Transportation Committee

Tuesday, March 14, 2006
3:00 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 14, 2006 03:00 pm
End Date and Time:	Tuesday, March 14, 2006 04:00 pm
Location:	404 HOB
Duration:	1.00 hrs

Consideration of the following bill(s):

HB 963 License Plates by Gannon
HB 1049 Driver's Licenses by Traviesa
HB 1055 Specialty License Plates by Gibson, A.
HB 1077 Motor Vehicle Dealership Operations by Russell
HB 7035 Review under the Open Government Sunset Review Act regarding Motor Vehicle Crash Reports by Governmental Operations Committee

NOTICE FINALIZED on 03/10/2006 16:03 by Rousseau.Tiffany

HB 963

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 963 License Plates
SPONSOR(S): Gannon
TIED BILLS: **IDEN./SIM. BILLS:** SB 1450

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 963 creates the "Organ Donor Awareness" 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 Transplant Foundation, Inc., to fund patient services, which includes maintaining Transplant House and providing grants to transplant patients, educating the public on the importance of organ donation and funding transplant research.

The organization 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 963 directs DHSMV to develop the "Organ Donor Awareness" license plate. A qualified motor vehicle owner may obtain the "Organ Donor Awareness" license plate upon payment of a $25 annual use fee in addition to the appropriate license taxes and service fees.

Transplant Foundation, Inc., a tax-exempt organization affiliated with the University of Miami, School of Medicine will retain all revenue from the annual use fee to fund patient services, which includes maintaining Transplant House and providing grants to transplant patients, educating the public on the importance of organ donation and funding transplant research. The Transplant House is designed to provide temporary, affordable accommodations to pre and post transplant patients, their family members and care providers who travel to Miami for transplantation. Transplant House is a lodging facility only and does not provide nursing or personal care services.

According to DHSMV, the Transplant Foundation, Inc., has met all the requirements set fourth in s. 320.08058, F.S. with regard to the "Organ Donor Awareness" specialty license plate.

C. SECTION DIRECTORY:

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

Section 2. Amends s. 320.08058, F.S., creating the "Organ Donor Awareness" license plate; providing for plate design; providing for annual use fees and other fees; and providing for distribution 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 "Organ Donor Awareness" license plate will be distributed to the Transplant Foundation, Inc. Proceeds from the sale of this license plate will fund Transplant Foundation, Inc. patient services, which includes maintaining Transplant House and providing grants to transplant patients, educating the public on the importance of organ donation and funding transplant research.

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 963 will cost DHSMV approximately $60,000 in contract programming, development labor, and product purchasing costs for creation of the "Organ Donor Awareness" 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:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to license plates; amending ss. 320.08056
3 and 320.08058, F.S.; creating an Organ Donor Awareness
4 license plate; providing for the distribution of annual
5 use fees received from the sale of such plates; providing
6 an effective date.
7
8 Be It Enacted by the Legislature of the State of Florida:
9
10 Section 1. Paragraph (fff) is added to subsection (4) of
11 section 320.08056, Florida Statutes, as amended by chapter 2005-
12 357, Laws of Florida, to read:
13 320.08056 Specialty license plates.--
14 (4) The following license plate annual use fees shall be
15 collected for the appropriate specialty license plates:
16 (fff) Organ Donor Awareness license plate, $25.
17 Section 2. Subsection (58) is added to section 320.08058,
18 Florida Statutes, as amended by chapter 2005-357, Laws of
19 Florida, to read:
20 320.08058 Specialty license plates.--
21 (58) ORGAN DONOR AWARENESS LICENSE PLATES.--
22 (a) The department shall develop an Organ Donor Awareness
23 license plate as provided in this section. The word "Florida"
24 must appear at the top of the plate, and the words "Organ Donor
25 Awareness" must appear at the bottom of the plate.
26 (b) The annual use fees shall be distributed to Transplant
27 Foundation, Inc., a tax-exempt organization under s. 501(c)(3)
28 of the Internal Revenue Code which is affiliated with the

29 University of Miami School of Medicine. Transplant Foundation,
30 Inc., shall use the proceeds to provide patient services,
31 including maintaining Transplant House and providing grants to
32 transplant patients, educating the public on the importance of
33 organ donation, and funding transplant research.
34 Section 3. This act shall take effect July 1, 2006.

HB 1049

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1049 Driver's Licenses
SPONSOR(S): Traviesa and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1322

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

SUMMARY ANALYSIS

HB 1049 requires the court to order the Department of Highway Safety and Motor Vehicles (DHSMV) to withhold the issuance of, or suspend or revoke the driver's license of any person who sells, gives, or serves alcoholic beverages to persons under age 21. The bill exempts alcoholic beverage licensees and employees or agents of a licensee who violate this provision, because they are already regulated under chapter 561 Florida Statutes, relating to alcohol, beverages and tobacco.

The bill provides a time frame for the delay of issuance of a license or the suspension or revocation of a license of not less than 3 months or more than 6 months for the first violation and one year for any subsequent violation. The bill also provides that the court may order the DHSMV to issue a driver's license restricted to business or employment purposes.

The bill would take effect October 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government— HB 1049 provides for an additional penalty of a mandatory loss of driver's license between 3 and 6 months for a first offense and 1 year for subsequent violations for adults 21 years or older who knowingly provide alcohol to minors.

B. EFFECT OF PROPOSED CHANGES:

Chapter 322, F.S., relates to the administration of driver's licenses by the DHSMV. Section 322.28, F.S., sets forth the provisions related to suspension or revocation of driver's licenses. A driver's license may be suspended or revoked for various traffic safety related reasons, such as for having a certain number of points for speeding violations or for driving under the influence. A license can also be suspended or revoked for numerous reasons that are not directly related to operating a motor vehicle. Examples include: nonpayment of a criminal case financial obligation, s. 322.245, F.S.; noncompliance with paternity proceeding orders, s. 61.13016, F.S.; not meeting school attendance requirements, ss. 322. 091 and 1003.27, F.S.; and passing worthless checks, ss. 322.251 and 832.09, F.S. In addition, a minor's license can be suspended for possession of an alcoholic beverage, ss. 397.251(2)(i) and 562.111(3), F.S.

Section 322.271, F.S., provides that the DHSMV may, in certain circumstances, issue a driver's license restricted to business or employment purposes only to a person who is otherwise qualified for a license and whose license has been suspended or revoked.

