

MEETING OF THE GOVERNOR AND CABINET  
AS HEAD OF THE DEPARTMENT OF HIGHWAY SAFETY  
AND MOTOR VEHICLES

December 11, 2012  
AGENDA

Agency Contact: Jennifer Langston, 850-617-3195

<http://www.flhsmv.gov/agenda/2012/121112Agenda.pdf>

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1. Respectfully request approval of the October 9, 2012 Cabinet Meeting minutes.

Attachment #1.  
Recommend Approval.

2. Respectfully submit approval of an Appointment to the Medical Advisory Board.

Attachment #2.  
Recommend Approval.

3. Respectfully request approval to publish a Notice of Proposed Rulemaking, Creating Chapter 15C-21, Certificates of Title, containing Rule 15C-21.001, Application for Certificates of Title, and incorporating the application form by reference. Further, the Department requests approval to file for final adoption if no requests for rule hearings are received as a result of the notice.

Attachment #3.  
Recommend Approval.

4. Respectfully request approval to publish a Notice of Proposed Rulemaking to repeal (3) Rules: 15-2.011, 15-3.001, 15C-7.005, of the F.A.C. Further, the Department requests approval to file for final repeal if no request for a rule hearing is received as a result of the notice.

Attachment #4  
Recommend Approval.

5. Respectfully request approval of the Department's Substantive Legislative Package for 2013 Session.

Attachment #5.  
Recommend Approval.

T H E   C A B I N E T  
S T A T E   O F   F L O R I D A

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Representing:

OFFICE OF FINANCIAL REGULATION  
DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES  
STATE BOARD OF ADMINISTRATION

The above agencies came to be heard before  
THE FLORIDA CABINET, Honorable Governor Scott  
presiding, in the Cabinet Meeting Room, LL-03,  
The Capitol, Tallahassee, Florida, on Tuesday,  
October 9, 2012, commencing at 9:00 a.m.

Reported by:  
CAROLYN L. RANKINE  
Register Professional Reporter  
Notary Public

ACCURATE STENOGRAPHY REPORTERS, INC.  
2894 REMINGTON GREEN LANE  
TALLAHASSEE, FLORIDA 32308  
850.878.2221

## APPEARANCES:

Representing the Florida Cabinet:

RICK SCOTT  
Governor

ADAM H. PUTNAM  
Commissioner of Agriculture

PAM BONDI  
Attorney General

JEFF ATWATER  
Chief Financial Officer

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APPOINTMENT - COMMISSIONER OF THE OFFICE OF  
FINANCIAL REGULATION

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DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES  
(Presented by EXECUTIVE DIRECTOR JULIE JONES)

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STATE BOARD OF ADMINISTRATION  
(Presented by EXECUTIVE DIRECTOR ASH WILLIAMS)

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## P R O C E E D I N G S

(Agenda items commenced at 9:38 a.m.)

GOVERNOR SCOTT: All right. Next on our agenda is the appointment of a commissioner to the Office of Financial Regulation. Each of our offices considered applicants for this important position and I would like to nominate Drew Breakspear as our next commissioner.

With an MBA from Harvard and over 34 years of experience, his career includes working with leading global and U.S. consumer, corporate, and institutional servicing banks. His knowledge and experience make him an excellent candidate to lead the Office of Financial Regulation.

Would any of the Cabinet members like to make any remarks?

ATTORNEY GENERAL BONDI: I would, Governor. I have met with him, and you're just -- your experience is really second to none. And my question to you is: why in the world would you want to take this on at this point in your career. And we all appreciate the fact that you care about public service, and you care about helping people, and our

1 state. And so thank you. You certainly don't  
2 need this job and thank you so much for doing  
3 this.

4 GOVERNOR SCOTT: Anybody else?

5 CFO ATWATER: Very excited to have you on  
6 board.

7 GOVERNOR SCOTT: Is there a motion to  
8 approve Drew Breakspear as the Commissioner of  
9 the Office of Financial Regulation effective  
10 Monday, November 5 -- 5th?

11 ATTORNEY GENERAL BONDI: So moved.

12 GOVERNOR SCOTT: Is there a second?

13 CFO ATWATER: Second.

14 GOVERNOR SCOTT: All in favor say aye.

15 ATTORNEY GENERAL BONDI: Aye.

16 CFO ATWATER: Aye.

17 COMMISSIONER PUTNAM: Aye.

18 GOVERNOR SCOTT: Anyone opposed?

19 (No response.)

20 GOVERNOR SCOTT: Congratulations,  
21 Mr. Breakspear. Would you like to say a few  
22 words? Congratulations.

23 MR. BREAKSPEAR: Well, I want to say I  
24 appreciate the honor of the appointment this  
25 morning, glad it was unanimous, and I look

1 forward to serving the people of the State of  
2 Florida and ensuring that we have a strong,  
3 effective oversight of our financial services  
4 industry in the state to make it the best we  
5 can. So thank you very much for the  
6 appointment.

7 GOVERNOR SCOTT: All right. Thank you  
8 very much, we look forward -- all of us look  
9 forward to working with you. Glad you'll be up  
10 here. Bye, bye.

1 GOVERNOR SCOTT: All right. Now, I'd like  
2 to recognize Julie Jones with the Department of  
3 Highway Safety and Motor Vehicles.

4 EXECUTIVE DIRECTOR JONES: Governor and  
5 Cabinet members: I have four agenda items for  
6 your consideration and approval today. I  
7 respectfully request approval of the June 26th  
8 and August 7th meeting minutes.

9 GOVERNOR SCOTT: Is there a motion to  
10 approve?

11 CFO ATWATER: So moved.

12 COMMISSIONER PUTNAM: Second.

13 GOVERNOR SCOTT: Okay. Moved and  
14 seconded, the item is approved without  
15 objection.

16 EXECUTIVE DIRECTOR JONES: Item number 2.  
17 Respectfully request to submit to you for final  
18 adoption 56 proposed rules for repeal from  
19 various sections of Highway Safety's Rule  
20 Number 15 which contain obsolete or unnecessary  
21 provisions related to Department organization  
22 and policies. Since January 2011, this makes  
23 122 rules that we've repealed and we'll  
24 continue to scrub our rules and look to  
25 streamline our regulatory process in doing so.



1 GOVERNOR SCOTT: Great. Is there a motion  
2 to approve?

3 ATTORNEY GENERAL BONDI: So moved.

4 GOVERNOR SCOTT: Is there a second?

5 COMMISSIONER PUTNAM: Second.

6 GOVERNOR SCOTT: Moved and seconded, the  
7 item is approved without objection.

8 EXECUTIVE DIRECTOR JONES: Item number 3.  
9 Respectfully request approval for the final  
10 adoption of Rule 15B-2.013 related to approve  
11 speed measuring devices. This updates the list  
12 of Florida Highway Patrol-approved speed  
13 measuring devices by incorporating seven  
14 additional devices into the rule, gives a total  
15 of 89 approved devices.

16 GOVERNOR SCOTT: Is there a motion to  
17 approve?

18 ATTORNEY GENERAL BONDI: So moved.

19 CFO ATWATER: Second.

20 GOVERNOR SCOTT: Moved and seconded, show  
21 it approved without -- without objection.

22 EXECUTIVE DIRECTOR JONES: Item number 4.  
23 Respectfully request approval for final  
24 adoption for Rule 15B-2.016 related to the  
25 tests to determine accuracy for the laser speed

1       measuring devices. This revises a form to  
2       remove an outdated reference to microwatt  
3       measurements. This predates some FDA  
4       standards.

5               GOVERNOR SCOTT: Okay. Is there a motion  
6       to approve?

7               CFO ATWATER: So moved.

8               GOVERNOR SCOTT: Is there a second?

9               ATTORNEY GENERAL BONDI: Second.

10              GOVERNOR SCOTT: Moved and seconded, the  
11       item is approved without objection. Thank you,  
12       Julie, and thanks for eliminating some of those  
13       regulations.

14              EXECUTIVE DIRECTOR JONES: Thank you.

15              GOVERNOR SCOTT: All right. Bye, bye.

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1           GOVERNOR SCOTT: All right. Now, I'd like  
2           to recognize Executive Director Ash Williams of  
3           the State Board of Administration. Good  
4           morning, Ash.

5           EXECUTIVE DIRECTOR WILLIAMS: Good  
6           morning, Governor, Trustees. First this  
7           morning an update on where we are on the fund  
8           as of Friday evening's close, the Florida  
9           Retirement System Trust Fund contained a \$128  
10          billion; performance calendar year to date,  
11          12.4 percent, that's 102 basis points ahead of  
12          target.

13          Item 1 for this morning request approval  
14          of the minutes of August 7, 2012 meeting.

15          GOVERNOR SCOTT: Is there a motion to  
16          approve?

17          CFO ATWATER: So moved.

18          GOVERNOR SCOTT: Is there a second?

19          ATTORNEY GENERAL BONDI: Second.

20          GOVERNOR SCOTT: Moved and seconded, the  
21          item is approved without objection.

22          EXECUTIVE DIRECTOR WILLIAMS: Thank you.  
23          Item 2 Requests approval of and authority to  
24          file an emergency rule for the Florida  
25          Hurricane Catastrophe Fund. This would provide

1 an optional date change for new participants  
2 for the 2012-13 contract year and would address  
3 a potential unintended consequence that could  
4 otherwise create a burden for companies taking  
5 policies out of Citizens.

6 GOVERNOR SCOTT: Okay. Is there a motion  
7 to approve?

8 ATTORNEY GENERAL BONDI: So moved.

9 GOVERNOR SCOTT: Is there a second?

10 CFO ATWATER: Second.

11 GOVERNOR SCOTT: Moved and seconded, the  
12 item is approved without objection.

13 EXECUTIVE DIRECTOR WILLIAMS: Thank you.

14 GOVERNOR SCOTT: Thank you, Ash. Thanks  
15 everybody for coming. This concludes our  
16 Cabinet meeting. Our next meeting will be  
17 October 23rd at 9:00 a.m. in Tallahassee.  
18 We're adjourned.

19 (Cabinet meeting concluded at 9:44 a.m.)  
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CERTIFICATE OF REPORTER

STATE OF FLORIDA:

COUNTY OF LEON:

I, CAROLYN L. RANKINE, do hereby certify that the foregoing proceedings were taken before me at the time and place therein designated; that my shorthand notes were thereafter translated under my supervision; and the foregoing pages numbered 1 through 11 are a true and correct record of the aforesaid proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor relative or employee of such attorney or counsel, or financially interested in the foregoing action.

DATED THIS \_\_\_\_\_ day of October, 2012.

CAROLYN L. RANKINE  
2894-A Remington Green Lane  
Tallahassee, Florida 32308  
850.878.2221

## The 2012 Florida Statutes

[Title XXIII](#)  
MOTOR VEHICLES

[Chapter 322](#)  
DRIVERS' LICENSES

[View Entire Chapter](#)

### **322.125 Medical Advisory Board.—**

(1) There shall be a Medical Advisory Board composed of not fewer than 12 or more than 25 members, at least one of whom must be 60 years of age or older and all but one of whose medical and other specialties must relate to driving abilities, which number must include a doctor of medicine who is employed by the Department of Highway Safety and Motor Vehicles in Tallahassee, who shall serve as administrative officer for the board. The executive director of the Department of Highway Safety and Motor Vehicles shall recommend persons to serve as board members. Every member but two must be a doctor of medicine licensed to practice medicine in this or any other state and must be a member in good standing of the Florida Medical Association or the Florida Osteopathic Association. One member must be an optometrist licensed to practice optometry in this state and must be a member in good standing of the Florida Optometric Association. One member must be a chiropractic physician licensed to practice chiropractic medicine in this state. Members shall be approved by the Cabinet and shall serve 4-year staggered terms. The board membership must, to the maximum extent possible, consist of equal representation of the disciplines of the medical community treating the mental or physical disabilities that could affect the safe operation of motor vehicles.

(2) The advisory board shall meet at the call of its chair, at the request of a majority of its membership, at the request of the department, or at such times as may be prescribed by its rules.

(3)(a) The board shall advise the department on medical criteria and vision standards relating to the licensing of drivers. In fulfillment of this duty, the board shall assist the department in developing, and keeping current with medical and scientific advancements, coded restrictions to be placed upon drivers' licenses of persons whose medical condition warrants a requirement that they wear medical identification bracelets when operating a motor vehicle, pursuant to s. [322.16\(1\)\(d\)](#).

(b) Upon request of the department, the board shall report to the department on the individual physical and mental qualifications of a licensed driver or applicant. When a board member acts directly as a consultant to the department, a board member's individual review and evaluation of physical and mental qualifications of a licensed driver or applicant is exempt from the provisions of s. [286.011](#).

(4) Reports received or made by the board or its members for the purpose of assisting the department in determining whether a person is qualified to be licensed are for the confidential use of the board or the department and may not be divulged to any person except the licensed driver or applicant or used as evidence in any trial, and are exempt from the provisions of s. [119.07\(1\)](#), except that the reports may be admitted in proceedings under s. [322.271](#) or s. [322.31](#). Any person conducting an examination pursuant to this section may be compelled to testify concerning his or her observations and findings in such proceedings.

(5) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any member of the board for any action taken without intentional fraud in carrying out the provisions of this section.

(6) Members of the board shall be entitled to per diem and travel expenses pursuant to s. [112.061](#).

(7) The Department of Highway Safety and Motor Vehicles shall adopt such rules as are required to carry out the purpose of this section.

History.—s. 1, ch. 75-289; s. 1, ch. 77-174; s. 4, ch. 78-323; ss. 1, 2, ch. 79-64; ss. 1, 2, 3, ch. 81-66; ss. 1, 4, ch. 82-46; s. 5, ch. 87-172; ss. 1, 3, 4, ch. 88-107; s. 3, ch. 88-410; s. 1, ch. 89-90; s. 5, ch. 91-429; s. 404, ch. 95-148; s. 154, ch. 96-406; s. 251, ch. 98-166; s. 12, ch. 2009-183.

