for a
79 public hearing and development of legislative recommendations.
80 Section 3. Paragraph (d) of subsection (3) of section
81 318.18, Florida Statutes, is amended, paragraphs (e) and (f) of
82 that subsection are redesignated as paragraphs (f) and (g),

83 respectively, and a new paragraph (e) is added to that
84 subsection, to read:
85 318.18 Amount of civil penalties.--The penalties required
86 for a noncriminal disposition pursuant to s. 318.14 are as
87 follows:
88 (3)
89 (d) A person cited for exceeding the speed limit in a
90 posted construction zone shall pay a fine double the amount
91 listed in paragraph (b). ~~The fine shall be doubled for~~
92 ~~construction zone violations only if construction personnel are~~
93 ~~present or operating equipment on the road or immediately~~
94 ~~adjacent to the road under construction.~~
95 (e) A person cited for exceeding the speed limit in an
96 enhanced penalty zone shall pay a fine amount of $50 plus the
97 amount listed in paragraph (b). Notwithstanding paragraph (b), a
98 person cited for exceeding the speed limit by up to 5 m.p.h. in
99 a legally posted enhanced penalty zone shall pay a fine amount
100 of $50.
101 Section 4. Subsections (4) and (5) of section 318.21,
102 Florida Statutes, are amended to read:
103 318.21 Disposition of civil penalties by county
104 courts.--All civil penalties received by a county court pursuant
105 to the provisions of this chapter shall be distributed and paid
106 monthly as follows:
107 (4) Of the additional fine assessed under s.
108 318.18(3)(f) ~~(e)~~ for a violation of s. 316.1301, 40 percent must
109 be remitted to the Department of Revenue for deposit in the
110 Grants and Donations Trust Fund of the Division of Blind

111 Services of the Department of Education, and 60 percent must be
112 distributed pursuant to subsections (1) and (2).
113 (5) Of the additional fine assessed under s.
114 318.18(3)(f) ~~(e)~~ for a violation of s. 316.1303, 60 percent must
115 be remitted to the Department of Revenue for deposit in the
116 endowment fund for the Florida Endowment Foundation for
117 Vocational Rehabilitation, and 40 percent must be distributed
118 pursuant to subsections (1) and (2) of this section.
119 Section 5. For the purpose of incorporating the amendment
120 made by this act to section 318.18, Florida Statutes, in
121 references thereto, subsections (2), (5), and (9) of section
122 318.14, Florida Statutes, are reenacted to read:
123 318.14 Noncriminal traffic infractions; exception;
124 procedures.--
125 (2) Except as provided in s. 316.1001(2), any person cited
126 for an infraction under this section must sign and accept a
127 citation indicating a promise to appear. The officer may
128 indicate on the traffic citation the time and location of the
129 scheduled hearing and must indicate the applicable civil penalty
130 established in s. 318.18.
131 (5) Any person electing to appear before the designated
132 official or who is required so to appear shall be deemed to have
133 waived his or her right to the civil penalty provisions of s.
134 318.18. The official, after a hearing, shall make a
135 determination as to whether an infraction has been committed. If
136 the commission of an infraction has been proven, the official
137 may impose a civil penalty not to exceed $500, except that in
138 cases involving unlawful speed in a school zone or involving

139 unlawful speed in a construction zone, the civil penalty may not
140 exceed $1,000; or require attendance at a driver improvement
141 school, or both. If the person is required to appear before the
142 designated official pursuant to s. 318.19(1) and is found to
143 have committed the infraction, the designated official shall
144 impose a civil penalty of $1,000 in addition to any other
145 penalties and the person's driver's license shall be suspended
146 for 6 months. If the person is required to appear before the
147 designated official pursuant to s. 318.19(2) and is found to
148 have committed the infraction, the designated official shall
149 impose a civil penalty of $500 in addition to any other
150 penalties and the person's driver's license shall be suspended
151 for 3 months. If the official determines that no infraction has
152 been committed, no costs or penalties shall be imposed and any
153 costs or penalties that have been paid shall be returned. Moneys
154 received from the mandatory civil penalties imposed pursuant to
155 this subsection upon persons required to appear before a
156 designated official pursuant to s. 318.19(1) or (2) shall be
157 remitted to the Department of Revenue and deposited into the
158 Department of Health Administrative Trust Fund to provide
159 financial support to certified trauma centers to assure the
160 availability and accessibility of trauma services throughout the
161 state. Funds deposited into the Administrative Trust Fund under
162 this section shall be allocated as follows:
163 (a) Fifty percent shall be allocated equally among all
164 Level I, Level II, and pediatric trauma centers in recognition
165 of readiness costs for maintaining trauma services.