Section 562.11(1)(a), F.S., provides that it is unlawful to sell, give, serve or permit to be served alcoholic beverages to a person under 21 years of age or to permit a person under 21 years of age to consume alcoholic beverages on a licensed premises. Anyone convicted of a violation of these provisions is guilty of a criminal misdemeanor of the second degree, punishable by a term of imprisonment not exceeding 60 days and a fine not to exceed $500.

HB 1049 provides for an additional penalty of a mandatory loss of driver's license for adults 21 years or older who knowingly provide alcohol to minors. The bill amends s. 562.11, F.S., and creates s. 322.057, F.S., to require the court to order the DHSMV to withhold the issuance of, or suspend or revoke, the driver's license or driving privilege of any person who violates the sale to underage persons prohibition in s. 562.11(1), F.S. The bill exempts alcoholic beverage licensees and employees or agents of a licensee who violate this provision, because they are already regulated under chapters 561 Florida Statutes, relating to alcohol, beverages and tobacco.

The bill would allow the driver's license of such a person providing alcohol to minors to be suspended or revoked for 3 to 6 months for a first offense and for 1 year for subsequent violations. The bill also provides that the court may order DHSMV to issue a business or employment only restricted license to the person whose license is suspended or revoked.

C. SECTION DIRECTORY:

Section 1. amends s. 562.11, F.S., providing for withholding of the issuance of, or suspension or revocation of the driver's license or driving privilege of any person other than a chapter 561, F.S., licensee, who provides alcoholic beverages to a person under the age of 21;

Section 2. amends s. 322.057, F.S., requiring a court to order the DHSMV to withhold the issuance of, or suspend or revoke, the driver's license of person's providing alcoholic beverages to persons under

the age of 21; providing that licensees under chapter 561 or an employee or agent of such licensee is exempt from this provision; allowing hardship licenses to be issued to persons in violation of this provision and otherwise qualified for a license, and

Section 3. provides that the bill takes effect July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See Fiscal Comments.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

According to the DHSMV, this bill may generate additional revenue as a result of reinstating driving privileges of persons suspended or revoked pursuant to this bill. However, the number of individuals to be suspended and the amount of revenue to be collected is indeterminate. DHSMV also believes this will require programming modifications to driver license software systems that will be absorbed as part of the normal workload.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenues in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The following grammatical changes are recommended to HB 1049:

On line 7, the word "to" should be the word "the";
On line 42, the phrase "21 years <u>or</u> age" should be the phrase "21 years <u>of</u> age"

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to driver's licenses; amending s. 562.11,
3 F.S.; providing an additional penalty for providing
4 alcoholic beverages to a person under the age of 21;
5 creating s. 322.057, F.S.; requiring a court to order the
6 Department of Highway Safety and Motor Vehicles to
7 withhold to issuance of, or suspend or revoke, the
8 driver's license of certain persons who provide alcoholic
9 beverages to persons under the age of 21; providing for
10 exceptions; providing an effective date.
11
12 Be It Enacted by the Legislature of the State of Florida:
13
14 Section 1. Paragraph (a) of subsection (1) of section
15 562.11, Florida Statutes, is amended to read:
16 562.11 Selling, giving, or serving alcoholic beverages to
17 person under age 21; providing a proper name; misrepresenting or
18 misstating age or age of another to induce licensee to serve
19 alcoholic beverages to person under 21; penalties.--
20 (1)(a)1. It is unlawful for any person to sell, give,
21 serve, or permit to be served alcoholic beverages to a person
22 under 21 years of age or to permit a person under 21 years of
23 age to consume such beverages on the licensed premises. A person
24 who violates this subparagraph commits ~~Anyone convicted of~~
25 ~~violation of the provisions hereof is guilty of~~ a misdemeanor of
26 the second degree, punishable as provided in s. 775.082 or s.
27 775.083.
28 2. In addition to any other penalty imposed for a

29 violation of subparagraph 1., the court shall order the
30 Department of Highway Safety and Motor Vehicles to withhold the
31 issuance of, or suspend or revoke, the driver's license or
32 driving privilege, as provided in s. 322.057, of any person
33 other than a licensee or an employee or agent of a licensee who
34 violates subparagraph 1.
35 Section 2. Section 322.057, Florida Statutes, is created
36 to read:
37 322.057 Mandatory revocation or suspension of driver's
38 license for certain persons who provide alcohol to persons under
39 21 years of age.--
40 (1) Notwithstanding s. 322.28, the court shall order the
41 department to withhold the issuance of, or suspend or revoke,
42 the driver's license of a person 21 years or age or older, other
43 than a licensee under chapter 561 or an employee or agent of
44 such licensee, who is found guilty of a violation of s.
45 562.11(1)(a) for not less than 3 months or more than 6 months
46 for a violation and 1 year for any subsequent violation.
47 (2) The court may direct the department to issue a
48 driver's license restricted to business or employment purposes
49 only, as provided in s. 322.271, to a person who is otherwise
50 qualified for a license.
51 Section 3. 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.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1077 Motor Vehicle Dealership Operations
SPONSOR(S): Russell
TIED BILLS: **IDEN./SIM. BILLS:** SB 2682(s)

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

SUMMARY ANALYSIS

Chapter 320, F.S., provides for the licensing of automobile dealers and automobile manufacturers, distributors, and importers, and also regulates numerous components of franchise contracts they enter into to do business in the state of Florida.

HB 1077 makes a number of changes to this chapter, including:

- Requiring a licensed manufacturer, importer, or distributor to repurchase certain inventory and business-related equipment from franchised motor vehicle dealers whose franchises have been terminated. If the manufacturer, distributor, or importer fails to do this as specified, it faces sanctions from the state Department of Highway Safety and Motor Vehicles (DHSMV).
- Specifying new requirements for a licensed manufacturer to open or reopen a dealership without being subject to protest by motor vehicle dealers.
- Limiting a licensed manufacturer's ability to prohibit a franchised dealer from selling his or her dealership to a new owner who plans to relocate it, if certain requirements are met.
- Clarifying various definitions and measurement of geographic boundaries

HB 1077 raises no apparent constitutional or other legal issues. It has no fiscal impact on the state or local governments.

The bill has an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:
Provide limited government – HB 1077 creates additional requirements and obligations on automobile manufacturers regarding aspects of their agreements with franchised motor vehicle dealers in Florida.