**MEDICAL ADVISORY BOARD  
DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES**

	<b>Specialty</b>	<b>Current Term</b>
<b>Dr. Gurusami M. Lakshmin, Chairman</b> Neil Kirkman Building, MS 86 Tallahassee, Florida 32399 <b>Original Appt. Date: 11/2007</b>	Internal Medicine (850) 617-2710	11/2011 – 11/2015
<b>Dr. Ricardo Ayala</b> 1401 Centerville Road, Suite 300 Tallahassee, Florida 32308 <b>Original Appt. Date: 09/1994</b>	Neurology (850) 878-8121	11/2010 – 11/2014
<b>Dr. Baxter Byerly</b> 960 Live Oak Plantation Road Tallahassee, Florida 32312 <b>Original Appt. Date: 06/1983</b>	Ophthalmology (850) 385-7840	06/2011 – 06/2015
<b>Dr. J. Paul Grant</b> 1351 East Call Street Tallahassee, Florida 32301 <b>Original Appt. Date: 05/1989</b>	Chiropractic (850) 878-2369	06/2009 – 06/2013
<b>Dr. Jeffrey Barry Raskin</b> 13100 Southwest 108th Place Miami, Florida 33176 <b>Original Appt. Date: 09/1992</b>	Gastroenterology (305) 243-8644	11/2010 – 11/2014
<b>Dr. Carl A. Salvati</b> 13455 Military Trail, Suite A Delray Beach, Florida 33484 <b>Original Appt. Date: 10/1991</b>	Neurology (561) 495-4644	10/2011 – 10/2015
<b>Dr. Francis Curie Skilling</b> 2020 Fleischmann Road Tallahassee, Florida 32308-4599 <b>Original Appt. Date: 01/2007</b>	Ophthalmology (850) 878-6161	11/2010 - 11/2014
<b>Dr. David Y. Huang</b> Tallahassee Pulmonary Clinic, P.A. 1401 Centerville Road, Suite G-02 Tallahassee, Florida 32308 <b>Original Appt. Date: 01/2007</b>	Pulmonary Disease (850) 878-8714	11/2010 – 11/2014
<b>Dr. Ira J. Goodman</b> 100 West Gore Suite 607 Orlando, Florida 32806 <b>Original Appt. Date: 01/2007</b>	Neurology (407) 210-1320	11/2010 - 11/2014

**Dr. Frederick F. Flink**  
3499 Thomasville Road, Suite 3  
Tallahassee, Florida 32309  
**Original Appt. Date: 01/2007**

Optometry  
(850) 894-3710

11/2010 - 11/2014

**Dr. Viet Bui**  
2020 Fleischman Road  
Tallahassee, Florida 32308  
**Original Appt. Date: 06/11**

Ophthalmologist  
(850) 878-6161

06/2011 - 06/2015

**Dr. Ethan Ben Kass (proposed)**  
5491 North University Drive #201  
Coral Springs, Florida 33067

Psychiatrist  
(954) 796-5010

12/2012 - 12/2016

Revised 11/27/2012





**2012-OFFICERS-2013**

**PRESIDENT**

HAL S. PINELESS, DO, FACN  
1890 State Road 436, Suite 255  
Winter Park, Florida 32792

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601 Brooker Creek Boulevard  
Oldsmar, Florida 34677

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4801 S. University Drive, Suite 110  
Davie, Florida 33328

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311 Golf Road, Suite 1100  
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120 Medical Boulevard, Suite 103  
Spring Hill, Florida 34609

∞

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THE HULL BUILDING  
2007 Apalachee Parkway  
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**EXECUTIVE DIRECTOR**

STEPHEN R. WINN

**LEGAL COUNSEL**

JASON D. WINN, ESQUIRE

May 10, 2012

Mike Sarvis, Human Services Administrator  
Dept. Highway Safety and Motor Vehicles  
Medical Review Program, Mail Stop 86  
2900 Apalachee Parkway  
Tallahassee, FL 32399

Dear Mr. Sarvis:

It is a great honor for me to recommend to you Ethan Kass, DO, MBA to serve on the Florida Dept. of Highway Safety and Motor Vehicles Medical Advisory Board.

Dr. Kass is a board certified in Psychiatry and is a member in good standing with the Florida Osteopathic Medical Association (FOMA). I have attached his curriculum vitae for your records.

I know him to be an outstanding osteopathic physician with immense knowledge psychiatry and related research and treatments. He has always been an advocate for patients and has worked to improve the quality of healthcare in our state.

Once again, I am pleased to wholeheartedly recommend this very fine, dedicated, and compassionate physician, Dr. Ethan Kass, to be considered for appointment to the DHSMV Medical Advisory Board. If you have any questions, please don't hesitate to call my Executive Director, Stephen Winn at (850) 878-7364.

Sincerely,

Hal S. Pineless, DO, FACN  
President

# **CURRICULUM VITAE** **ETHAN BEN KASS, D.O., M.B.A.** **CNS Clinical Research Group**

## **Education:**

2002 Florida Atlantic University  
Boca Raton, Florida  
M.B.A. Degree

1983 UMDNJ-New Jersey School of Osteopathic Medicine  
Stratford, New Jersey

1979 Syracuse University, Syracuse, New York,  
B.S. Biology

1975 John Adams High School, Ozona Park, New York

## **Post-Graduate Training:**

2000 Duke University Medical Center  
Durham, North Carolina  
ECT Fellowship

1988-1989 SUNY Health Science Center  
Syracuse, New York  
Forensic Psychiatry Fellowship

1987-1988 Georgetown University  
The Fairfax Hospital, Falls Church, Virginia  
Consultation-Liaison Psychiatry Fellowship

1984-1987 Hahnemann University Hospital  
Philadelphia, Pennsylvania  
Basic Psychiatry Residency

1983-1984 Humana Hospital South Broward  
Hollywood, Florida  
Rotating AOA Internship

## **Professional Experience:**

2006-2007 Secretary  
Florida Psychiatric Society

2003-2005 Councilor  
Florida Psychiatric Society

2003-2004 President  
Broward Chapter of Florida Psychiatric Society

2002-Present Principal Investigator  
CNS Clinical Research Group  
Coral Springs, Florida

2002-Present Medical Director Consultant  
Mental Health Network, Inc.  
Coral Springs, Florida  
Start Date June 17, 2002

2001-Present Private Practice  
Coral Springs, Florida

2000-2003 Attending Physician  
Psychiatric Consultant  
Highpointe Alcohol & Drug Abuse And Rehab Center

1998-2001 Chief of Staff  
Sunrise Regional Medical Center

1998-2002 Principal Investigator  
ICSL – Clinical Studies

1997-2000 Medical Director of Affiliates of South Florida  
Managed Care Practice Group

1996-2000 Private Practice  
Boca Raton, Florida

1996-2001 Private Practice  
Sunrise, Florida

1996-1996 Private Practice  
Fort Lauderdale, Florida

1995-1996 Private Practice  
Delray Beach, Florida

1995-1995 Staff Psychiatrist  
45<sup>th</sup> Street Mental Health Center  
West Palm Beach, Florida

1992-1996 Assistant Professor and Director of the Transplant Consultation  
Liaison Psychiatric Services at Jewish Hospital  
University of Louisville, Louisville, Kentucky

1990-1992 Consultation-Liaison Psychiatry  
Nassau Co. Medical Center East Meadow, New York

1990-1992 Psychiatric Exams and Medical Checks

SNCH-Oceanside Mental Health Center  
Oceanside, New York

1990-1992

Private Practice  
Forensic Consultations  
35 Prospect Street, Apt. 1A  
Great Neck, New York 11021

1989-1990

Forensic Psychiatric Service  
Bellevue Hospital Center, New York, New York

1989

Psychiatric Consultations  
Washington Square Institute  
New York, New York

1988-1989

Psychiatric Evils and Medical Checks  
Mid-State Correctional Facility  
Marcy, New York

1987-1988

Psychiatric Evils and Medical Checks  
Woodburn Mental Health Center, Annandale, Virginia

1986-1987

Psychiatric Emergency Service  
Northwest Center, Philadelphia, Pennsylvania

1985-1986

Psychiatric Evils and Medical Checks  
Child Guidance and Mental Health Clinic of Delaware Co.  
Media, Pennsylvania

**Professional Memberships/Organizations:**

American Association of Geriatric Psychiatry  
American Osteopathic Association  
American Psychiatric Association  
American Academy of Psychiatry and the Law  
Academy of Psychosomatic Medicine  
AAPL Committee on Victimology (Expired)  
Florida Osteopathic Medical Association  
Florida Psychiatric Society  
Broward Chapter of Florida Psychiatric Society

**Licenses:**

Florida-OS-0004676  
Kentucky-02346 (inactive)  
New York-170032-1 (inactive)  
Pennsylvania-OS-005527-L (inactive)  
Virginia-0102036889 (inactive)

**Certifications:**

1989 American Board of Psychiatry & Neurology, Inc.

General Psychiatry No. 31889

1996

Certification of Added Qualifications in Forensic Psychiatry  
No. 370

1996

Certification of Added Qualifications in Geriatric Psychiatry  
No. 1976

2006

Certification of Added Qualifications in Addiction Psychiatry  
No. 1921

2008

Certification of Added Qualifications in Psychosomatic Medicine  
No. 689

**Research Experience:**

2008

A One Year Open Label Study Assessing The Safety and  
Tolerability of XXX in Patients with Major Depressive Disorder

A 12-Week, Randomized, Open-Label Trial of XXX Versus  
Generic SSRIs in the Treatment of a Severe Depressive Episode

A Randomized, Double-Blind, Parallel-Group, Placebo-  
Controlled, Active-Referenced, Fixed-Dose Study Comparing the  
Efficacy and Safety of 2 Doses of XXX in Acute Treatment of  
Adults with Major Depressive Disorder / A Long-Term, Open-  
Label, Flexible-Dose, Extension Study Evaluating the Safety and  
Tolerability of XXX in Subjects with Major Depressive Disorder

2007

A 52-Week, Randomized, Double-Blind, Placebo-Controlled,  
Multi-Center, Parallel-Group Study of the Long-Term Efficacy,  
Tolerability and Safety of XXX 25 mg, and 50 mg, in the  
Prevention of Relapse of Major Depressive Disorder (MDD)  
Following Open-Label Treatment of 16-24 Weeks

XXX Versus Placebo in the Long-Term Treatment of Patients  
with Late-Life Major Depression

2006

A Multicenter, Double Blind Study on the Efficacy and Safety of  
XXX in Combination with XXX in the Long Term Maintenance of  
Patients with Bipolar I Disorder with a Recent Manic or Mixed  
Episode

A Multicenter, Double-blind, Randomized, Parallel-group,  
Placebo-controlled Phase III of the Efficacy and Safety of XXX in  
Combination with an Antidepressant in the Treatment of Patients  
with Major Depressive Disorder with Inadequate Response to an  
Antidepressant Treatment

A Multicenter, Randomized, 8-Week Double-Blind Acute Phase  
Followed by a 6-Month Continuation Phase (Open-Label or  
Double Blind) Study to Evaluate the Efficacy, Safety, and  
Tolerability of XXX SR Versus XXX in Postmenopausal Women  
in Major Depressive Disorder

A Long-Term Safety and Efficacy Study of XXX in Elderly Subjects With Primary Chronic Insomnia

The Efficacy of XXX as Adjunctive Therapy in Subjects with Insomnia Related to Generalized Anxiety Disorder

XXX Dose-Range Finding Trial: A 16 Week, Randomized Double-Blind, Placebo and XXX Controlled Trial of XXX in Patients with Post-herpetic Neuralgia (Gulf Coast Research Center)

A Double-blind, Randomized-withdrawal, Parallel-group, Placebo-controlled Phase III Study of the Efficacy and Safety of XXX as Monotherapy in the Maintenance Treatment of Patients with Major Depressive Disorder Following an Open-Label Stabilisation Period

A Randomized, Double-Blind, Placebo-Controlled Study of the Safety and Efficacy of XXX as Adjunctive Therapy in the Treatment of Patients with Major Depressive Disorder

A Randomized, Double-blind, Placebo-Controlled Study to Evaluate Safety and Efficacy of XXX in Patients with Mild to Moderate Alzheimer's Disease

A Double-blind, Randomized-Withdrawal, Parallel-Group, Placebo-controlled Phase III Study of the Safety of XXX as Monotherapy in the Maintenance Treatment of Patients with Generalized Anxiety Disorder Following an Open-Label Stabilization Period (Gulf Coast Research Center)

A Randomized, Placebo-Controlled, Double-Blind Trial of XXX in the Prevention of Relapse after Long-Term Treatment of Schizophrenia

A Comparison of XXX in different doses with Placebo in the Prevention of Relapse in Generalized Anxiety Disorder (Gulf Coast Research Center)

An Open-Label Study to Assess the Tolerability and Efficacy of XXX in Patients with Generalized Anxiety Disorder (Gulf Coast Research Center)

A Phase III Randomized Double Blind, Placebo Controlled Study to Evaluate the Efficacy, Safety, Tolerability of XXX in Adults with Attention-Deficit Hyperactivity Disorder (Gulf Coast Research Center)

A Phase III 12 month Open-label Safety Study of XXX in Adults with Attention-Deficit Hyperactivity Disorder (Gulf Coast Research Center)

2005

2003

A Double-Blind, Placebo-Controlled Study Evaluating the Safety and Efficacy of XXX in the Treatment of Subjects with Mild to Moderate Alzheimer's Disease (Gulf Coast Research Center)

A Double-Blind Placebo-Controlled Pilot Investigation of XXX in the Treatment of Psychosis in Subjects with Dementia (Gulf Coast Research Center)