166 (b) Fifty percent shall be allocated among Level I, Level
167 II, and pediatric trauma centers based on each center's relative
168 volume of trauma cases as reported in the Department of Health
169 Trauma Registry.
170 (9) Any person who does not hold a commercial driver's
171 license and who is cited for an infraction under this section
172 other than a violation of s. 320.0605, s. 320.07(3)(a) or (b),
173 s. 322.065, s. 322.15(1), s. 322.61, or s. 322.62 may, in lieu
174 of a court appearance, elect to attend in the location of his or
175 her choice within this state a basic driver improvement course
176 approved by the Department of Highway Safety and Motor Vehicles.
177 In such a case, adjudication must be withheld; points, as
178 provided by s. 322.27, may not be assessed; and the civil
179 penalty that is imposed by s. 318.18(3) must be reduced by 18
180 percent; however, a person may not make an election under this
181 subsection if the person has made an election under this
182 subsection in the preceding 12 months. A person may make no more
183 than five elections under this subsection. The requirement for
184 community service under s. 318.18(8) is not waived by a plea of
185 nolo contendere or by the withholding of adjudication of guilt
186 by a court.
187 Section 6. For the purpose of incorporating the amendment
188 made by this act to section 318.18, Florida Statutes, in
189 references thereto, paragraph (a) of subsection (1) and
190 subsection (2) of section 318.15, Florida Statutes, are
191 reenacted to read:
192 318.15 Failure to comply with civil penalty or to appear;
193 penalty.--

194 (1)(a) If a person fails to comply with the civil
195 penalties provided in s. 318.18 within the time period specified
196 in s. 318.14(4), fails to attend driver improvement school, or
197 fails to appear at a scheduled hearing, the clerk of the court
198 shall notify the Division of Driver Licenses of the Department
199 of Highway Safety and Motor Vehicles of such failure within 10
200 days after such failure. Upon receipt of such notice, the
201 department shall immediately issue an order suspending the
202 driver's license and privilege to drive of such person effective
203 20 days after the date the order of suspension is mailed in
204 accordance with s. 322.251(1), (2), and (6). Any such suspension
205 of the driving privilege which has not been reinstated,
206 including a similar suspension imposed outside Florida, shall
207 remain on the records of the department for a period of 7 years
208 from the date imposed and shall be removed from the records
209 after the expiration of 7 years from the date it is imposed.
210 (2) After suspension of the driver's license and privilege
211 to drive of a person under subsection (1), the license and
212 privilege may not be reinstated until the person complies with
213 all obligations and penalties imposed on him or her under s.
214 318.18 and presents to a driver license office a certificate of
215 compliance issued by the court, together with a nonrefundable
216 service charge of up to $47.50 imposed under s. 322.29, or
217 presents a certificate of compliance and pays the aforementioned
218 service charge of up to $47.50 to the clerk of the court or tax
219 collector clearing such suspension. Of the charge collected by
220 the clerk of the court or the tax collector, $10 shall be
221 remitted to the Department of Revenue to be deposited into the

222 Highway Safety Operating Trust Fund. Such person shall also be
223 in compliance with requirements of chapter 322 prior to
224 reinstatement.
225 Section 7. For the purpose of incorporating the amendment
226 made by this act to section 318.18, Florida Statutes, in a
227 reference thereto, subsection (7) of section 318.21, Florida
228 Statutes, is reenacted to read:
229 318.21 Disposition of civil penalties by county
230 courts.--All civil penalties received by a county court pursuant
231 to the provisions of this chapter shall be distributed and paid
232 monthly as follows:
233 (7) For fines assessed under s. 318.18(3) for unlawful
234 speed, the following amounts must be remitted to the Department
235 of Revenue for deposit in the Nongame Wildlife Trust Fund:
236
237 For speed exceeding the limit by: Fine:
238 1-5 m.p.h. $ .00
239 6-9 m.p.h. $ .25
240 10-14 m.p.h. $ 3.00
241 15-19 m.p.h. $ 4.00
242 20-29 m.p.h. $ 5.00
243 30 m.p.h. and above. $10.00
244
245 The remaining amount must be distributed pursuant to subsections
246 (1) and (2).
247 Section 8. For the purpose of incorporating the amendment
248 made by this act to section 318.18, Florida Statutes, in a