B. EFFECT OF PROPOSED CHANGES:

Current Situation:
Chapter 320, F.S., provides for the licensing of automobile dealers and automobile manufacturers and regulates the franchise relationship between franchised dealers and the manufacturers. Section 320.605, F.S., states:

> "It is the intent of the Legislature to protect the public health, safety, and welfare of citizens of the state by regulating the licensing of motor vehicle dealers and manufacturers, maintaining competition, providing consumer protection and fair trade and providing minorities with opportunities for full participation as motor vehicle dealers."

Section 320.27, F.S. defines "franchised motor vehicle dealer" as "any person engaged in the business of buying, selling, or dealing in motor vehicles or offering or displaying motor vehicles for sale at wholesale or retail, or who may service and repair motor vehicles pursuant to an agreement as defined in s. 320.60(1)."

Based on the most recent available DHSMV records, the state has 1,497 franchised motor vehicle dealers and 355 licensed vehicle manufacturers.

The requirements regulating the business relationship between franchised motor vehicle dealers and automobile manufacturers, distributors, and importers are primarily in ss. 320.60 -320.071, F.S. These sections of law specify:

- The conditions and situations under which the DHSMV may deny, suspend, or revoke a vehicle manufacturer's license;
- The process, timing, and notice requirements for licensed manufacturers wanting to discontinue, cancel, modify, or otherwise replace a franchise agreement with a dealer, and the conditions under which the DHSMV may deny such a change;
- The procedures a licensed manufacturer must follow if it wants to add a dealership in an area already served by a franchised dealer, the protest process, and the DHSMV's role in these circumstances;
- The circumstances under which a licensed manufacturer, distributor, or importer may temporarily operate as a licensed vehicle dealer;
- Amounts of damages and fines that can be assessed against licensed manufacturers in violation of statutes;
- The ability of licensed vehicle dealers to seek administrative hearings; and
- DHSMV's authority to promulgate rules to implement these sections of law.

During the 2005 legislative session, Florida franchised motor vehicle dealers supported legislation to amend current statutes to address several issues arising from court decisions that they said had the potential to negatively impact their ability to remain competitive. The legislation was unsuccessful.

Effect of Proposed Changes:
HB 1077 makes a number of changes to existing statutes regulating automobile franchisees in this state. The general impact of the bill is to raise the level of protection for franchised motor vehicle dealers.

The bill:

- Amends s. 320.60(3), F.S., to clarify the existing definition of "demonstrator" by specifying that new vehicles which have been driven by prospective customers qualify as demonstrators.
- Amends s. 320.64, F.S., to create a new cause for a licensed manufacturer, importer, or distributor to have its license denied, suspended, or revoked by DHSMV. The new cause is failing to repurchase within a specific time frame certain vehicles and other property from a dealer upon the voluntary or involuntary termination of that dealer's franchise.

  Specifically, licensed manufacturers would be required to: buy back, at net cost, new vehicles with a mileage of 2,000 miles or less; repay the cost of new, unused, undamaged, and unsold parts and accessories in their original packaging and in unbroken lots, with exceptions for sheet metal; pay fair market value for signs, special tools, and other equipment that meet certain conditions; and pay the costs related to packing, storing, loading and shipping these items eligible for repurchase.

  The dealer would have 90 days to return the property to the manufacturer, who would have 60 days upon receipt of the items to pay the dealer. These repurchase provisions do not apply in cases where the dealer's franchise is being terminated as a result of dealer selling his or her assets or stock.

  Other states already have this provision in their dealer laws, as do some franchise contracts.
- Amends s. 320.642(5), F.S., to make it more difficult for a licensed manufacturer to relocate an existing franchised dealership, and then open a new dealership at the old location without notice or the opportunity for other dealers to protest. The bill requires the manufacturer to meet timing and dealership distance requirements, and specifies that the manufacturer cannot open a new dealership for two years if it is within 4 miles of the old site.
- Creates s. 320.642(7), F.S., to require that all measurements required for the purposes of determining the locations of existing and proposed new dealerships be based on the "geometric centroid." Geometric centroid" is a complex mathematical term that roughly means the center point of, in this case, the dealership's property.
- Amends s. 320.643, F.S., to limit a licensed manufacturer's ability to prohibit a franchised dealer from selling his or her dealership to a new owner who planned to relocate it. Current law addresses the process for franchise transfers, but not transfers and subsequent relocation. The bill specifies that a sale-and-relocation would not be subject to the terms of the existing franchise agreement under certain circumstances. Those circumstances are: the relocation would not have been subject to protest if the same owner was planning it, pursuant to s. 320.642(5), F.S.; the proposed facility satisfies the requirements in effect between the manufacturer and the dealer at the time of the transfer; and the proposed new facility is otherwise an "appropriate location" in terms of its accessibility and convenience to potential customers, its distance from other dealers selling the same line and make of vehicles, and other factors.

HB 1077 would take effect July 1, 2006.

C. SECTION DIRECTORY:

Section 1: Amends s. 320.60, F.S., to amend the definition of "demonstrator."

Section 2: Amends s. 320.64, F.S., to specify the types of costs owed to a motor vehicle dealer whose contract has been terminated by a manufacturer.

Section 3: Amends s. 320.642, F.S., to amend criteria determining when a proposed opening or reopening of a motor vehicle dealership is subject to protest.

Section 4: Amends s. 320.643, F.S., to . to address instances where a dealer sells his or her franchise to a new owner who wants to relocate it.

Section 5: Specifies this act shall take effect 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:

Indeterminate. To the extent HB 1077 protects the rights of existing franchised motor vehicle dealers in cases involving the establishment of new dealerships in a service area, buy-backs of certain inventory and equipment upon franchise termination, and the fate of new ownerships involving transfer, the bill may benefit franchised motor vehicle dealers. These same law changes may create financial costs for licensed manufacturers, distributors, and importers. To the extent that the bill's provisions increase protections for existing franchised motor vehicle dealers, the bill could negatively impact the ability of persons wishing to become licensed and franchised motor vehicle dealers in Florida.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This mandates provision is not applicable to an analysis of HB 1077 because the bill does not require counties or municipalities to expend or raise local funds, nor does it reduce the percentage of state tax revenues shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DHSMV has sufficient rulemaking authority to implement the provisions of HB 1077.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The sponsor plans to file a strike-everything-after-the-clause amendment to conform the House bill to its Senate companion.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