A Double-Blind Placebo-Controlled Parallel Group Phase II Study to Evaluate the Safety and Efficacy of XXX in Subjects with Mild to Moderate Alzheimer's Disease (Gulf Coast Research Center)

A Double-Blind Placebo-Controlled Dose-Ranging Parallel Group Study in Adults with Cognitive Impairment Associated with Schizophrenia (Gulf Coast Research Center)

A Comparison of Strategies for Switching Patients from Amitriptyline to XXX for Management of Diabetic Peripheral Neuropathic Pain (Gulf Coast Research Center)

Efficacy and Safety of XXX on Sleep Maintenance Insomnia, a 12 Week Randomized Double-Blind Placebo-Controlled Study Followed by Open Label Treatment (Gulf Coast Research Center)

A Randomized Double-Blind, Placebo-Controlled Study of XXX in the Treatment of Patients with Bipolar Disorder with a Major Depressive Episode

Dose Response Study of XXX versus Placebo in the Treatment of Fibromyalgia Syndrome (Gulf Coast Research Center)

A Randomized Double-Blind Comparison of Placebo and XXX in Adults with ADHD with Examination of Impact on Family Functioning

A Comparison Study of XXX Involving Dosing Strategies in the Treatment of Patients with Major Depression

A Comparison Study of XXX, XXX and Placebo in the Treatment of Generalized Anxiety Disorder

A Randomized Double-Blind Placebo Controlled, Parallel Group Long-Term Safety Study of XXX in the Treatment of Elderly Outpatient with Primary Insomnia

A Double Blind Randomized Controlled Comparison of the Effects on Sexual Functioning of XXX and XXX in Depressed Patients

Noradrenergic Augmentation of SSRI Therapy in Patients with Depression, Unresponsive or Incompletely Responsive to SSRI Monotherapy

2004

- 2002**
- An Open Label Study of XXX for the Treatment of Patients with Schizophrenia or Schizoaffective Disorder
- A Double Blind Study to Compare the Cardiovascular Safety of XXX or XXX in Treatment of Schizophrenia
- Open Label Treatment with XXX for Evaluation of Stabilization Dose in Patients with Major Depression
- A Double Blind Placebo Controlled Study of the Long-Term Efficacy of XXX in Maintenance of Antidepressant Effect in Geriatric Patients with Major Depression
- The Study of XXX plus XXX in Combination for Treatment-Resistant Depression without Psychotic Features
- 2001**
- Double-Blind, Placebo-Controlled Study of XXX in Children and Adolescents with Generalized Anxiety Disorder
- Double-Blind, Placebo-Controlled Study of XXX in Children and Adolescents with Major Depressive Disorder
- XXX Plus XXX Combination Therapy in Treatment-Resistant Depression: A Dose Ranging Study
- 2000**
- A Double-Blind, Randomized, Placebo-Controlled, Parallel-Group, Fixed-Dose Study of the Safety, Tolerability, and Efficacy of XXX Compared to Placebo in Patients with Generalized Anxiety Disorder
- A Double-Blind, Placebo-Controlled Comparative Efficacy Study of XXX and XXX in Producing Remission in Outpatients with Major Depressive Disorder
- A Double-Blind, Placebo-Controlled, 3-Arm, Fixed Dose Study of XXX Continuous Treatment (xxxmg and xxxmg/day) for Premenstrual Dysphoric Disorder
- 1999**
- A 12-Week, Double-Blind, Placebo-Controlled, Parallel Group Assessment of the XXX Transdermal System in the Prevention or Relapse of Symptoms Associated with Major Depression
- A 12-Week, Double-Blind, Placebo-Controlled, Parallel Group Study to Assess the Efficacy and Tolerability of XXX in Patients Suffering from Posttraumatic Stress Disorder (PTSD)

#### Publications:

- 1997**
- Comparative Efficacy XXX, XXX and XXX for Cognition in Schizophrenia
- Open-Label, Randomized, Multi-Center Study to Compare the Safety and Tolerability of XXX and XXX in Individuals with Schizophrenia or other Psychotic Disorders.
- 1988**
- Trazodone and Anorgasmia Letter to the Editor, American Journal of Psych., 145 (7): 896, 1988 July
- Alexithymia: Relationship to Severity of Medical Illness Depression. Psychosomatics, Psychotherapeutics 50 (2): 68-71, 1988
- Utility of Haloperidol on Non-Psychiatric Services. General Hospital Psychiatry, 11 (5): 368-71, 1989 September
- Is the Friday Afternoon Consult Frequent? Timing of Requests on a Psychiatric Consultation Service. Psychiatric Medicine 8 (4): 59-64 1990
- On "Reasons for Request for Evaluation of Competency in a Municipal General Hospital". Letter to the Editor. Psychosomatics 33 (2): 237-238, Spring 1992
- "Trend Lightly" Letter to the Editor, Psychiatric News, 38 (9): 39, March 21, 2003
- "More on Psychoanalysis" Letter to the Editor, Psychiatric News, 38 (19): 42, October 3, 2003
- An Overview of Primary Care Assessment and Management of Bipolar Disorder. Journal of American Osteopathic Association, 104 (6 Suppl 6): S2-8, June 2004
- "Psychologist Prescribing", Letter to the Editor, Psychiatric News 39 (17): 39, September 3, 2004
- DO Comments on Bipolar Disorder Supplement Response, Journal of American Osteopathic Association, 104 (12): 516-December 2004
- "Canada Is No Model" Letter to the Editor, Psychiatric News, 40 (19): 30, October 7, 2005
- "Faulty Logic", Letter to the Editor, Psychiatric News, 41 (19): 36, August 19, 2006
- "A Free Society Would Be A Better Cure For China." Letter to the Editor, Wall Street Journal, 250 (111): A17, Friday, November 9, 2007

"Drug Companies Falsely Indicted", Letters, *Clinical Psychiatry News*, 36 (6): 9, June 2008

"Mass. Got It Backward", Letter to the Editor, *Psychiatric News*, 43(15): 39, August 1<sup>st</sup>, 2008

"The Effect of Pain on Outcomes in a Trial of Duloxetine Treatment of Major Depressive Disorder", *Ann Clin Psychiatry*, 2008 Oct-Dec; 20(4): 187-193

#### Posters:

Recognition of Psychoactive Substance Disorders by Non-psychiatrists in General Hospital In-patients and the nature of referrals for Psychiatric Consultations, *American Psychiatric Assoc. Annual Convention*, Washington, DC, May 1992

Reasons for Request for Psychiatric Consultation for General Hospital patients with Substance Use Disorders: Referral Behaviors, *Academy of Psychosom. Medicine Annual Convention*, San Diego, CA, November 1992

#### Teaching Positions:

Assistant Clinical Professor, Division of Psychiatry, NOVA Southeastern University, College of Osteopathic Medicine, Fort Lauderdale, Florida.

Course Lecturer for 2<sup>nd</sup> year medical student psychiatric lecture series, 1997-2004

Assistant Professor, Dept. of Psychiatry, University of Louisville, School of Medicine Louisville, Kentucky

Clinical Supervisor and Course Lecturer for University of Louisville psychiatric transplant/C&L fellow, psychiatric residents and third year medical students. December 1992 – September 1995.

Clinical Supervision and Course Lecturer for Nassau County Medical Center, Psychiatric Residents and SUNY/Stony Brook University Medical Students. January 1990 – November 1992

#### Lectures:

Southwest Florida Osteopathic Medical Society

33<sup>rd</sup> Annual Seminars in Family Practice – 2008

"Health Insurance History, Crisis, Reform and Implications for Clinical Practice"

Sanibel Island, Florida October 30, 2008

Florida Psychiatric Society

2008 Spring Meeting

"Healthcare Insurance: History, Crisis, and Reform, and Implications for Psychiatry"

Sarasota, Florida, April 5, 2008

Lloyd L. Gregory School of Pharmacy

Palm Beach Atlantic University

West Palm Beach, Florida, March 2007

"Clinical Data on Recurrence Prevention During Maintenance Phase Treatment of Major Depressive Disorder"

Florida Psychiatric Society  
Bi-Annual Conference 2004

Boca Raton, Florida, October 30, 2004

"Access to Healthcare: Controversies and Solutions"

Monroe County Osteopathic Medical Association  
Annual Convention, Key West, Florida, July 30, 2004

"Update: Treatment of Depression"

Florida Psychiatric Society

2004 Spring Meeting

Naples, Florida, April 3, 2004

"Managed Care Psychiatry on Trial"

Florida Osteopathic Medical Association

10<sup>th</sup> Annual FOMA Convention, Ft. Lauderdale, Florida

Feb. 21, 2004

"Getting to Goal in the Treatment of Depression: Achieving Remission"

American Osteopathic Association

108<sup>th</sup> Annual Convention and Scientific Seminar

New Orleans, Louisiana, Sunday October 12, 2003

Exploring the Complex Moods of Bipolar Disorder

"Bringing Back Balance: Establishing Outcomes Through Treatment and Alliance"

American Osteopathic Association

108<sup>th</sup> Annual Convention and Scientific Seminar

New Orleans, Louisiana, Wednesday October 15, 2003

A New Generation of Antidepressants

"New Treatments for Depression: Strategies to Achieve Remission"

Florida Osteopathic Medical Association

Mid-Year Convention, Tampa, Florida

Sept 13, 2003

"Update: Treatment of Bipolar Disorder, Major Depression, and ADD"

Monroe County Osteopathic Medical Association

Annual Convention, Key West, Florida

August 2, 2003

"Update: Treatment of Depression"

Medical World Conferences

Understanding Depression: Matching the Neurotransmitter to the Patient

Charlotte, North Carolina July 13, 2002

"Making the Correct Diagnosis: Matching the patient and the Drug"

"Long-term Management Strategies: Dealing with Potential Side-Effects"

Medical World Conferences  
 Understanding Depression: Matching the Neurotransmitter to the Patient  
 Jacksonville, Florida June 22, 2002  
 "The Physiology of Neurotransmitters"  
 "Long-term Management Strategies: Dealing with Potential Side-Effects"

NOVA Southeastern University  
 NSU Physician Assistant Program's 1999 CME Course  
 March 13, 1999  
 "Psychiatry"

NOVA Southeastern University  
 9<sup>th</sup> Annual Mental Health Lecture Series  
 March 13, 1999  
 "Update: Treatment of Depression and Bipolar Disorder"

Florida Osteopathic Medical Association  
 96<sup>th</sup> Annual FOMA Convention  
 February 27, 1999  
 "Domestic Violence and PTSD"

NOVA Southeastern University  
 College of Osteopathic Medicine  
 January 23, 1999  
 "Smoking Cessation"

University of Louisville School of Medicine  
 Department of Psychiatry  
 Jewish Hospital Rudd Heart and Lung Center  
 Psychosocial Aspects of Organ Transplantation  
 Friday, Sept. 5, 1997  
 "Screening and Management of Substance Abuse Issues"

NOVA Southeastern University  
 7<sup>th</sup> Annual Mental Health Lecture Series  
 Saturday, March 8, 1997  
 "Courtroom Testimony"

Grand Rounds  
 Nassau County Medical Center, April 10, 1992 "Thomas Szasz Revisited"

Astrazeneca  
 Awards:  
 Nassau County Medical Center  
 Julius Marcus, MD Memorial  
 Award for Excellence in Teaching, 1991

Ethan B. Kass, D.O.

Date

**Speakers' Bureaus:**

Eli Lilly (inactive)  
 Pfizer (inactive)  
 Wyeth (inactive)  
 Bristol Myers Squibb (inactive)  
 Glaxo SmithKline

Notice of Proposed Rule  
DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES  
Division of Motorist Services

RULE NO.: RULE TITLE:

15C-21: Application for Certificate of Title

PURPOSE AND EFFECT: The purpose and effect of this rule development is to establish and implement uniform procedures regarding vehicle and vessel titles. The procedures will include the incorporation by reference of an application form for vehicle or vessel certificates of title.

SUMMARY: The purpose of form HSMV 82040, Application for Certificate of Title With/Without Registration (Rev. 12/12), is to allow any person the means for making application for a certificate of title for a motor vehicle or vessel to evidence ownership of the motor vehicle or vessel.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE

RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The nature of the rule and the preliminary analysis conducted to determine whether a SERC was required.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 317.0005, 319.17, 320.011, 328.03(8), 328.44, 328.72(17), FS.

LAW IMPLEMENTED: 92.525, 212.06, 317.0004, 317.0006, 317.0007, 317.0008, 317.0011, 317.0012, 317.0014, 317.0017, 319.14, 319.21, 319.22, 319.225, 319.23, 319.24, 319.27, 319.28, 319.29, 319.324, 319.33, 319.34, 319.35, 319.40, 320.001, 320.02, 320.0605, 320.0609, 320.0657, 327.50, 327.53, 328.01, 328.03, 328.07, 328.09, 328.11, 328.13, 328.16, 328.30, 328.48, 328.68, 328.72, FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: January 3, 2013, 2:30 p.m.

PLACE: Department of Highway Safety and Motor Vehicles, 2900 Apalachee Parkway, Room B130A, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Gail Eppler, 2900 Apalachee Parkway, Room A334, Tallahassee, FL 32399, [GailEppler@flhsmv.gov](mailto:GailEppler@flhsmv.gov), (850) 617-3001. If you are hearing impaired or speech impaired, please contact the agency using the Florida Relay Service, 1 (800) 955-8771 (TDD) or 1 (800) 955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Gail Eppler, 2900 Apalachee Parkway, Room A334, Tallahassee, FL 32399, [GailEppler@flhsmv.gov](mailto:GailEppler@flhsmv.gov), (850) 617-3001.