249 reference thereto, paragraph (b) of subsection (4) of section
250 402.40, Florida Statutes, is reenacted to read:
251 402.40 Child welfare training.--
252 (4) CHILD WELFARE TRAINING TRUST FUND.--
253 (b) One dollar from every noncriminal traffic infraction
254 collected pursuant to s. 318.14(10)(b) or s. 318.18 shall be
255 deposited into the Child Welfare Training Trust Fund.
256 Section 9. For the purpose of incorporating the amendment
257 made by this act to section 318.18, Florida Statutes, in a
258 reference thereto, paragraph (b) of subsection (4) of section
259 985.406, Florida Statutes, is reenacted to read:
260 985.406 Juvenile justice training academies established;
261 Juvenile Justice Standards and Training Commission created;
262 Juvenile Justice Training Trust Fund created.--
263 (4) JUVENILE JUSTICE TRAINING TRUST FUND.--
264 (b) One dollar from every noncriminal traffic infraction
265 collected pursuant to ss. 318.14(10)(b) and 318.18 shall be
266 deposited into the Juvenile Justice Training Trust Fund.
267 Section 10. This act shall take effect July 1, 2006.

HB 1589

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1589 Specialty License Plates
SPONSOR(S): Smith
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 2238

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee		Thompson J.T.	Miller P.M.
2) Transportation & Economic Development Appropriations Committee			
3) State Infrastructure Council			
4)			
5)			

SUMMARY ANALYSIS

HB 1589 creates the "Homeownership for All" specialty license plate, and establishes an annual use fee of $25 to be paid by purchasers in addition to license taxes and fees. The annual use fee will be distributed to Homeownership For All, Inc., to promote and market the plate and to fund programs that provide, promote, or otherwise support affordable housing.

Homeownership For All, Inc., the Florida non-profit corporation seeking authority for this plate, has submitted the information and application fee required by current law.

The fiscal impact of the bill of approximately $60,000 on the Department of Highway Safety and Motor Vehicles (DHSMV) for implementation of the new specialty license plate will be offset by the application fees paid to DHSMV by the sponsoring organization.

The bill will take effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government - The bill appears to increase government in that it requires DHSMV to develop and provide for the manufacture of a new license plate, and therefore requires county tax collectors offices to maintain an appropriate inventory and administer the new plate.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Currently, specialty license plates are available to any owner or lessee of a motor vehicle who is willing to pay an annual use fee for the privilege. Annual use fees ranging from $15 to $25, paid in addition to required license taxes and service fees, are distributed to an organization or organizations in support of a particular cause or charity signified in the plate's design and designated in statute. The Legislature may create a specialty license plate under its own initiative or it can do so at the request of an organization. Under s. 320.08053, F.S., an organization may seek Legislative authorization for a new specialty license plate by meeting a number of requirements.

An organization is first required to submit to the Department of Highway Safety and Motor Vehicles (DHSMV):

- A request for the plate describing it in general terms;
- The results of a professional, independent, and scientific sample survey of Florida residents indicating that 15,000 vehicle owners intend to purchase the plate at the increased cost;
- An application fee of up to $60,000 defraying DHSMV's cost for reviewing the application, developing the new plate, and providing for the manufacture and distribution of the first run of plates; and
- A marketing strategy for the plate and a financial analysis of anticipated revenues and planned expenditures.

These requirements must be satisfied at least 90 days prior to the convening of the regular session of the Legislature. Once the requirements are met, DHSMV notifies the committees of the House of Representatives and Senate with jurisdiction over the issue, and the organization is free to find sponsors and pursue Legislative action.

If a proposed specialty plate fails to be enacted by the Legislature, DHSMV returns the application fee and other required documents to the organization. If it passes and becomes law, DHSMV notifies the organization, modifies its computer programming to accommodate the new plate, and requests the laminate manufacturer, 3M Company, to produce a prototype roll-coat. PRIDE, the contracted manufacturer of license plates, embosses and roll-coats sample plates that must be submitted to FHP, the Governor, and the Cabinet for approval. Once approval is given, PRIDE begins full production of the plates and distributes them to the Tax Collectors' Offices for sale to the public.

Discontinuance of an approved specialty license plate occurs only when the number of valid registrations falls below 1,000 plates for at least 12 consecutive months. A warning letter is to be mailed to the sponsoring organization following the first month in which the total number of valid specialty plate registrations is below 1,000 plates. According to DHSMV there are currently twenty-two plates that are not meeting the minimum sales requirement and could be discontinued in 2006 if their sales do not increase. If none of these plates meet the minimum sales requirement by next summer, the number of plates offered for sale could be reduced to seventy-eight.