1 A bill to be entitled
2 An act relating to motor vehicle dealership operations;
3 amending s. 320.60, F.S.; revising the definition of
4 "demonstrator" for purposes of provisions relating to
5 manufacturing, importing, and distributing motor vehicles;
6 amending s. 320.64, F.S.; prohibiting an applicant or
7 licensee from failing to pay certain compensation amounts
8 to a motor vehicle dealer after termination of the
9 franchise agreement; providing exceptions; providing for
10 certain remedies, procedures, and rights of recovery;
11 amending s. 320.642, F.S.; revising conditions under which
12 an opening or reopening of a motor vehicle dealership is
13 not subject to protest; restricting proposal for a dealer
14 of the same line-make for a certain period of time after
15 the opening of a relocated dealership; providing criteria
16 for measurements of distance between dealer locations;
17 amending s. 320.643, F.S.; exempting a transferee
18 proposing to relocate motor vehicle dealership operations
19 in conjunction with an asset or equity purchase from
20 franchise agreement location requirements; providing
21 conditions for the exemption; providing an effective date.
22
23 Be It Enacted by the Legislature of the State of Florida:
24
25 Section 1. Subsection (3) of section 320.60, Florida
26 Statutes, is amended to read:

27 320.60 Definitions for ss. 320.61-320.70.--Whenever used
28 in ss. 320.61-320.70, unless the context otherwise requires, the
29 following words and terms have the following meanings:
30 (3) "Demonstrator" means any new motor vehicle which is
31 carried on the records of the dealer as a demonstrator and is
32 used by, being inspected or driven by the dealer or his or her
33 employees, or driven by prospective customers for the purpose of
34 demonstrating vehicle characteristics in the sale or display of
35 motor vehicles sold by the dealer.
36 Section 2. Subsection (35) of section 320.64, Florida
37 Statutes, is renumbered as subsection (36), and a new subsection
38 (35) is added to that section to read:
39 320.64 Denial, suspension, or revocation of license;
40 grounds.--A license of a licensee under s. 320.61 may be denied,
41 suspended, or revoked within the entire state or at any specific
42 location or locations within the state at which the applicant or
43 licensee engages or proposes to engage in business, upon proof
44 that the section was violated with sufficient frequency to
45 establish a pattern of wrongdoing, and a licensee or applicant
46 shall be liable for claims and remedies provided in ss. 320.695
47 and 320.697 for any violation of any of the following
48 provisions. A licensee is prohibited from committing the
49 following acts:
50 (35) Notwithstanding the terms of any franchise agreement,
51 after termination of a franchise, either voluntarily or
52 involuntarily, the applicant or licensee has failed to pay to
53 the motor vehicle dealer, within 90 days after the effective

54 date of the termination, cancellation, or nonrenewal, the
55 following amounts:
56 (a) The net cost paid by the dealer for each new motor
57 vehicle in the dealer's inventory with mileage of 2,000 miles or
58 less, exclusive of mileage placed on the vehicle before it was
59 delivered to the dealer.
60 (b) The cost paid by the dealer for each new, unused,
61 undamaged, and unsold part or accessory that:
62 1. Is in the current parts catalogue and is still in the
63 original, resalable merchandising package and in an unbroken
64 lot, except that in the case of sheet metal a comparable
65 substitute for the original package may be used; and
66 2. Was purchased by the dealer either directly from the
67 manufacturer or distributor or was purchased from an outgoing
68 authorized dealer as a part of the dealer's initial inventory.
69 (c) The fair market value of each undamaged sign owned by
70 the dealer that bears a trademark or trade name used or claimed
71 by the applicant or licensee, or a representative of the
72 applicant or licensee, and that was purchased from or at the
73 request of the applicant or licensee, or a representative of the
74 applicant or licensee.
75 (d) The fair market value of all special tools, data
76 processing equipment, and automotive service equipment owned by
77 the dealer that:
78 1. Were recommended in writing by the applicant or
79 licensee or its representative and designated as special tools
80 and equipment;

81 2. Were purchased from or at the request of the applicant
82 or licensee or its representative; and
83 3. Are in usable and good condition except for reasonable
84 wear and tear.
85 (e) The cost of transporting, handling, packing, storing,
86 and loading any property subject to repurchase under this
87 subsection.
88
89 This subsection shall not apply to terminations, cancellations,
90 and nonrenewals that are implemented as a result of the sale of
91 the assets or stock of the dealer. The dealer shall return the
92 property listed in this subsection to the licensee within 90
93 days after the effective date of the termination, cancellation,
94 or nonrenewal. The licensee shall supply the new vehicle dealer
95 with reasonable instructions on the method by which the new
96 vehicle dealer must return the property to the licensee. The
97 compensation for the property shall be paid by the licensee
98 within 60 days after the tender of inventory and other items,
99 provided the new motor vehicle dealer has clear title to the
100 inventory and other items and is in a position to convey that
101 title to the manufacturer or distributor. In the event the
102 inventory or other items are subject to a security interest, the
103 licensee may make payment jointly to the new motor vehicle
104 dealer and the holder of the security interest.
105
106 A motor vehicle dealer who can demonstrate that a violation of,
107 or failure to comply with, any of the preceding provisions by an
108 applicant or licensee will or can adversely and pecuniarily

109 affect the complaining dealer, shall be entitled to pursue all
110 of the remedies, procedures, and rights of recovery available
111 under ss. 320.695 and 320.697.
112 Section 3. Subsection (5) of section 320.642, Florida
113 Statutes, is amended, and subsection (7) is added to that
114 section, to read:
115 320.642 Dealer licenses in areas previously served;
116 procedure.--
117 (5)(a) The opening or reopening of the same or a successor
118 motor vehicle dealer within 12 months shall not be considered an
119 additional motor vehicle dealer subject to protest within the
120 meaning of this section, if:
121 1.~~(a)~~ The opening or reopening is within the same or an
122 adjacent county and~~,~~ is within 2 miles of the former motor
123 vehicle dealer location;~~,~~
124 2.~~(b)~~ There is no motor vehicle dealer within 25 miles of
125 the proposed location or the proposed location is further from
126 each existing dealer of the same line-make than the prior
127 location is from each dealer of the same line-make within 25
128 miles of the new location;~~,~~
129 3.~~(c)~~ The opening or reopening is within 6 miles of the
130 prior location and, if any existing motor vehicle dealer of the
131 same line-make is located within 15 miles of the former
132 location, the proposed location is no closer to any existing
133 dealer of the same line-make within 15 miles of the proposed
134 location;~~,~~ or
135 4.~~(d)~~ The opening or reopening is within 6 miles of the
136 prior location and, if all existing motor vehicle dealers of the