THE FULL TEXT OF THE PROPOSED RULE IS:

15C- 21.001 Application for Certificate of Title

(1) Any person applying for a certificate of title to evidence ownership of a motor vehicle or vessel, shall apply to the department on Form HSMV 82040, Application for Certificate of Title With/Without Registration (Rev. 12/12), incorporated herein by reference and available on the web at: <http://www.flrules.org/gateway/reference.asp?no=ref-XXXXX>.

(2) Upon receipt of the completed Form DHSMV 82040 and payment of appropriate title fees, the Department shall issue a certificate of title.

Rulemaking Authority 317.0005, 319.17, 320.011, 328.03(8), 328.44, 328.72(17), FS. Law Implemented 92.525, 212.06, 317.0004, 317.0006, 317.0007, 317.0008, 317.0011, 317.0012, 317.0014, 317.0017, 319.14, 319.21, 319.22, 319.225, 319.23, 319.24, 319.27, 319.28, 319.29, 319.324, 319.33, 319.34, 319.35, 319.40, 320.001, 320.02, 320.0605, 320.0609, 320.0657, 327.50, 327.53, 328.01, 328.03, 328.07, 328.09, 328.11, 328.13, 328.16, 328.30, 328.48, 328.68, 328.72, FS. History-New

NAME OF PERSON ORIGINATING PROPOSED RULE: Julie Baker, Bureau Chief, Department of Highway Safety and Motor Vehicles

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 11, 2012

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: October 1, 2012



**DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES**

**CHAPTER 15C-21**

**CERTIFICATES OF TITLE**

**RULE NUMBERS:**

**RULE TITLE:**

15C-21.001:

Application for Certificate of Title

Summary of Rule

The rule is primarily intended to properly incorporate by reference the agency's Application for Certificate of Title form, which is used to apply for a title for any motor vehicle or vessel in the State of Florida.

Statement of Facts and Circumstances Justifying the Rule

The Department proposes amending ch. 15C-21.001, F.A.C., in order to establish and implement uniform procedures regarding vehicle and vessel titles. The procedures will include the incorporation by reference of an application form for vehicle or vessel certificates of title.

Federal Standards Statement

The odometer and VIN verification sections of the incorporated form are required by federal motor vehicle laws.

Summary of Hearing

The Notice of Proposed Rule Development was noticed in the October 1, 2012, Florida Administrative Weekly, Volume 38, Number 40, setting out a public workshop for October 22, 2012. There were no attendees to the workshop.

The Notice of Proposed Rule will be noticed in the December 12, 2012, Florida Administrative Weekly, Volume 38, Number 89, setting out a Public Hearing for January 3, 2013. If a request for a hearing is received by the agency, a hearing will be held.

CERTIFICATION OF THE  
DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES  
ADMINISTRATIVE RULES FILED WITH THE  
DEPARTMENT OF STATE

I do hereby certify:

- ☒ (1) That all statutory rulemaking requirements of Chapter 120, F.S., have been complied with and
- ☒ (2) There is no administrative determination under subsection 120.56(2), F.S., pending on any rule covered by this certification; and
- ☒ (3) All rules covered by this certification are filed within the prescribed time limitations of paragraph 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by paragraph 120.54(3)(a), F.S., and
  - ☒ (a) Are filed not more than 90 days after the notice; or
  - ☐ (b) Are filed not more than 90 days after the notice not including days an administrative determination was pending; or
  - ☐ (c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or
  - ☐ (d) Are filed more than 90 days after the notice, but not less than 14 days nor more than 45 days after the adjournment of the final public hearing on the rule; or
  - ☐ (e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or
  - ☐ (f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or
  - ☐ (g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was considered; or
  - ☐ (h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

[ ] (i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the small business ombudsman.

Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule Number:

15C-21.001

Under the provisions of subparagraph 120.54(3)(e)6., F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective: \_\_\_\_\_

\_\_\_\_\_  
Julie Jones

\_\_\_\_\_  
Executive Director  
Title

\_\_\_\_\_  
Department of Highway Safety and Motor Vehicles  
Agency

\_\_\_\_\_  
1  
Number of Pages Certified

15C-21.001 Application for Certificate of Title

(1) Any person applying for a certificate of title to evidence ownership of a motor vehicle or vessel, shall apply to the department on Form HSMV 82040, Application for Certificate of Title With/Without Registration (Rev. 12/12), incorporated herein by reference and available on the web at: <http://www.flrules.org/gateway/reference.asp?no=ref-xxxxx>.

(2) Upon receipt of the completed Form DHSMV 82040 and payment of appropriate title fees, the Department shall issue a certificate of title.

Rulemaking Authority 317.0005, 319.17, 320.011, 328.03(8), 328.44, 328.72(17), FS. Law Implemented 92.525, 212.06, 317.0004, 317.0006, 317.0007, 317.0008, 317.0011, 317.0012, 317.0014, 317.0017, 319.14, 319.21, 319.22, 319.225, 319.23, 319.24, 319.27, 319.28, 319.29, 319.324, 319.33, 319.34, 319.35, 319.40, 320.001, 320.02, 320.0605, 320.0609, 320.0657, 327.50, 327.53, 328.01, 328.03, 328.07, 328.09, 328.11, 328.13, 328.16, 328.30, 328.48, 328.68, 328.72, FS. History – New

CERTIFICATION OF MATERIALS INCORPORATED BY REFERENCE

IN RULES FILED WITH THE DEPARTMENT OF STATE

I hereby certify pursuant to Rule 1B-30.005, Florida Administrative Code:

☒ (1) That materials incorporated by reference in Rule 15C-21.001 have been electronically filed with the Department of State.

☐ (2) That because there would be a violation of federal copyright laws if the submitting agency filed the incorporated materials described below electronically, a true and complete paper copy of the incorporated materials are attached to this certification for filing. Paper copies of the incorporated materials below may be obtained at the agency by [include address(es)/location(s)].

List form number(s) and form title(s), or title of document(s) below:

HSMV 82040 – Application for Certificate of Title With/Without Registration

Under the provisions of Section 120.54(3)(e)6., F.S., the attached material(s) take effect 20 days from the date filed with the Department of State, or a later date as specified in the rule.

\_\_\_\_\_  
Julie Jones

\_\_\_\_\_  
Executive Director  
Title

\_\_\_\_\_  
Department of Highway Safety and Motor Vehicles  
Agency

# FLORIDA DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES APPLICATION FOR CERTIFICATE OF TITLE WITH/WITHOUT REGISTRATION

SUBMIT THIS FORM TO YOUR LOCAL TAX COLLECTOR OFFICE

[www.flhsmv.gov/offices/](http://www.flhsmv.gov/offices/)

CHECK APPLICATION TYPE: ☐ ORIGINAL ☐ TRANSFER VEHICLE TYPE: ☐ MOTOR VEHICLE ☐ MOBILE HOME ☐ VESSEL OFF-HIGHWAY VEHICLE: ☐ ATV ☐ ROV ☐ MC

<b>1 OWNER / APPLICANT INFORMATION</b>				
Customer Number	Check this box if you are requesting the certificate of title to be printed. <input type="checkbox"/>	Are you a Florida resident? <input type="checkbox"/> yes <input type="checkbox"/> no	Are you an alien? <input type="checkbox"/> yes <input type="checkbox"/> no	Owner: <input type="checkbox"/> yes <input type="checkbox"/> no Co-Owner: <input type="checkbox"/> yes <input type="checkbox"/> no
		Unit Number		Fleet Number

☐ OR ☐ AND NOTE: When joint ownership, please indicate if "or" or "and" is to be shown on title when issued. If neither box is checked, the title will be issued with "and".  
If applicable: ☐ Life Estate/Remainder Person ☐ Tenancy By the Entirety ☐ With Rights of Survivorship ☐ Owner's County of Residence: \_\_\_\_\_

Owner's Name As It Appears on Driver License (First, Full Middle/Maiden, & Last Name)		Owner's Email Address		Date of Birth	Sex	FL Driver License or FEID/Suffix #
Co-Owner/Lessee's Name As It Appears on Driver License (First, Full Middle/Maiden, & Last Name)		Co-Owner's/Lessee's Email Address		Date of Birth	Sex	FL Driver License or FEID/Suffix #
Owner's Mailing Address (Mandatory unless a member of the Military)		City		State	Zip	
Co-Owner's/Lessee's Mailing Address (Mandatory unless a member of the Military)		City		State	Zip	
Owner's/Lessee's Physical Street Address in Florida (Mandatory unless a member of the Military)		City		State	Zip	
Mobile Home Physical Address (If applicable) Check if in a mobile home rental park with 10 or more lots. <input type="checkbox"/>		City		State	Zip	
Mail To Customer Name (If different From Above Owner)		Mail To Customer's Email Address		Date of Birth	Sex	FL Driver License or FEID/Suffix #
Mail To Customer Address (If different From Above Mailing Address)		City		State	Zip	

<b>2 MOTOR VEHICLE, MOBILE HOME OR VESSEL DESCRIPTION</b>							
Vehicle/Vessel Identification Number		Make/Manufacturer	Year	Body	Color	Florida Title Number	
Previous State of Issue	License Plate or Vessel Registration Number	Weight	Length Ft. In.	BHP/CC	GVW/LOC	VAN USE, IF APPLICABLE <input type="checkbox"/> PASSENGER <input type="checkbox"/> OTHER	
<b>TYPE</b> <input type="checkbox"/> Open Motorboat <input type="checkbox"/> Cabin Motorboat <input type="checkbox"/> Auxiliary Sailboat <input type="checkbox"/> Inflatable <input type="checkbox"/> Houseboat <input type="checkbox"/> Pontoon <input type="checkbox"/> Airboat <input type="checkbox"/> Sailboat <input type="checkbox"/> Personal Watercraft <input type="checkbox"/> Canoe <input type="checkbox"/> Other _____ Specify _____		<b>HULL MATERIAL</b> <input type="checkbox"/> Wood <input type="checkbox"/> Fiberglass <input type="checkbox"/> Wood/Fiberglass <input type="checkbox"/> Other _____ Specify _____ <input type="checkbox"/> Aluminum <input type="checkbox"/> Steel		<b>PROPULSION</b> <input type="checkbox"/> Outboard <input type="checkbox"/> Inboard <input type="checkbox"/> Inboard/Outboard <input type="checkbox"/> Other _____ Specify _____ <input type="checkbox"/> Sail <input type="checkbox"/> Air Propelled		<b>FUEL</b> <input type="checkbox"/> Gas <input type="checkbox"/> Diesel <input type="checkbox"/> Electric <input type="checkbox"/> Other _____ Specify _____	
<b>USE OF VESSEL</b> <input type="checkbox"/> Recreational (Pleasure) <input type="checkbox"/> Dealer/Manuf. <input type="checkbox"/> Exempt <input type="checkbox"/> Commercial Fish <input type="checkbox"/> Hire (Livory) <input type="checkbox"/> Commercial Mackerel <input type="checkbox"/> Commercial Blue Crab <input type="checkbox"/> Commercial Live Bait <input type="checkbox"/> Commercial Mackerel <input type="checkbox"/> Commercial Stone Crab <input type="checkbox"/> Commercial Shrimp Recip. <input type="checkbox"/> Commercial Shrimp Non-Recip. <input type="checkbox"/> Government <input type="checkbox"/> Commercial Charter <input type="checkbox"/> Commercial Oyster <input type="checkbox"/> Commercial Sponge <input type="checkbox"/> Commercial Other _____ <input type="checkbox"/> Commercial Spiny Lobster						<b>*DRAFT OF VESSEL</b> (The depth of water a vessel draws) FT. _____ IN. _____ *For all vessels 26' or more in length and all sailboats	
Previously Federally Documented Vessel, Attach Copy of: <input type="checkbox"/> U.S. Coast Guard Release From Documentation Form; or <input type="checkbox"/> Copy of Canceled Documentation Papers						State of Principal Use  PREVIOUS OUT-OF-STATE REGISTRATION NUMBER: _____	

<b>3 BRANDS, USAGE AND TYPE (Check Applicable Boxes)</b>									
<input type="checkbox"/> SHORT TERM LEASE	<input type="checkbox"/> LONG TERM LEASE	<input type="checkbox"/> REBUILT	<input type="checkbox"/> POLICE VEHICLE	<input type="checkbox"/> PRIVATE USE	<input type="checkbox"/> TAXI CAB	<input type="checkbox"/> FLOOD	<input type="checkbox"/> ILEV	<input type="checkbox"/> CUSTOM	
<input type="checkbox"/> ASSEMBLED FROM PARTS	<input type="checkbox"/> BONDED TITLE	<input type="checkbox"/> KIT CAR	<input type="checkbox"/> GLIDER KIT	<input type="checkbox"/> MANUF. BUY BACK	<input type="checkbox"/> REPLICA	<input type="checkbox"/> AUTONOMOUS	<input type="checkbox"/> ELECTRIC	<input type="checkbox"/> STREET ROD	

<b>4 LIENHOLDER INFORMATION</b>				
CHECK IF ELT CUSTOMER <input type="checkbox"/> Lienholder's Email Address	FEID # <input type="checkbox"/> DL # and Sex and Date of Birth <input type="checkbox"/> DMV Account # <input type="checkbox"/>	Date of Lien	Lienholder's Name	
Lienholder's Address		City	State	Zip

☐ If Lienholder authorizes the Department to send the motor vehicle or mobile home title to the owner, check box and countersign: \_\_\_\_\_ (Signature of Lienholder's Representative)  
(Does not apply to vessels). If box is not checked, title will be mailed to the first lienholder.