Specialty license plates are distinguished from other types of specialized license plates by the fact that anyone may obtain one by simply paying an additional annual use fee, and by the fact that annual use fees are dedicated to supporting a particular cause or organization. The Legislature has also created a number of specialized license plates that are not specialty plates. These plates differ because the purchaser must be eligible by his or her status to obtain the plate, and because ownership of these plates does not require payment of an annual use fee that is distributed for charitable purposes. These types of "status plates" are referred to in the statutes as special plates, and include: the Governor and Legislator plates; the amateur radio operators plate; the disabled veterans plate; the street rods plate; the National Guard, Pearl Harbor Survivor, Combat-wounded veteran and U.S. Reserve plates; and the Medal of Honor plate.

The statutes provide for all specialty plates within ss. 320.08056 and 320.08058, F.S., and provide for a uniform procedure for approval and authorization in s. 320.08053, F.S. By comparison, other specialized plates (the status or special plates) are created on an ad hoc basis by the Legislature, and the statutes provide for them independently of one another in separate sections. It is unnecessary for a proponent of a special plate to obtain prior approval before seeking Legislative action.

The Legislature has enacted 106 specialty license plates to date, though only 100 are currently available for purchase. Annual use fees for sales of specialty license plates for 2003-2004 totaled $26,168,581 and for fiscal year 2004-2005 the total was $29,049,472.90. Since the program's inception in 1986, the DHSMV has collected annual use fees totaling more than $280 million.

Effect of Proposed Changes

HB 1589 directs DHSMV to develop the "Homeownership for All" license plate. A qualified motor vehicle owner may obtain the "Homeownership for All" license plate upon payment of a $25 annual use fee in addition to the appropriate license taxes and service fees.

Homeownership For All, Inc., will retain 10 percent of the proceeds from the annual use fee to fund promotional and marketing costs directly associated with the license plate. The remaining proceeds are to be used to fund programs that provide, promote, or otherwise support affordable housing in the state.

According to DHSMV, the Homeownership For All, Inc., has met all the requirements set fourth in s. 320.08058, F.S. with regard to the "Homeownership for All" specialty license plate.

C. SECTION DIRECTORY:

Section 1. Amends s. 320.08056, F.S., providing for a $25 annual use fee for the "Homeownership for All" license plate;

Section 2. Amends s. 320.08058, F.S., creating the "Homeownership for All" license plate; providing for plate design; and providing for distribution and uses of annual use fees;

Section 3. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS section below.

2. Expenditures:

   See FISCAL COMMENTS section below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons who elect to purchase these specialty license plates, will be required to pay an annual use fee of $25 in addition to applicable license taxes and administrative charges. The fee from the "Homeownership for All" license plate will be distributed to Homeownership For All, Inc., a Florida non-profit corporation. Proceeds from the sale of this license plate will fund Homeownership For All, Inc. promotional and marketing costs of the plate and fund programs that provide, promote, or otherwise support affordable housing in the state.

Since it is impossible to determine how many persons will purchase the plates, it is impossible to determine the aggregate impact on the private sector.

D. FISCAL COMMENTS:

Implementation of HB 1589 will cost DHSMV approximately $60,000 in contract programming, development labor, and product purchasing costs for creation of the "Homeownership for All" license plate. This impact is offset by the statutory application fee of $60,000, which has been submitted to DHSMV by the organization seeking creation of the specialty license plate.

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:

No additional rulemaking authority is required to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to specialty license plates; amending ss.
3 320.08056 and 320.08058, F.S.; creating the Homeownership
4 for All license plate; establishing an annual use fee for
5 the plate; providing for the distribution of annual use
6 fees received from the sale of such plates; providing an
7 effective date.
8
9 Be It Enacted by the Legislature of the State of Florida:
10
11 Section 1. Paragraph (fff) is added to subsection (4) of
12 section 320.08056, Florida Statutes, as amended by chapter 2005-
13 357, Laws of Florida, to read:
14 320.08056 Specialty license plates.--
15 (4) The following license plate annual use fees shall be
16 collected for the appropriate specialty license plates:
17 (fff) Homeownership for All license plate, $25.
18 Section 2. Subsection (58) is added to section 320.08058,
19 Florida Statutes, as amended by chapter 2005-357, Laws of
20 Florida, to read:
21 320.08058 Specialty license plates.--
22 (58) HOMEOWNERSHIP FOR ALL LICENSE PLATES.--
23 (a) The department shall develop a Homeownership for All
24 license plate as provided in this section. The word "Florida"
25 must appear at the top of the plate, and the words
26 "Homeownership for All" must appear at the bottom of the plate.
27 (b) The annual use fees shall be distributed to
28 Homeownership for All, Inc., which may use a maximum of 10

29 percent of the proceeds to promote and market the plate. It
30 shall use the balance of the proceeds to fund programs that
31 provide, promote, or otherwise support affordable housing in
32 this state.
33 Section 3. This act shall take effect July 1, 2006.