137 same line-make are beyond 15 miles of the former location, the
138 proposed location is further than 15 miles from any existing
139 motor vehicle dealer of the same line-make.
140
141 Any other such opening or reopening shall constitute an
142 additional motor vehicle dealer within the meaning of this
143 section.
144 (b) If an opening or reopening is accomplished pursuant to
145 the terms of this subsection and therefore not considered an
146 additional motor vehicle dealer subject to protest, the licensee
147 shall not propose a motor vehicle dealer of the same line-make
148 which is to be located within 4 miles of the previous location
149 for a period of 2 years after the date of the opening of the
150 relocated dealership.
151 (7) All measurements required by this section of the
152 distance between two or more existing motor vehicle dealer
153 locations, or between existing motor vehicle dealer locations
154 and a proposed motor vehicle dealer's location, shall be taken
155 from the geometric centroid of the property which encompasses
156 all of the existing or proposed motor vehicle dealer operations.
157 Section 4. Subsection (5) of section 320.643, Florida
158 Statutes, is renumbered as subsection (6), and a new subsection
159 (5) is added to that section to read:
160 320.643 Transfer, assignment, or sale of franchise
161 agreements.--
162 (5) A transferee proposing to simultaneously relocate
163 motor vehicle dealership operations in conjunction with an asset
164 purchase pursuant to subsection (1) or an equity purchase

165 pursuant to subsection (2) shall not be required to comply with
166 the location requirements of the franchise agreement then in
167 effect and such a proposal shall be subject to this section if:
168 (a) The proposed relocation is a relocation exempt from
169 protest and not considered as an additional motor vehicle dealer
170 pursuant to s. 320.642(5);
171 (b) The proposed dealership's facility satisfies facility
172 requirements in effect between the licensee and the dealer
173 proposing the transfer at the time the transfer is proposed; and
174 (c) The proposed facility is otherwise an appropriate
175 location, taking into account the accessibility and convenience
176 to consumers of the proposed location, the location of the other
177 dealers of the same line-make, and other factors related to the
178 appropriateness of the facility for its proposed use and whether
179 the proposed dealership facility and dealership operations are
180 separate from any other line-makes.
181 Section 5. This act shall take effect July 1, 2006.

HB 7035

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7035 PCB GO 06-10 OGSR Motor Vehicle Crash Reports
SPONSOR(S): Governmental Operations Committee, Rivera
TIED BILLS: **IDEN./SIM. BILLS:** SB 712 (c)

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Governmental Operations Committee	4 Y, 2 N	Williamson	Williamson
1) Transportation Committee		Pugh BJP	Miller P.M.
2) State Administration Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

The Open Government Sunset Review Act requires the Legislature to review each public records and each public meetings exemption five years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

HB 7035 reenacts the public records exemption for motor vehicle crash reports. Crash reports that reveal the identity, home or employment telephone number or home or employment address of, or other personal information concerning parties involved in a crash are confidential and exempt for a period of 60 days. The exemption will repeal on October 2, 2006, if this bill does not become law.

The bill may have a minimal, non-recurring positive fiscal impact on state and local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

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

B. EFFECT OF PROPOSED CHANGES:

Background

Current law requires a law enforcement officer to file a written report for a motor vehicle crash if the crash:

- Resulted in death or personal injury;
- Resulted in damage to a vehicle or other property; or
- Rendered the vehicle inoperative and required a wrecker to remove it from traffic.[1]

The driver of the vehicle is required to file a written report if a law enforcement officer does not do so.[2] Supplemental written reports also might be required.[3] A driver failing to file the appropriate reports commits a noncriminal traffic infraction that is punishable as a nonmoving violation as provided in chapter 318, F.S. ($30 penalty).[4]

Crash reports that reveal the identity, home or employment telephone number or home or employment address of, or other personal information concerning parties involved in a crash are confidential and exempt[5] for a period of 60 days after the date the report is filed.[6] Such reports are immediately available to:

- The party involved in the crash and his or her legal representative, licensed insurance agent, insurer, or person under contract with such insurer to provide claims or underwriting information;
- Prosecutorial authorities;
- Victim services programs;
- Radio and television stations licensed by the Federal Communications Commission;
- Newspapers qualified to publish legal notices;
- Free newspapers of general circulation;[7] and
- Any local, state, or federal agency.[8]

A person with immediate access to confidential and exempt information contained in such reports must present a valid driver's license or other photo identification, proof of status, or identification that demonstrates his or her qualifications to access such reports. The person also must file a written

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[1] Section 316.066(3)(a), F.S.
[2] Section 316.066(1), F.S.
[3] Section 316.066(2), F.S.
[4] Section 316.066(6), F.S.
[5] There is a difference between records that are exempt from public records requirements and those that are *confidential* and exempt. If the Legislature makes a record confidential and exempt, such record cannot be released by an agency to anyone other than to the persons or entities designated in the statute. *See* Attorney General Opinion 85-62. If a record is simply made exempt from disclosure requirements, an agency is not prohibited from disclosing the record in all circumstances. *See Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA), review denied, 589 So.2d 289 (Fla. 1991).
[6] Section 316.066(3)(c), F.S.
[7] The following are not newspapers for purposes of the exemption: newspapers intended for members of a particular profession or occupational group; newspapers with the primary purpose of distributing advertising; and newspapers with the primary purpose of publishing names and other personal identifying information concerning parties to motor vehicle crashes. *Id.*
[8] *Id.*

sworn statement[9] with the custodian of such reports attesting that the confidential and exempt information will not be used for commercial solicitation[10] of accident victims or knowingly disclosed to any third party for the purpose of solicitation, during the 60-day period.[11]

The following persons are guilty of a felony of the third degree[12] for violating the provisions of the exemption:

- An agency employee who willfully and knowingly discloses the confidential and exempt information to an unauthorized person;[13]
- A person without authorized access to such information and who obtains or attempts to obtain the information;[14] and
- A person who uses such information in violation of the sworn statement.[15]

Pursuant to the Open Government Sunset Review Act,[16] the exemption will repeal on October 2, 2006, unless reenacted by the Legislature.

Effect of Bill

HB 7035 removes the repeal date, thereby reenacting the public records exemption. It makes editorial and conforming changes and reorganizes the section.