<b>5 TRANSFER TYPE</b>	
IF OWNERSHIP HAS TRANSFERRED, HOW AND WHEN WAS THE VEHICLE, MOBILE HOME, OR VESSEL ACQUIRED?	
<input type="checkbox"/> SALE <input type="checkbox"/> GIFT <input type="checkbox"/> REPOSSESSION <input type="checkbox"/> COURT ORDER <input type="checkbox"/> OTHER (SPECIFY) _____	DATE ACQUIRED ____/____/____

<b>6 ODOMETER DECLARATION</b>	
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**WARNING: Federal and State law requires that you state the mileage in connection with an application for a Certificate of Title. Failure to complete or providing a false statement may result in fines or imprisonment.**

I/WE STATE THAT THIS ☐ 5 OR ☐ 6 DIGIT ODOMETER NOW READS       ,       .XX (NO TENTHS) MILES, DATE READ \_\_\_\_/\_\_\_\_/\_\_\_\_ AND I/WE HEREBY CERTIFY THAT TO THE BEST OF MY/OUR KNOWLEDGE THE ODOMETER READING:

☐ 1. REFLECTS ACTUAL MILEAGE. ☐ 2. IS IN EXCESS OF ITS MECHANICAL LIMITS. ☐ 3. IS NOT THE ACTUAL MILEAGE.

<b>7 DEALER SALES TAX REPORT AND VEHICLE TRADE IN INFORMATION (IF APPLICABLE)</b>				
FLORIDA SALES TAX REGISTRATION NUMBER	DATE OF SALE	DEALER LICENSE NUMBER	AMOUNT OF TAX	DEALER / AGENT SIGNATURE
YEAR OF TRADE IN	MAKE OF TRADE IN	TITLE NUMBER OF TRADE IN (IF KNOWN)	VEHICLE IDENTIFICATION NUMBER OF TRADE IN	

8 MOTOR VEHICLE IDENTIFICATION NUMBER VERIFICATION

THIS SECTION REQUIRES A PHYSICAL INSPECTION AND A VERIFICATION OF THE VEHICLE IDENTIFICATION NUMBER (VIN) (OR THE MOTOR NUMBER FOR MOTOR VEHICLES MANUFACTURED PRIOR TO 1955) OF THE MOTOR VEHICLE DESCRIBED ON THIS FORM BY A LICENSED DEALER, FLORIDA NOTARY PUBLIC, POLICE OFFICER, OR FLORIDA DIVISION OF MOTOR VEHICLES EMPLOYEE OR TAX COLLECTOR EMPLOYEE. IF THE VIN IS VERIFIED BY AN OUT OF STATE MOTOR VEHICLE DEALER, THE VERIFICATION MUST BE SUBMITTED ON THEIR LETTERHEAD STATIONERY. COMPLETE THIS SECTION ON ALL USED MOTOR VEHICLES, INCLUDING TRAILERS, (WITH ABBREVIATION OF "TL" WITH A WEIGHT OF 2,000 POUNDS OR MORE) NOT CURRENTLY TITLED IN FLORIDA.

I, the undersigned, certify that I have physically inspected the above described vehicle and find the vehicle identification number to be: (Vehicle Identification Number)

DATE SIGNATURE PRINTED NAME

Law Enforcement Officer or Florida Dealer/Agency Name Badge # or Florida Dealer # Notary Stamp or Seal

FL DMV/Tax Collector Employee Florida Compliance Examiner/Inspector Badge or ID Number

COMMISSIONED NAME OF FLORIDA NOTARY: (Print, Type or Stamp) NOTARY'S SIGNATURE

9 SALES TAX EXEMPTION CERTIFICATION

THE PURCHASE OF A RECREATIONAL VEHICLE TO BE OFFERED FOR RENT AS LIVING ACCOMMODATIONS DOES NOT QUALIFY FOR EXEMPTION. I CERTIFY THE RECREATIONAL VEHICLE, MOBILE HOME OR VESSEL DESCRIBED HAS BEEN PURCHASED AND IS EXEMPT FROM THE SALES TAX IMPOSED BY CHAPTER 212, FLORIDA STATUTES, BY:

PURCHASER (STATE AGENCIES, COUNTIES, ETC.) HOLDS VALID EXEMPTION CERTIFICATE CONSUMER'S CERTIFICATE OF EXEMPTION NUMBER

MOTOR VEHICLE MOBILE HOME VESSEL WILL BE USED EXCLUSIVELY FOR RENTAL SALES TAX REGISTRATION NUMBER

I hereby certify that ownership of the motor vehicle, mobile home or vessel described on this application, is not subject to Florida Sales and Use Tax for the following reason: INHERITANCE GIFT

DIVORCE DECREE TRANSFER BETWEEN HUSBAND AND WIFE EVEN TRADE OR TRADE DOWN (State the facts of the even trade or trade down and the transferor information, including the transferor's name and address, below under "Other: Explain.")

OTHER: (EXPLAIN)

10 REPOSSESSION DECLARATION

IF CHECKED, THE FOLLOWING CERTIFICATIONS ARE MADE BY THE APPLICANT:

- I CERTIFY THAT THIS MOTOR VEHICLE, MOBILE HOME OR VESSEL WAS REPOSSESSED UPON DEFAULT IN THE TERMS OF THE LIEN INSTRUMENT AND IS NOW IN MY POSSESSION.
- (VESSEL) A PHOTOCOPY OF THE LIEN INSTRUMENT FOR THE VESSEL IS REQUIRED AND ATTACHED.
- I AM REQUESTING THAT AN ORIGINAL CERTIFICATE OF REPOSSESSION BE ISSUED FOR THE MOTOR VEHICLE OR MOBILE HOME IN LIEU OF A TITLE (REPOSSESSION).
- I AM REQUESTING THAT A DUPLICATE CERTIFICATE OF REPOSSESSION BE ISSUED FOR THE MOTOR VEHICLE OR MOBILE HOME, AS THE ORIGINAL HAS BEEN LOST OR DESTROYED.

11 NON-USE AND OTHER CERTIFICATIONS

IF CHECKED, THE FOLLOWING CERTIFICATIONS ARE MADE BY THE APPLICANT:

- I CERTIFY THAT THE CERTIFICATE OF TITLE IS LOST OR DESTROYED.
- THE VEHICLE IDENTIFIED WILL NOT BE OPERATED ON THE STREETS AND HIGHWAYS OF THIS STATE UNTIL PROPERLY REGISTERED.
- THE VESSEL IDENTIFIED WILL NOT BE OPERATED ON THE WATERS OF THIS STATE UNTIL PROPERLY REGISTERED.
- OTHER: (EXPLAIN)

12 APPLICATION ATTESTMENT AND SIGNATURES

I/WE PHYSICALLY INSPECTED THE ODOMETER/VIN AND FURTHER AGREE TO DEFEND THE TITLE AGAINST ALL CLAIMS. (More than one form HSMV 82040 may be used for additional signatures.)

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING DOCUMENT AND THAT THE FACTS STATED IN IT ARE TRUE.

SIGNATURE OF APPLICANT (OWNER) Date SIGNATURE OF APPLICANT (CO-OWNER) Date

13 RELEASE OF SPOUSE OR HEIRS INTEREST

The undersigned person(s) state(s) as follows: That (Name of Deceased) died on (Date)

- testate (with a will) intestate (without a will) and left the surviving heir(s) named below.
- When applicable, the heir(s) (named below) certifies that the certificate of title is lost or destroyed.

UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING DOCUMENT AND THAT THE FACTS STATED IN IT ARE TRUE.

(More than one form HSMV 82040 may be used for additional signatures.)

Print or Type Name of Spouse, Co-owner or Heir(s) Signature of Spouse, Co-Owner or Heir(s)

That at the time of death the decedent was owner of the motor vehicle, mobile home or vessel described in section 2 of this form. The person(s) signing above hereby releases all of his/her/their right, title, interest and claim as heir(s) at law, legatee(s), devisee(s), or otherwise to the aforesaid motor vehicle, mobile home or vessel to:

Name of Applicant(s) (Print or Type)

RESIDENTS OF FLORIDA AND ALL VESSEL OWNERS, RESIDING IN FLORIDA OR OUT OF STATE, SHOULD SUBMIT THIS FORM AND ALL REQUIRED DOCUMENTATION TO A LOCAL FLORIDA TAX COLLECTOR'S OFFICE OR THE FLORIDA TAX COLLECTOR'S OFFICE LOCATED IN THE APPLICANT'S COUNTY OF RESIDENCE FOR PROCESSING.

Check your local phone book government pages or visit the following website for current mailing addresses: <http://www.flhsmv.gov/offices/>

Notice of Proposed Rule

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Departmental

Rule No.: RULE TITLE:

15-2.011: Maintenance of Records

**PURPOSE AND EFFECT:** The purpose and effect of this proposed rulemaking is to repeal rules identified during the comprehensive rule review required by Executive Order 11-01 as duplicative, unnecessarily burdensome, or no longer necessary.

**SUMMARY:** These rules were identified during the comprehensive rule review as containing provisions that are no longer applicable, are antiquated, or are duplicative, and, thus, are appropriate for repeal.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE**

**RATIFICATION:** The Agency has determined that these will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency. The Agency has determined that these proposed rules are not expected to require legislative ratification because they are being repealed to reduce unnecessary regulation.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

**RULEMAKING AUTHORITY:** 120.533(1)(j) FS

**LAW IMPLEMENTED:** 119.041(2) FS

**IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:**

**DATE AND TIME:** January 3, 2013, 9:30 a.m.

**PLACE:** Department of Highway Safety and Motor Vehicles, 2900 Apalachee Parkway, Room B130, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Richard Brown, 2900 Apalachee Parkway, Room #A-432, Tallahassee, Florida 32399, (850)617-3101. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Richard Brown, 2900 Apalachee Parkway, Room A432, Tallahassee, Florida 32399, [RichBrown@flhsmv.gov](mailto:RichBrown@flhsmv.gov), (850) 617-2902.

**THE FULL TEXT OF THE PROPOSED RULE IS:**

**15-2.011 Maintenance of Records.**

Rulemaking Specific Authority 120.533(1)(j) FS. Law Implemented 119.041(2) FS. History--New 3-8-93, Repealed

**NAME OF THE PERSON ORIGINATING PROPOSED RULE:** Richard Brown, Assistant General Counsel

**NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE:** Governor and Cabinet

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** December 11, 2012



**DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES**

**CHAPTER 15-2**

**RULES GOVERNING PROCEDURE**

**RULE NUMBERS:**

**RULE TITLE:**

15-2.011:

Maintenance of Records

Summary of Rule

The rule relates to the maintenance and indexing of agency final orders.

Statement of Facts and Circumstances Justifying the Rule

In light of the Governor's Comprehensive Rule Review (Executive Order 11-72) and the Enhanced Biennial Review (s. 120.745, F.S.), the Department has conducted a review of all of its administrative rules and has identified many candidates for repeal throughout Chapter 15, F.A.C. This rule is obsolete in light of final order indexing requirements contained in s. 120.53, F.S. The proposed repeal does not appear to require a Statement of Estimated Regulatory Costs or legislative ratification.

Federal Standards Statement

The proposed repeal does not appear to implicate or otherwise relate to federal standards or rules.

Summary of Hearing

The proposed rule will be noticed in the December 12, 2012, Florida Administrative Weekly, Volume 38, Number 89, setting out a Public Hearing for January 3, 2013. If a request for a hearing is received by the agency, a hearing will be held.

CERTIFICATION OF THE  
DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES  
ADMINISTRATIVE RULES FILED WITH THE  
DEPARTMENT OF STATE

I do hereby certify:

☒ (1) That all statutory rulemaking requirements of Chapter 120, F.S., have been complied with; and

☒ (2) There is no administrative determination under subsection 120.56(2), F.S., pending on any rule covered by this certification; and

☒ (3) All rules covered by this certification are filed within the prescribed time limitations of paragraph 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by paragraph 120.54(3)(a), F.S., and

☒ (a) Are filed not more than 90 days after the notice; or

☐ (b) Are filed not more than 90 days after the notice not including days an administrative determination was pending; or

☐ (c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or

☐ (d) Are filed more than 90 days after the notice, but not less than 14 days nor more than 45 days after the adjournment of the final public hearing on the rule; or

☐ (e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

☐ (f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

☐ (g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was considered; or

[ ] (h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

[ ] (i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the small business ombudsman.

Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule Number:

15-2.011

Under the provisions of subparagraph 120.54(3)(e)6., F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective: \_\_\_\_\_.

\_\_\_\_\_  
Julie Jones

\_\_\_\_\_  
Executive Director

Title

\_\_\_\_\_  
Department of Highway Safety and Motor Vehicles  
Agency

\_\_\_\_\_  
1  
Number of Pages Certified

**15-2.011 Maintenance of Records.**

~~Final Orders that comprise final agency action and that must be indexed or listed pursuant to this chapter shall be permanently maintained by the agency pursuant to the retention schedule approved by the Department of State, Division of Library and Information Services.~~

*Rulemaking Specific Authority 120.533(1)(j) FS. Law Implemented 119.041(2) FS. History--New 3-8-93, Repealed*

Notice of Proposed Rule

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Departmental

Rule No.: RULE TITLE:

15-3.001: Standards of Disciplinary Actions

PURPOSE AND EFFECT: The purpose and effect of this proposed rulemaking is to repeal rules identified during the comprehensive rule review required by Executive Order 11-01 as duplicative, unnecessarily burdensome, or no longer necessary.

SUMMARY: This rule was identified during the comprehensive rule review as containing provisions that are no longer applicable, are antiquated, or are duplicative, and, thus, are appropriate for repeal.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE

RATIFICATION: The Agency has determined that this repeal will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency. The Agency has determined that this rule is not expected to require legislative ratification because it is being repealed to reduce unnecessary regulation.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 110.201(2) FS

LAW IMPLEMENTED: 110.201(2), 110.227 FS

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: January 3, 2013, 9:30 a.m.

PLACE: Department of Highway Safety and Motor Vehicles, 2900 Apalachee Parkway, Room B130, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Richard Brown, 2900 Apalachee Parkway, Room #A-432, Tallahassee, Florida 32399, (850)617-3101. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Richard Brown, 2900 Apalachee Parkway, Room A432, Tallahassee, Florida 32399, [RichBrown@flhsmv.gov](mailto:RichBrown@flhsmv.gov), (850) 617-2902.