The bill removes a clause reiterating the general requirement that an agency granted access to confidential and exempt information must maintain the status of that information. In *Ragsdale v. State*,[17] the Florida Supreme Court held that:

> [T]he applicability of a particular exemption is determined by the document being withheld, not by the identity of the agency possessing the record . . . the focus in determining whether a document has lost its status as a public record must be on the policy behind the exemption and not on the simple fact that the information has changed agency hands.[18]

In *City of Riviera Beach v. Barfield*,[19] the court stated, "[h]ad the legislature intended the exemption for active criminal investigative information to evaporate upon the sharing of that information with another criminal justice agency, it would have expressly provided so in the statute."[20] As such, the provision is unnecessary and has been removed, because had the Legislature intended for the confidential and exempt status to evaporate then the Legislature would have stated as much.

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[9] In lieu of the written sworn statement, the custodial agency may provide crash reports by electronic means to third-party vendors under contract with one or more insurers provided the contract states the confidential and exempt information will not be used for commercial solicitation. *Id.*

[10] Commercial solicitation does not include the use of a crash report for purposes of publication in a newspaper or a radio or television broadcast. Section 316.066(4), F.S.

[11] Section 316.066(3)(c), F.S.

[12] A felony of the third degree is punishable by a term of imprisonment not exceeding five years (s. 775.082(3)(d), F.S.) and a fine not exceeding $5,000 (s. 775.083(1)(c), F.S.)

[13] Section 316.066(3)(d), F.S.

[14] Section 316.066(3)(e), F.S.

[15] Section 316.066(3)(f), F.S.

[16] Section 119.15, F.S.

[17] 720 So.2d 203 (Fla. 1998).

[18] *Id.* at 206, 207.

[19] 642 So. 2d 1135 (Fla. 4th DCA 1994), *review denied*, 651 So. 2d 1192 (Fla. 1995). In *Barfield*, Barfield argued that once the City of West Palm Beach shared its active criminal investigative information with the City of Riviera Beach the public records exemption for such information was waived. Barfield based that argument on a statement from the 1993 *Government-In-The-Sunshine Manual* (a booklet prepared by the Office of the Attorney General). The Attorney General opined "once a record is transferred from one public agency to another, the record loses its exempt status." The court declined to accept the Attorney General's view. As a result, that statement has been removed from the *Government-In-The-Sunshine Manual.*

[20] *Id.* at 1137.

C. SECTION DIRECTORY:

Section 1 amends s. 316.066, F.S., to remove the October 2, 2006, repeal date and make technical or grammatical changes..

Section 2 amends s. 324.051, F.S., to correct a cross-reference.

Section 3 amends s. 921.0022, F.S., to correct a cross-reference.

Section 4 provides an effective date of October 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None. This bill does not create, modify, amend, or eliminate a state revenue source.

2. Expenditures:

   See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None. This bill does not create, modify, amend, or eliminate a local revenue source.

2. Expenditures:

   See FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

HB 7035 may represent a minimal, non-recurring positive impact on state and local government expenditures. A bill enacting or amending a public records exemption causes a non-recurring negative fiscal impact in the year of enactment as a result of training employees responsible for replying to public records requests. In the case of bills reviewed under the Open Government Sunset Review process, training costs are incurred if the bill does not pass or if the exemption is amended, as retraining is required. Because the bill eliminates the repeal of the exemption, state and local governments may recognize a minimal nonrecurring decrease in expenditures because employee-training activities are avoided.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   HB 7035 does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Open Government Sunset Review Act

The Open Government Sunset Review Act sets forth a legislative review process for newly created or substantially amended public records or public meetings exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.

The Act provides that a public records or public meetings exemption may be created or maintained only if it serves an identifiable public purpose, and may be no broader than is necessary to meet one of the following purposes:

- Allowing the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protecting sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety. However, only the identity of an individual may be exempted under this provision; or,
- Protecting trade or business secrets.

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required because of the requirements of Art. 1, s. 24(c), Florida Constitution. If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created (e.g., allowing another agency access to the confidential or exempt records), then a public necessity statement and a two-thirds vote for passage are not required.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

1 A bill to be entitled
2 An act relating to a review under the Open Government
3 Sunset Review Act regarding motor vehicle crash reports;
4 amending s. 316.066, F.S., which provides an exemption
5 from public records requirements for required motor
6 vehicle crash reports that reveal the identity, home or
7 employment telephone number, or home or employment address
8 of, or other personal information concerning, parties
9 involved in a motor vehicle crash and that are held by any
10 agency that regularly receives or prepares information
11 from or concerning the parties to motor vehicle crashes;
12 reorganizing provisions, making editorial and conforming
13 changes, and removing superfluous language; removing the
14 scheduled repeal of the exemption under the Open
15 Government Sunset Review Act; amending ss. 324.051 and
16 921.0022, F.S.; correcting cross-references; providing an
17 effective date.
18
19 Be It Enacted by the Legislature of the State of Florida:
20
21 Section 1. Section 316.066, Florida Statutes, is amended
22 to read:
23 316.066 Written reports of crashes.--
24 (1) The driver of a vehicle which is in any manner
25 involved in a crash resulting in bodily injury to or death of
26 any person or damage to any vehicle or other property in an
27 apparent amount of at least $500 shall, within 10 days after the
28 crash, forward a written report of such crash to the department

29 or traffic records center. However, when the investigating
30 officer has made a written report of the crash pursuant to
31 subsection ~~paragraph~~ (3)~~(a)~~, no written report need be forwarded
32 to the department or traffic records center by the driver.
33 (2) The receiving entity may require any driver of a
34 vehicle involved in a crash of which a written report must be
35 made as provided in this section to file supplemental written
36 reports whenever the original report is insufficient in the
37 opinion of the department and may require witnesses of crashes
38 to render reports to the department.
39 (3)(a) Every law enforcement officer who in the regular
40 course of duty investigates a motor vehicle crash:
41 1. Which crash resulted in death or personal injury shall,
42 within 10 days after completing the investigation, forward a
43 written report of the crash to the department or traffic records
44 center.
45 2. Which crash involved a violation of s. 316.061(1) or s.
46 316.193 shall, within 10 days after completing the
47 investigation, forward a written report of the crash to the
48 department or traffic records center.
49 3. In which crash a vehicle was rendered inoperative to a
50 degree which required a wrecker to remove it from traffic may,
51 within 10 days after completing the investigation, forward a
52 written report of the crash to the department or traffic records
53 center if such action is appropriate, in the officer's
54 discretion.
55 (b) ~~However,~~ In every case in which a crash report is
56 required by this section and a written report to a law