THE FULL TEXT OF THE PROPOSED RULE IS:

**15-3.001 Standards of Disciplinary Actions.**

*Rulemaking Specific Authority 110.201(2) FS. Law Implemented 110.201(2), 110.227 FS. History—New 11-5-80, Amended 1-1-81, 10-7-82, Formerly 15-3.01, Amended 12-12-91, 1-6-94, Repealed.*

NAME OF THE PERSON ORIGINATING PROPOSED RULE: Richard Brown, Assistant General Counsel

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 11, 2012

**DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES**

**CHAPTER 15-3**

**STANDARDS OF DISCIPLINARY ACTIONS**

**RULE NUMBERS:**

**RULE TITLE:**

15-3.001:

Standards of Disciplinary Actions

Summary of Rule

The rule relates to disciplinary matters within the agency.

Statement of Facts and Circumstances Justifying the Rule

In light of the Governor's Comprehensive Rule Review (Executive Order 11-72) and the Enhanced Biennial Review (s. 120.745, F.S.), the Department has conducted a review of all of its administrative rules and has identified many candidates for repeal throughout Chapter 15, F.A.C. This rule is obsolete in light of uniform rules regarding discipline established by the Department of Management Services. The proposed repeal does not appear to require a Statement of Estimated Regulatory Costs or legislative ratification.

Federal Standards Statement

The proposed repeal does not appear to implicate or otherwise relate to federal standards or rules.

Summary of Hearing

The proposed rule will be noticed in the December 12, 2012, Florida Administrative Weekly, Volume 38, Number 89, setting out a Public Hearing for January 3, 2013. If a request for a hearing is received by the agency, a hearing will be held.

CERTIFICATION OF THE  
DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES  
ADMINISTRATIVE RULES FILED WITH THE  
DEPARTMENT OF STATE

I do hereby certify:

- ☒ (1) That all statutory rulemaking requirements of Chapter 120, F.S., have been complied with; and
- ☒ (2) There is no administrative determination under subsection 120.56(2), F.S., pending on any rule covered by this certification; and
- ☒ (3) All rules covered by this certification are filed within the prescribed time limitations of paragraph 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by paragraph 120.54(3)(a), F.S., and
  - ☒ (a) Are filed not more than 90 days after the notice; or
  - ☐ (b) Are filed not more than 90 days after the notice not including days an administrative determination was pending; or
  - ☐ (c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or
  - ☐ (d) Are filed more than 90 days after the notice, but not less than 14 days nor more than 45 days after the adjournment of the final public hearing on the rule; or
  - ☐ (e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or
  - ☐ (f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or
  - ☐ (g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was considered; or

[ ] (h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

[ ] (i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the small business ombudsman.

Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule Number:

15-3.001

Under the provisions of subparagraph 120.54(3)(e)6., F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective: \_\_\_\_\_.

\_\_\_\_\_  
Julie Jones

\_\_\_\_\_  
Executive Director  
Title

\_\_\_\_\_  
Department of Highway Safety and Motor Vehicles  
Agency

\_\_\_\_\_  
13  
Number of Pages Certified



### 15-3.001 Standards of Disciplinary Actions.

(1) Purpose. It is the policy of the Department that disciplinary measures be administered to its employees only when there is just cause to do so. In furtherance of this policy, management will communicate the conduct standards expected of its employees with the objective of correcting unacceptable or undesirable behavior which is counterproductive or contrary to the Department's efficiency, effectiveness or ability to serve the public. Disciplinary measures will be administered in a progressive manner, where indicated, with the objective of modifying or correcting an employee's behavior and thereby assisting the employee in becoming a more valuable resource to the Department. This policy is applicable to employees who have attained permanent status in the Career Service. The Department is not required to administer discipline under this rule for probationary employees.

(2) Authority for Disciplinary Actions. A specific type of disciplinary action may be taken by supervision within the authority delegated by the Executive Director of the Department of Highway Safety and Motor Vehicles. The severity of the disciplinary action which may be administered by each level of supervision is dependent on the seriousness of the offense and may be taken after consultation with the next highest level of supervision. The types of disciplinary actions which may be taken within the scope of this rule are oral reprimand, written reprimand, suspension and dismissal.

#### (3) Definitions.

(a) Counseling—A discussion between the employee and the supervisor whenever the supervisor notices that an employee is failing to adhere to the agency's official or expected conduct standards. It is a measure used by a supervisor to correct an employee's inappropriate conduct with the objective that the conduct will not be repeated and that disciplinary action will not become necessary. (Counseling is not considered disciplinary action for the purpose of progressive disciplinary action).

(b) Progressive Discipline—A systematic approach to discipline in which the penalty for violation of a conduct standard will increase in severity each time the employee repeats a violation of the same disciplinary offense.

(c) Cumulative Discipline—Prior offenses for which an employee has been disciplined may be used to determine the severity of the action to be taken for the current offense being considered even though the prior offense(s) may not be the same as the current offense. In such situations, more than the minimum called for under the offense violated will be used. An employee must have been warned in writing in advance that the agency contemplates using cumulative discipline for future violations.

(d) Oral Reprimand—The least severe type of disciplinary action for violation of the Department's conduct standards. It is usually administered after counseling has not been effective in correcting the undesirable conduct. It entails a verbal discussion by the supervisor with the employee specifying the conduct standard(s) violated, the employee's act(s) which violated the standard(s) and the corrective behavior required.

(e) Written Reprimand—Disciplinary action for violation of the Department's conduct standard(s) which is more serious than an oral reprimand but does not involve leave without pay as in the case of suspension. It usually, but not necessarily in all cases, follows a prior oral reprimand. If warranted, it may be given for a first violation. It entails a written memorandum to the employee specifying the conduct standard(s) violated, the employee's act(s) which violated the standard(s), the corrective conduct required, and a warning that any future violations will result in further and possibly more severe disciplinary action.

(f) Suspension—Disciplinary action which may be administered for violation(s) of the Department's conduct standard(s), usually following one or more written reprimands which is more serious than an oral or written reprimand. It may also be imposed as the first disciplinary action following the commission of certain serious violations. This disciplinary action temporarily relieves the employee of duties and places the employee on leave without pay for a specified period of time.

(g) Dismissal—The most severe form of disciplinary action which may be taken by the Department for violation(s) of the Department's conduct standard(s). This action separates the employee from the Department and is used in the case of a major offense or as the final step in the progressive and cumulative discipline procedures.

(4) Notice of Proposed Action—As provided by Rule 60K-9.0042, F.A.C., an employee who is subject to suspension or dismissal shall be given a minimum of 10 days written notification by certified mail and/or personal delivery of the Department's intent to suspend or dismiss the employee.

(5) Predetermination Conference—As provided by Rule 60K-9.0043, F.A.C., an employee who is subject to suspension or dismissal shall be given the opportunity to appear before the Departmental official or the official's designee authorized to take the action, to answer orally and in writing the charges against the employee. The instructions for requesting the conference will be contained in the notification to the employee of the proposed action to suspend or dismiss.

(6) Notice of Final Action—As provided by Rule 60K-9.0044, F.A.C., an employee shall be given written notification by certified mail and/or personal delivery of the Department's decision to proceed with the suspension or dismissal within 5 workdays.

before or after the date the action is to be effective. The instructions for appealing or grieving the action shall be contained in the notification to the employee of the action to suspend or dismiss.

(7) ~~Extraordinary Action~~ — As provided by Rule 60K 9.0046, F.A.C., in extraordinary situations where the retention of a permanent Career Service employee would result in damage to property, would be detrimental to the best interest of the state, or would result in injury to the employee, a co-worker or some other person, such employee may be suspended or dismissed by the Executive Director or other designated official without giving advance notice. In these extraordinary situations, the employee being suspended or dismissed must be advised by the Department's representative verbally and in writing of the charges necessitating the action and the employee shall be given an opportunity at that time to explain or refute the charges. The employee shall be advised at that time whether the Department will proceed with the suspension or dismissal and the right to appeal the action to the Public Employees Relations Commission or, if covered, grieve under the pertinent collective bargaining contract. A certified copy of the Department's written notification shall be mailed to the employee within 24 hours of the effective date of the action.

(8) ~~Inability to Perform Assigned Duties~~ — Failure to meet the minimum performance standards or qualifications that specifically relate to an employee's duties and responsibilities. This is not considered disciplinary action and will be handled in accordance with Section 110.227, F.S. and Chapter 60K 5, F.A.C.

(9) ~~Standards of Disciplinary Action Guidelines~~ — The following disciplinary offenses and penalties are established as guidelines to insure that the Department is being consistent in taking disciplinary actions. The penalty for each occurrence of an offense is normally the minimum imposed. The severity of a penalty may vary depending upon, but not limited to, the impact of the violation upon the ability of the employee to perform assigned duties, especially as it relates to credibility, trustworthiness and integrity. When one of the following offenses takes place off the job, the offense must have a direct relationship to the employee's ability to perform his duties in order for disciplinary action to be taken:

#### STANDARDS OF DISCIPLINARY ACTION GUIDELINES

DISCIPLINARY OFFENSE	FIRST VIOLATION	SECOND VIOLATION	THIRD VIOLATION	FOURTH VIOLATION
Absence without authorized leave	Written Reprimand to Dismissal	3-Day Suspension to Dismissal	Dismissal	
*Chargeable crash with agency vehicle:				
(a) *Minor violation	Written Reprimand	1-Day Suspension	3-Day Suspension to Dismissal	Dismissal
(b) *More serious clear-cut violation	Written Reprimand	1-Day to 3-Day Suspension	3-Day Suspension to Dismissal	Dismissal
(c) *Extreme violation	2-Day Suspension to Dismissal	3-Day Suspension to Dismissal	Dismissal	

\*Chargeable crashes which occurred more than three years prior to the current crash will not be considered for the purpose of progressive discipline. Upon reviewing the circumstances surrounding a traffic crash which occurred in an agency vehicle, the department may require training to reinforce an employee's driving knowledge and skills. The first two minor crashes within three years will normally result in counseling in lieu of discipline.

Conduct unbecoming a public employee	3-Day Suspension to Dismissal	Dismissal
Conviction of any crime other	3-Day Suspension to	Dismissal

than-minor traffic violations	Dismissal			
Cowardice (uniformed member of FHP)	3-Day Suspension to Dismissal	Dismissal		
Destroying evidence	3-Day Suspension to Dismissal	Dismissal		
Disclosing police informant's name to unauthorized persons	3-Day Suspension to Dismissal	Dismissal		
Excessive absenteeism	Oral Reprimand	Written Reprimand	3-Day Suspension	Dismissal
Failure of sworn employee to maintain weight control	Oral Reprimand	Written Reprimand	3-Day Suspension	Dismissal
Failure to perform job duties	Written Reprimand to 3-Day Suspension	3-Day Suspension to Dismissal	Dismissal	
Failure to report the revocation or suspension of driver license	3-Day Suspension	Dismissal		
Failure to report and turn in without delay, all properties or evidence seized, found or taken officially	Written Reprimand to Dismissal	3-Day Suspension to Dismissal	Dismissal	
Falsification of records	3-Day Suspension to Dismissal	Dismissal		
Fighting	3-Day Suspension to Dismissal	Dismissal		
Gambling	Written Reprimand to 3-Day Suspension	3-Day Suspension to Dismissal	Dismissal	
Giving false testimony	3-Day Suspension to Dismissal	Dismissal		
Harassment— sexual, racial, religious, national origin, and handicapped	3-Day Suspension to Dismissal	Dismissal		
Horseplay	Oral Reprimand	Written Reprimand	3-Day Suspension	Dismissal
Improper or	Written	3-Day Suspension	Dismissal	

unauthorized use of state property or equipment	Reprimand to Dismissal	to Dismissal		
Improper political activity	Written Reprimand	3-Day Suspension	Dismissal	
Improper uniform or untidy person while on duty	Oral Reprimand	Written Reprimand	3-Day Suspension	Dismissal
Insubordination	Written Reprimand to 1-Day Suspension	3-Day Suspension to Dismissal	Dismissal	
Interfering with an official investigation	5-Day Suspension to Dismissal	Dismissal		
Leaving the work station without authorization	Written Reprimand	3-Day Suspension	Dismissal	
Loafing	Oral Reprimand	Written Reprimand	3-Day Suspension	Dismissal
Abuse or destruction of state property or equipment	Written Reprimand to 1-Day Suspension	3-Day Suspension to Dismissal	Dismissal	
Negligence	Written Reprimand to 3-Day Suspension	3-Day Suspension to Dismissal	5-Day Suspension to Dismissal	Dismissal
Possession, sale, transfer or use of alcohol or drugs on the job*	3-Day Suspension to Dismissal	Dismissal		
* Refer to the Department's policy on drug-free workplace in instances of use of alcohol or illegal drugs				
Possession, sale, transfer or use of drugs off the job*	3-Day Suspension to Dismissal	Dismissal		
* Refer to the Department's policy on drug-free workplace in instances of use of alcohol or illegal drugs				
Sleeping on duty	Written Reprimand to 1-Day Suspension	3-Day Suspension to Dismissal	Dismissal	
Soliciting or accepting any gift, loan, gratuity or money for improper purposes	Dismissal			
Striking or related concerted	Dismissal			

activity				
Tardiness	Oral Reprimand	Written Reprimand	3-Day to 5-Day Suspension	Dismissal
Theft	Dismissal			
Unauthorized distribution of written or printed material of any description	Oral Reprimand	Written Reprimand	3-Day Suspension	Dismissal
Unauthorized solicitation or sales on state property	Oral Reprimand	Written Reprimand	3-Day Suspension	Dismissal
Under the influence of alcohol or drugs while on the job*	3-Day Suspension to Dismissal	Dismissal		
* Refer to the Department's policy on drug-free workplace in instances of use of alcohol or illegal drugs				
Unlawful or careless use or display of a weapon	1-Day Suspension to Dismissal	3-Day Suspension to Dismissal	Dismissal	
Using threatening, profane or abusive language to others	Written Reprimand to 3-Day Suspension	3-Day Suspension to Dismissal	Dismissal	
Violation of statutory authority, rules, regulations, or policies	Oral Reprimand to 3-Day Suspension	Written Reprimand to 5-Day Suspension	3-Day Suspension to Dismissal	Dismissal
Maltreatment of prisoner or others	Dismissal			
Withholding information on wanted persons	Dismissal			

#### DEFINITIONS OF OFFENSES

##### OFFENSE

Absence without authorized leave

##### DEFINITION

An employee's absence from work due to:  
(1) failure to obtain permission in advance to be absent from work, (2) failure to follow procedures for reporting absence

from work, or, (3) misrepresentation (falsification) of the need for leave to cover the employee's absence.