57 enforcement officer is not prepared, the law enforcement officer
58 shall provide each party involved in the crash a short-form
59 report, prescribed by the state, to be completed by the party.
60 The short-form report must include~~, but is not limited to~~:
61 1. The date, time, and location of the crash;
62 2. A description of the vehicles involved;
63 3. The names and addresses of the parties involved;
64 4. The names and addresses of witnesses;
65 5. The name, badge number, and law enforcement agency of
66 the officer investigating the crash; and
67 6. The names of the insurance companies for the respective
68 parties involved in the crash.
69 (c) Each party to the crash shall provide the law
70 enforcement officer with proof of insurance to be included in
71 the crash report. If a law enforcement officer submits a report
72 on the accident, proof of insurance must be provided to the
73 officer by each party involved in the crash. Any party who fails
74 to provide the required information is guilty of an infraction
75 for a nonmoving violation, punishable as provided in chapter 318
76 unless the officer determines that due to injuries or other
77 special circumstances such insurance information cannot be
78 provided immediately. If the person provides the law enforcement
79 agency, within 24 hours after the crash, proof of insurance that
80 was valid at the time of the crash, the law enforcement agency
81 may void the citation.
82 (4)(a)~~(b)~~ One or more counties may enter into an agreement
83 with the appropriate state agency to be certified by the agency
84 to have a traffic records center for the purpose of tabulating

85 and analyzing countywide traffic crash reports. The agreement
86 must include: certification by the agency that the center has
87 adequate auditing and monitoring mechanisms in place to ensure
88 the quality and accuracy of the data; the time period in which
89 the traffic records center must report crash data to the agency;
90 and the medium in which the traffic records must be submitted to
91 the agency.
92 (b) In the case of a county or multicounty area that has a
93 certified central traffic records center, a law enforcement
94 agency or driver must submit to the center within the time limit
95 prescribed in this section a written report of the crash. A
96 driver who is required to file a crash report must be notified
97 of the proper place to submit the completed report.
98 (c) Fees for copies of public records provided by a
99 certified traffic records center shall be charged and collected
100 as follows:
101
102 For a crash report....$2 per copy.
103 For a homicide report....$25 per copy.
104 For a uniform traffic citation....$0.50 per copy.
105
106 The fees collected for copies of the public records provided by
107 a certified traffic records center shall be used to fund the
108 center or otherwise as designated by the county or counties
109 participating in the center.
110 (5)(a) ~~(c)~~ Crash reports that ~~required by this section~~
111 ~~which~~ reveal the identity, home or employment telephone number
112 or home or employment address of, or other personal information

113 concerning the parties involved in the crash and that ~~which~~ are
114 held ~~received or prepared~~ by any agency that regularly receives
115 or prepares information from or concerning the parties to motor
116 vehicle crashes are confidential and exempt from s. 119.07(1)
117 and s. 24(a), Art. I of the State Constitution for a period of
118 60 days after the date the report is filed.
119 (b) Crash ~~However, such~~ reports held by an agency under
120 paragraph (a) may be made immediately available to the parties
121 involved in the crash, their legal representatives, their
122 licensed insurance agents, their insurers or insurers to which
123 they have applied for coverage, persons under contract with such
124 insurers to provide claims or underwriting information,
125 prosecutorial authorities, victim services programs, radio and
126 television stations licensed by the Federal Communications
127 Commission, newspapers qualified to publish legal notices under
128 ss. 50.011 and 50.031, and free newspapers of general
129 circulation, published once a week or more often, available and
130 of interest to the public generally for the dissemination of
131 news. For the purposes of this section, the following products
132 or publications are not newspapers as referred to in this
133 section: those intended primarily for members of a particular
134 profession or occupational group; those with the primary purpose
135 of distributing advertising; and those with the primary purpose
136 of publishing names and other personal identifying information
137 concerning parties to motor vehicle crashes.
138 (c) Any local, state, or federal agency~~, victim services~~
139 ~~program, agent, or employee~~ that is authorized to have access to
140 crash ~~such~~ reports by any provision of law shall be granted such

141 access in the furtherance of the agency's statutory duties
142 ~~notwithstanding the provisions of this paragraph~~. ~~Any local,~~
143 ~~state, or federal agency, agent, or employee receiving such~~
144 ~~crash reports shall maintain the confidential and exempt status~~
145 ~~of those reports and shall not disclose such crash reports to~~
146 ~~any person or entity.~~
147 (d) As a condition precedent to accessing a crash report
148 within 60 days after the date the report is filed, a person must
149 present a valid driver's license or other photographic
150 identification, proof of status, or identification that
151 demonstrates his or her qualifications to access that
152 information, and file a written sworn statement with the state
153 or local agency in possession of the information stating that
154 information from a crash report made confidential and exempt by
155 this section will not be used for any commercial solicitation of
156 accident victims, or knowingly disclosed to any third party for
157 the purpose of such solicitation, during the period of time that
158 the information remains confidential and exempt. In lieu of
159 requiring the written sworn statement, an agency may provide
160 crash reports by electronic means to third-party vendors under
161 contract with one or more insurers, but only when such contract
162 states that information from a crash report made confidential
163 and exempt by this section will not be used for any commercial
164 solicitation of accident victims by the vendors, or knowingly
165 disclosed by the vendors to any third party for the purpose of
166 such solicitation, during the period of time that the
167 information remains confidential and exempt, and only when a

168 copy of such contract is furnished to the agency as proof of the
169 vendor's claimed status.
170 (e) This subsection does not prevent the dissemination or
171 publication of news to the general public by any legitimate
172 media entitled to access confidential and exempt information
173 pursuant to this section. ~~A law enforcement officer as defined~~
174 ~~in s. 943.10(1) may enforce this subsection. This exemption is~~
175 ~~subject to the Open Government Sunset Review Act of 1995 in~~
176 ~~accordance with s. 119.15, and shall stand repealed on October~~
177 ~~2, 2006, unless reviewed and saved from repeal through~~
178 ~~reenactment by the Legislature.~~
179 (6)(a)~~(d)~~ Any driver failing to file the written report
180 required under subsection (1) or subsection (2) commits a
181 noncriminal traffic infraction, punishable as a nonmoving
182 violation as provided in chapter 318.
183 (b) Any employee of a state or local agency in possession
184 of information made confidential and exempt by this section who
185 knowingly discloses such confidential and exempt information to
186 a person not entitled to access such information under this
187 section is guilty of a felony of the third degree, punishable as
188 provided in s. 775.082, s. 775.083, or s. 775.084.
189 (c)~~(e)~~ Any person, knowing that he or she is not entitled
190 to obtain information made confidential and exempt by this
191 section, who obtains or attempts to obtain such information is
192 guilty of a felony of the third degree, punishable as provided
193 in s. 775.082, s. 775.083, or s. 775.084.
194 (d)~~(f)~~ Any person who knowingly uses confidential and
195 exempt information in violation of a filed written sworn

196 statement or contractual agreement required by this section
197 commits a felony of the third degree, punishable as provided in
198 s. 775.082, s. 775.083, or s. 775.084.
199 (7) ~~(4)~~ Except as specified in this subsection, each crash
200 report made by a person involved in a crash and any statement
201 made by such person to a law enforcement officer for the purpose
202 of completing a crash report required by this section shall be
203 without prejudice to the individual so reporting. No such report
204 or statement shall be used as evidence in any trial, civil or
205 criminal. However, subject to the applicable rules of evidence,
206 a law enforcement officer at a criminal trial may testify as to
207 any statement made to the officer by the person involved in the
208 crash if that person's privilege against self-incrimination is
209 not violated. The results of breath, urine, and blood tests
210 administered as provided in s. 316.1932 or s. 316.1933 are not
211 confidential and shall be admissible into evidence in accordance
212 with the provisions of s. 316.1934(2). Crash reports made by
213 persons involved in crashes shall not be used for commercial
214 solicitation purposes; however, the use of a crash report for
215 purposes of publication in a newspaper or other news periodical
216 or a radio or television broadcast shall not be construed as
217 "commercial purpose."
218 (8) A law enforcement officer, as defined in s. 943.10(1),
219 may enforce this section.
220 ~~(5) For purposes of this section, a written report~~
221 ~~includes a report generated by a law enforcement agency through~~
222 ~~the use of a computer.~~

223 ~~(6) Any driver failing to file the written report required~~
224 ~~under subsection (1) or subsection (2) commits a noncriminal~~
225 ~~traffic infraction, punishable as a nonmoving violation as~~
226 ~~provided in chapter 318.~~
227 Section 2. Paragraph (a) of subsection (1) of section
228 324.051, Florida Statutes, is amended to read:
229 324.051 Reports of crashes; suspensions of licenses and
230 registrations.--
231 (1)(a) Every law enforcement officer who, in the regular
232 course of duty either at the time of and at the scene of the
233 crash or thereafter by interviewing participants or witnesses,
234 investigates a motor vehicle crash which he or she is required
235 to report pursuant to s. 316.066(3)~~(a)~~ shall forward a written
236 report of the crash to the department within 10 days of
237 completing the investigation. However, when the investigation of
238 a crash will take more than 10 days to complete, a preliminary
239 copy of the crash report shall be forwarded to the department
240 within 10 days of the occurrence of the crash, to be followed by
241 a final report within 10 days after completion of the
242 investigation. The report shall be on a form and contain
243 information consistent with the requirements of s. 316.068.
244 Section 3. Paragraph (c) of subsection (3) of section
245 921.0022, Florida Statutes, is amended to read:
246 921.0022 Criminal Punishment Code; offense severity
247 ranking chart.--
248 (3) OFFENSE SEVERITY RANKING CHART
249

Florida Felony Description

Statute	Degree	
250		
		(c) LEVEL 3
251		
119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
252		
316.066(6)(a)-(d) ~~(3)(d)-(f)~~	3rd	Unlawfully obtaining or using confidential crash reports.
253		
316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
254		
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
255		
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
256		
319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
257		
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
258		

319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
327.35(2)(b)	3rd	Felony BUI.
328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
370.12(1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
370.12(1)(e)6.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.

264	376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
265	400.903(3)	3rd	Operating a clinic without a license or filing false license application or other required information.
266	440.105(3)(b)	3rd	Receipt of fee or consideration without approval by judge of compensation claims.
267	440.1051(3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
268	501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
269	624.401(4)(a)	3rd	Transacting insurance without a certificate of authority.
270	624.401(4)(b)1.	3rd	Transacting insurance without a certificate of authority; premium collected less than $20,000.

271	626.902(1)(a) & (b)	3rd	Representing an unauthorized insurer.
272	697.08	3rd	Equity skimming.
273	790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
274	796.05(1)	3rd	Live on earnings of a prostitute.
275	806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
276	806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
277	810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
278	812.014(2)(c)2.	3rd	Grand theft; $5,000 or more but less than $10,000.
279	812.0145(2)(c)	3rd	Theft from person 65 years of age or older; $300 or more but less

			than $10,000.
280			
	815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
281			
	817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than $20,000.
282			
	817.233	3rd	Burning to defraud insurer.
283			
	817.234(8)(b)-(c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
284			
	817.234(11)(a)	3rd	Insurance fraud; property value less than $20,000.
285			
	817.236	3rd	Filing a false motor vehicle insurance application.
286			
	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
287			
	817.413(2)	3rd	Sale of used goods as new.
288			

817.505(4)	3rd	Patient brokering.
828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
831.29	2nd	Possession of instruments for counterfeiting drivers' licenses or identification cards.
838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
843.19	3rd	Injure, disable, or kill police dog or horse.
860.15(3)	3rd	Overcharging for repairs and parts.
870.01(2)	3rd	Riot; inciting or encouraging.
893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s.

			893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).
297			
	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 1,000 feet of university.
298			
	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 1,000 feet of public housing facility.
299			
	893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
300			
	893.13(7)(a)8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
301			

	893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
302			
	893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
303			
	893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
304			
	893.13(8)(a)1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
305			
	893.13(8)(a)2.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.
306			
	893.13(8)(a)3.	3rd	Knowingly write a prescription for a controlled substance for a

			fictitious person.
307			
	893.13(8)(a)4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
308			
	918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
309			
	944.47(1)(a)1.-2.	3rd	Introduce contraband to correctional facility.
310			
	944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
311			
	985.3141	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).
312			

313 Section 4. This act shall take effect October 1, 2006.