~~\*Chargeable crash with agency vehicle:~~

~~(a)\*Minor violation~~

~~A chargeable crash which is caused by a slight negligence or carelessness, which does not have the potential for serious injury.~~

~~(b)\*More serious clear cut violation~~

~~A chargeable crash which is caused by greater negligence or carelessness and which has the potential for serious injury or damage.~~

~~(c)\*Extreme violation~~

~~A chargeable crash which is caused by driving in a reckless or irresponsible manner, or with gross disregard for the safety of persons or property, or a crash which exhibits willful abuse of authority.~~

~~\*Chargeable crashes which occurred more than three years prior to the current crash will not be considered for the purpose of progressive discipline. Upon reviewing the circumstances surrounding a traffic crash which occurred in an agency vehicle, the department may require training to reinforce an employee's driving knowledge and skills. The first two minor crashes within three years will normally result in counseling in lieu of discipline.~~

~~Conduct unbecoming a public employee~~

~~Conduct, whether on or off the job, that adversely affects the employee's ability to continue to perform the duties of his/her current job, including an act which violates decency or morality, which discredits the department, or which adversely affects the department's ability to carry out its assigned mission.~~

~~Conviction of any crime other than minor traffic violations~~

~~Any conviction for a crime involving moral turpitude, a felony or misdemeanor which directly affects an employee's ability to perform his/her job. Conviction includes judicial acceptance of a plea of guilty or nolo contendere or finding of guilt, notwithstanding suspension of sentence or withholding of adjudication.~~

~~Cowardice (uniformed member of FHP)~~

~~Lack of courage displayed by a sworn member of the Florida Highway Patrol in performing assigned duties or complying with a reasonable order which relates to an employee's job function.~~

~~Destroying evidence~~

~~Unauthorized destruction or disposition of any property or evidence obtained in the course of official duties without following~~

established policies and procedures.

Disclosing police informant's name to unauthorized persons

Unauthorized disclosure by an employee of a person's name which has been used confidentially by police authorities to obtain information or evidence on the illegal activities of others.

Excessive absenteeism

An attendance record of recurring absences, even though all or a majority of the absences were necessary and authorized. This also includes a pattern of absences by an employee such as consistent absences on the day preceding or following the employee's regular days off or absence on the same day of each week or month, or the use of leave as soon as it is earned. The supervisor has a right to expect employees to be available to perform work with a reasonable degree of regularity. The supervisor must then determine whether the absences involve a legitimate use of approved leave, and whether the absences are adversely affecting the employee's work. Consequently, even legitimate absences can become excessive to the point that corrective action must be taken.

Failure of sworn employee to maintain weight control

Failure to comply with the weight limits for FHP sworn members may be dealt with through the disciplinary process. Prior to consideration of disciplinary action for a violation of Rule 15B-7, F.A.C., the affected member shall be provided an opportunity to seek assistance in weight reduction through the Employee Assistance Program (E.A.P.). If an employee elects to participate in the Department's E.A.P. program and fails to adhere to the treatment plan, disciplinary action may be taken. Dismissal actions for this violation will be considered only when there is evidence of a medical examination and a finding by a licensed medical physician that the employee is unable to perform his or her duties due to the overweight condition.

Failure to perform job duties

The willful: (1) failure to complete a

specific assignment or duty that is expected as a part of the employee's job or, (2) performance of such task at a substandard level.

Failure to report the revocation or suspension of driver license

Failure by an employee to notify the supervisor immediately of the revocation or suspension of his or her driver's license when driving is a job-related function.

Failure to report and turn in without delay all properties or evidence seized, found or taken officially

Failure to care for, control, report, process and turn in all property which may come into an employee's possession in the course of official duties in accordance with prescribed policies and procedures. When the evidence or property consists of firearms, jewelry, currency, negotiable securities or other such items which by their nature can be or are easily converted to personal use or gain, these factors will be considered as an aggravating factor and used in the determination of degrees of discipline.

Falsification of records

An intentional act of misrepresentation, falsification or omission of any material fact, whether oral or written, on such records as, but not limited to, time and attendance (leave); employment status; employment application; travel vouchers; driver licenses; identification (I.D.) card applications; work and production records; licenses or certificates. Such records shall include, but not be limited to, records or documents of an official nature such as: court testimony, leave and attendance reports, affidavits, sworn statements, citations, written warnings, and correction cards.

Fighting

A hostile encounter with another person which involves blows being struck or other personal violence.

Gambling

Playing a game for money or other thing of value. Gambling is forbidden on departmental property or while on duty.

Giving false testimony

Knowingly giving a false statement under oath in an official or unofficial proceeding.



Harassment—sexual, racial, religious, national origin, and handicapped

Slurs, derogatory statements, discriminating remarks, or other verbal or physical conduct of a discriminatory nature (sexual, racial, religious, national origin, and handicapped) which are offensive and objectionable to the recipient and have the purpose or effect of interfering with the recipient's job performance.

Horseplay

Actions which, even though intended to be mischievous or prankish, disrupt or have the effect of disrupting the work of the participants, including other employees and members of the public.

Improper or unauthorized use of state property or equipment

Use of any state property, credit cards, telephone system, or equipment for any purpose other than official state business. Restitution may be required.

Improper political activity

Participation in any political campaign while on duty or using or attempting to use one's official position as an employee to influence a campaign or political activity as defined by DHSMV Management Policy #017, or violation of the laws of Florida or the United States in regard to political activity by public employees.

Improper uniform or untidy person while on duty

Failure of uniformed employees to maintain their uniforms in a neat and clean condition, or failure to repair and/or replace a damaged uniform.

Insubordination

Deliberate refusal to obey a reasonable order given by a supervisor which relates to an employee's job function. Includes both an expressed refusal to obey a proper order, as well as a deliberate failure to carry out an order.

Interfering with an official investigation

Any attempt to interfere with an official investigation that would include but not be limited to coercion of witnesses or parties involved, withholding or destruction of evidence or any other material facts or tangible items that would be relevant to the investigation. An official investigation is any criminal or administrative investigation by a law enforcement agency,

including the Florida Highway Patrol, or any investigation conducted by a division of the department pursuant to its duties and responsibilities. An FHP investigation is any investigation for which a case number or complaint number has been assigned or any investigation ordered by the Director of the Florida Highway Patrol or the Executive Director of the Department of Highway Safety and Motor Vehicles.

Leaving the workstation without authorization

Absence from the work area or duty assignment during a work period without permission of the appropriate supervisor. Includes leaving a work area for a lunch or rest break prior to or at the end of the work schedule without proper authorization when such permission is a specific requirement.

Loafing

Continued and deliberate idleness during work periods which results in the employee's failure to perform assigned tasks. This includes, but is not limited to, deliberately wasting time, engaging in idle talk or gossip or conducting personal business during work periods.

Abuse or destruction of state property or equipment

Abuse or destruction of state property or equipment.

Negligence

Failure to use ordinary or reasonable care in, or the omission of or inattention to, the performance of assigned duties and responsibilities. Negligence is synonymous with carelessness and signifies lack of care, caution, attention, diligence or discretion and includes the loss of state property and equipment.

Possession, sale, transfer or use of alcohol or drugs on the job\*

The possession, sale, distribution or use of alcoholic beverages or nonprescribed or illegal drugs on state property and/or during work activities and/or while using a state vehicle. Includes the unlawful use of controlled substances, the unlawful possession or sale of alcohol or controlled substances, and the storage or bringing into any Department facility or premises alcohol or controlled substances. It should be noted that an employee may be disciplined for any criminal law violation

associated with alcohol or substance abuse. However, the possession or storage of alcohol or controlled substances which are required to be possessed, sold, or transferred in the performance of official duties, or held as evidence, or are prescribed drugs for illness of the employee does not constitute a violation of this offense. Note: Sworn law enforcement officers or duty officers will be dismissed for the unlawful possession, use, sale, or transfer of drugs as defined in the Florida Statutes.

~~\*Refer to the Department's policy on drug free workplace in instances of use of alcohol or illegal drugs.~~

~~Possession, sale, transfer or use of drugs off the job\*~~

The possession, sale, distribution or use of nonprescribed or illegal drugs. Includes the unlawful use of controlled substances, the unlawful possession or sale of controlled substances, and the storage or bringing into any Department facility or premises alcohol or controlled substances. It should be noted that an employee may be disciplined for any criminal law violation associated with alcohol or substance abuse. However, the possession or storage of alcohol or controlled substances which are required to be possessed in the performance of official duties, or held as evidence, or are prescribed drugs for illness of the employee does not constitute a violation of this offense. Note: Sworn law enforcement officers or duty officers will be dismissed for the unlawful possession, use, sale, or transfer of drugs as defined in the Florida Statutes.

~~\*Refer to the Department's policy on drug free workplace in instances of use of alcohol or illegal drugs.~~

~~Sleeping on duty~~

Failure of an employee to remain awake while on duty.

~~Soliciting or accepting any gift, loan, gratuity or money for improper purposes~~

Soliciting or acceptance of any gratuity, loan, bribe, promise of future employment, favor or service that would cause the employee to be influenced in the exercise of official duties or that is based on an understanding that any official action or judgment of the employee may be influenced thereby.

~~Striking or related concerted activity~~

The concerted failure of employees to report for duty; the concerted absence of employees from their positions; the

concerted stoppage of work by employees; the concerted abstinence in whole or in part by any group of employees from the full and faithful performance of the duties of employment with a public employer for the purpose of inducing, influencing, condoning, or coercing a change in the terms and conditions of employment of the rights, privileges, or obligations of public employment, or participating in a deliberate and concerted course of conduct which adversely affects the services of the public employer; the concerted failure of employees to report to work after the expiration of a collective bargaining agreement; and picketing in furtherance of a work stoppage.

Tardiness

Failure to follow established work schedules. Includes reporting late at the beginning of the work schedule, or returning late from lunch or rest breaks, all without advance approval. However, failure to report to work within 2 hours of the beginning of the workday without advance approval, shall constitute "absence without authorized leave", and the appropriate penalty will be applied thereto.

Theft

Unauthorized taking of another's property, including the property of the state, other employees, or a member of the public.

Unauthorized distribution of written or printed material of any description

Employees are prohibited from soliciting or distributing petitions or literature for any purposes other than official business (excluding agency endorsed fund drives) on departmental property or at any other place while on duty. Employees are permitted to solicit and distribute literature or materials during their free time (nonworking hours) provided such solicitation is not in work areas and does not involve other employees who are working. Nonworking time includes lunch periods and rest periods.

Unauthorized solicitation or sales on state premises

Solicitation of an employee or a member of the public by another employee, including the distribution of material, for any purposes not specifically authorized by the state while the employee who is soliciting

Under the influence of alcohol or drugs while on the job\*

is on duty.

Reporting to the job, drinking or taking drugs on the job, or in any manner being under the influence of alcoholic beverages, illegal drugs, or any chemical or controlled substance is prohibited. Note: Sworn law enforcement officers or duty officers will be dismissed for the unlawful possession, use, sale, or transfer of drugs as defined in the Florida Statutes.

\*Refer to the Department's policy on drug-free workplace in instances of use of alcohol or illegal drugs.

Unlawful or careless use or display of a weapon

Possession of an unauthorized weapon while on duty or on the Department's premises or while in Department vehicles is prohibited. This also covers any violation of a department or division policy concerning the use, possession or display of weapons.

Using threatening, profane or abusive language to others

General swearing, profanity, and obscenities, threatening language or insults, including racial, sexual, ethnic or religious insults. The misconduct may be directed by an employee toward a supervisor or a fellow employee, or the public when an employee has to deal with the public, or by a supervisor toward an employee.

Violation of statutory authority, rules, regulations, or policies

An act which is a violation of statute, agency rule, regulation, or policy that has been made known to the employee.

Maltreatment of prisoner or others

Use of corporal punishment, neglect, or physical abuse to a person under custody or being detained.

Withholding information on wanted persons

Failure by an employee to report information important to the apprehension of a person who is the subject of an arrest warrant, copias or pick up order by a judge or magistrate.

*Rulemaking Specific Authority 110.201(2) FS. Law Implemented 110.201(2), 110.227 FS. History--New 11-5-80, Amended 1-1-81, 10-7-82, Formerly 15-3.01, Amended 12-12-91, 1-6-94, Repealed \_\_\_\_\_.*

Notice of Proposed Rule

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Departmental

Rule No.: RULE TITLE:

15C-7.005: Unauthorized Additional Motor Vehicle Dealerships - Unauthorized Supplemental Dealership Locations.

PURPOSE AND EFFECT: The purpose and effect of this proposed rulemaking is to repeal a rule that has been deemed invalid.

SUMMARY: The rule attempts to implement penalties relating to motor vehicle dealers establishing additional or supplemental dealership locations. The rule was deemed invalid by the court in Department of Highway Safety and Motor Vehicles v. JM Auto, 977 So.2d 733 (1<sup>st</sup> DCA 2008).

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE

RATIFICATION: The Agency has determined that this repeal will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the agency. The Agency has determined that the proposed rule is not expected to require legislative ratification because it is being repealed after being deemed invalid.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 320.011 FS

LAW IMPLEMENTED: 320.27, 320.60-.70 FS

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: January 3, 2013, 9:30 a.m.

PLACE: Department of Highway Safety and Motor Vehicles, 2900 Apalachee Parkway, Room B130, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Richard Brown, 2900 Apalachee Parkway, Room #A-432, Tallahassee, Florida 32399, (850)617-3101. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Richard Brown, 2900 Apalachee Parkway, Room A432, Tallahassee, Florida 32399, [RichBrown@flhsmv.gov](mailto:RichBrown@flhsmv.gov), (850) 617-2902.

THE FULL TEXT OF THE PROPOSED RULE IS:

**15C-7.005 Unauthorized Additional Motor Vehicle Dealerships - Unauthorized Supplemental Dealership Locations.**

Rulemaking Specific Authority 320.011 FS. Law Implemented 320.27, 320.60-.70 FS. History--New 3-3-96, Repealed

NAME OF THE PERSON ORIGINATING PROPOSED RULE: Richard Brown, Assistant General Counsel

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 11, 2012

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

CHAPTER 15C-7

MOTOR VEHICLE DEALERS

RULE NUMBERS:

RULE TITLE:

15C-7.005:

Unauthorized Additional Motor Vehicle Dealerships - Unauthorized Supplemental Dealership Locations

Summary of Rule

The rule attempts to implement penalties relating to motor vehicle dealers establishing additional or supplemental dealership locations.

Statement of Facts and Circumstances Justifying the Rule

The agency seeks to repeal this rule, as it has been deemed invalid by the court in Department of Highway Safety and Motor Vehicles v. JM Auto, 977 So.2d 733 (1<sup>st</sup> DCA 2008). The proposed repeal does not appear to require a Statement of Estimated Regulatory Costs or legislative ratification.

Federal Standards Statement

The proposed repeal does not appear to implicate or otherwise relate to federal standards or rules.

Summary of Hearing

The proposed rule will be noticed in the December 12, 2012, Florida Administrative Weekly, Volume 38, Number 89, setting out a Public Hearing for January 3, 2013. If a request for a hearing is received by the agency, a hearing will be held.

CERTIFICATION OF THE  
DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES  
ADMINISTRATIVE RULES FILED WITH THE  
DEPARTMENT OF STATE

I do hereby certify:

- ☒ (1) That all statutory rulemaking requirements of Chapter 120, F.S., have been complied with; and
- ☒ (2) There is no administrative determination under subsection 120.56(2), F.S., pending on any rule covered by this certification; and
- ☒ (3) All rules covered by this certification are filed within the prescribed time limitations of paragraph 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by paragraph 120.54(3)(a), F.S., and
  - ☒ (a) Are filed not more than 90 days after the notice; or
  - ☐ (b) Are filed not more than 90 days after the notice not including days an administrative determination was pending; or
  - ☐ (c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or
  - ☐ (d) Are filed more than 90 days after the notice, but not less than 14 days nor more than 45 days after the adjournment of the final public hearing on the rule; or
  - ☐ (e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or
  - ☐ (f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or
  - ☐ (g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was considered; or



[ ] (h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

[ ] (i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the small business ombudsman.

Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule Number:

15C-7.005

Under the provisions of subparagraph 120.54(3)(e)6., F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective: \_\_\_\_\_.

\_\_\_\_\_  
Julie Jones

\_\_\_\_\_  
Executive Director  
Title

\_\_\_\_\_  
Department of Highway Safety and Motor Vehicles  
Agency

2  
Number of Pages Certified

**15C-7.005 Unauthorized Additional Motor Vehicle Dealerships - Unauthorized Supplemental Dealership Locations.**

~~(1) An additional motor vehicle dealership, as contemplated by Sections 320.27(5) and 320.642, Florida Statutes, shall be deemed to be established when motor vehicles are regularly and repeatedly sold at a specific location in the State of Florida for retail purposes if the motor vehicle dealer transacting such sales:~~

~~(a) Is not located in this state, or~~

~~(b) Is not a licensed motor vehicle dealer franchised for the specific line make, or~~

~~(c) Is a licensed motor vehicle dealer franchised for such line make, but such sales are transacted at a location other than that permitted by the license issued to the dealer by the Department. Such sales are not subject to this rule, however, when a motor vehicle dealer occasionally and temporarily (not to exceed seven days) sells motor vehicles from a location other than the motor vehicle dealer's licensed location provided such sales occur within the motor vehicle dealer's area of sales responsibility (except a motor vehicle dealer who may be deemed a licensee under this rule).~~

~~(2) For the purpose of this rule, a sale for retail purposes is the first sale of the motor vehicle to a retail customer for private use, or the first sale of the motor vehicle for commercial use, such as leasing, if such commercial motor vehicle is not resold for a period of at least ninety days. Furthermore, this rule shall apply regardless of whether the titles issued, either in this or another state, pursuant to such sales are designated as "new" or "used."~~

~~(3) An additional motor vehicle dealership established in this fashion is unlawful and in violation of Section 320.642, Florida Statutes. A licensed motor vehicle dealer of the same line make, as the vehicle being sold in violation of this rule, may notify the Department of such violation. The notice shall include motor vehicle identification numbers or other data sufficient to identify the motor vehicles involved. The Department, upon receipt of such notice, shall conduct an investigation, including a determination of the identity of the selling dealer and initial retail purchaser of the motor vehicles involved.~~

~~(a) Within 30 days from receipt of a request from the Department containing motor vehicle identification numbers or other data sufficient to identify the motor vehicles involved, the licensee shall provide to the Department, to the extent such information is maintained by the licensee, copies of documents showing the dealer to whom each vehicle was originally delivered, any inter-dealer transfer and the initial retail purchaser as reported to the licensee. Upon a showing of good cause, the Department may grant the licensee additional time to provide the information requested under this paragraph. Examples of good cause include, but are not limited to, request for information on more than 100 vehicles, information on vehicle sales which accrued more than 2 years prior to the date of the request, and information which is no longer maintained in the licensee's current electronic data base.~~

~~(b) Within forty days of receipt of notice from the motor vehicle dealer, the Department shall make a determination of probable cause and if it determines that there is probable cause that a violation of this rule has occurred, the Department shall mail, by certified mail, return receipt requested, to the line make motor vehicle dealership or dealerships involved a letter containing substantially the following statement:~~

~~Pursuant to Rule 15C-7.005, F.A.C., the undersigned has received a notice that you have allegedly supplied a substantial number of vehicles on a regular and repeated basis, which were sold at a location in the State of Florida, at which you are not franchised or licensed to sell motor vehicles. If these allegations are true, your conduct may violate Florida law including, but not limited to, the above-mentioned rule, Sections 320.61 and 320.642, Florida Statutes. It may also cause you to be deemed a licensee, importer and/or distributor pursuant to Florida law and subject you to disciplinary action by the Florida Department of Highway Safety and Motor Vehicles, including fines and/or suspension of your Florida Dealer License, if applicable.~~

~~The Division of Motor Vehicles is putting you on notice, if you are conducting such activity, that you cease and desist such activity immediately. If you fail to do so, this agency will take appropriate action.~~

~~(c) If the dealer supplying vehicles in violation of subsections (1) and (4) is not located in the State of Florida, the Department shall notify such dealer in writing that they may be operating as a distributor of motor vehicles without proper authorization in violation of Section 320.61, Florida Statutes, and may be violating Section 320.642, Florida Statutes.~~

~~(4) A motor vehicle dealer, whether located in Florida or not, which supplies a substantial number of vehicles on a regular and repeated basis which are sold in the manner set forth in subsection (1), shall be deemed to have established a supplemental location in violation of Section 320.27(5), Florida Statutes, and Rule 15C-7.005, F.A.C. Furthermore, a motor vehicle dealer which supplies vehicles in this manner shall be deemed to have conducted business within the State of Florida and acted as a "licensee," "importer" and "distributor," as contemplated by Section 320.60, Florida Statutes, and thus such activity shall constitute a violation of Sections 320.61 and 320.642, Florida Statutes. Furthermore, this paragraph neither imposes any liability on a licensee nor creates a cause of action by any person against the licensee, except a motor vehicle dealer who may be deemed to have acted as a licensee under this~~

paragraph.

~~(5) Furthermore, no provision of this entire rule creates a private cause of action by any person against a licensee, other than a dealer who is deemed a licensee pursuant to the provisions of subsection (4) of this rule, for civil damages; provided, however, if a licensee fails to comply with the requirements of paragraph (3)(a) of this rule, the Department may bring an action for injunctive relief to require a licensee to provide the information required. No other action can be brought against the licensee pursuant to this entire rule other than a dealer who is deemed to be a licensee pursuant to the provisions of subsection (4) of this rule.~~

~~(6) Any franchised motor vehicle dealer who can demonstrate that a violation of, or failure to comply with, the provisions of subsection (4) of this rule by a motor vehicle dealer, or a motor vehicle dealer which pursuant to subsection (4) shall be deemed to have conducted business and acted as a licensee, importer, and distributor, has adversely affected or caused pecuniary loss to that franchised motor vehicle dealer, shall be entitled to pursue all remedies against such dealers, including, but not limited to the remedies, procedures, and rights of recovery available under Sections 320.695 and 320.697, Florida Statutes.~~

Rulemaking Specific Authority 320.011 FS. Law Implemented 320.27, 320.60-.70 FS. History--New 3-3-96, Repealed \_\_\_\_\_.



# Substantive Legislative Proposals

Fiscal Year: 2013-2014



## Department of Highway Safety and Motor Vehicles 2013 Legislative Proposals



Issue	Current Situation	Proposed Change	Justification	Fiscal Impact	Statutory Sites
<b>Impaired Driving</b>	Florida law relating to Interlock Devices allows one of the highest tolerance levels (.05) in the country. There are also other tweaks to IID, BAR hearings and license reinstatement which must be addressed.	<p>The following changes will improve impaired driving enforcement and highway safety</p> <ul style="list-style-type: none"> <li>• Lower the IID threshold from .05 to .025, making Florida's policy consistent with national standards.</li> <li>• Strengthen IID law for drivers who claim medical waivers</li> <li>• Clarify DUI convictions</li> <li>• Allow hearing officers to conduct hearings telephonically.</li> </ul>	The combination of these proposals will address some of the most glaring weaknesses in our impaired driving laws and aid the agency and law enforcement in keeping habitual offenders off Florida Highways.	Yes	Sections 322.2615; 322.2616; 322.64; 322.25(7); 322.2715; 322.28; 316.1937, F.S.
<b>Auto-Insurance</b>	Aiming to lower the uninsured motorists rate in Florida, the agency has continuously brought forth our best suggestions to increase compliance and accountability.	<p>The following concepts will serve us well in this crucial mission;</p> <ul style="list-style-type: none"> <li>• Requiring Electronic and Timely communications from Insurance Companies on all policies</li> </ul>	PIP compliance is paramount to keeping insurance rates & health-care costs low.		324.0221; 324.091; 324.161, F.S.

*continued*

## Department of Highway Safety and Motor Vehicles 2013 Legislative Proposals



Issue	Current Situation	Proposed Change	Justification	Fiscal Impact	Statutory Sites
<b>License and Registration - Modernizing and Streamlining Operations</b>	Statutory revisions are needed related to credentialing and issuance processes to more efficiently license millions of drivers and register millions more vehicles.	<ul style="list-style-type: none"> <li>These proposals seek to;</li> <li>• Clarify acceptable Identification documents.</li> <li>• Eliminate unnecessary hearings for license reinstatements.</li> <li>• Hold consumers responsible for providing insufficient-fund checks to the department.</li> <li>• Allow for e-titles in casual vehicle sales.</li> </ul>	The agency must continue to modernize and streamline motor vehicle registration and driver license issuance processes.	Yes	319.225; 319.23; 320.02; 320.07; 320.18; 322.22; 322.331, F.S.
<b>Teen Driver Safety</b>	Teen drivers must complete a staged licensure process which includes a curfew.	<ul style="list-style-type: none"> <li>Amend Chapter 322 to include additional restrictions on 15, 16, and 17 year old drivers for;</li> <li>• Cell-phone usage while driving</li> <li>• Limits on non-familial teen passengers.</li> </ul>	<ul style="list-style-type: none"> <li>• Reduce distractions and improve safety for teen drivers</li> <li>• Follow federal directives</li> <li>• Address fatality statistics for Florida teens.</li> </ul>	No	322.16, F.S.

*continued*

## Department of Highway Safety and Motor Vehicles 2013 Legislative Proposals



Issue	Current Situation	Proposed Change	Justification	Fiscal Impact	Statutory Sites
<b>Automobile Dealers</b>	DHSMV regulates and licenses automobile dealerships.	<ul style="list-style-type: none"> <li>• Eliminate unnecessary certificates of repossession and utilize title process</li> <li>• Give automobile dealers the choice of a 1 year or 2 year license.</li> </ul>	Streamlining regulatory environment for automobile dealers.	Yes	319.28; 319.323; 317.0016; 320.27, 320.62, 320.77, 320.771, 320.781, 320.822, F.S.
<b>Driver Improvement Schools- Traffic Law &amp; Substance Abuse Education Courses</b>	The Department has authority under Chapter 15A-8, Florida Administrative Code to develop curriculum for ADI & TLSAE courses provided and required for high-risk drivers. However, JAPC has questioned the rule developed by the department to administer said curriculum.	Clarify, in Chapters 318 and 322, the Department's rule making authority to carry out the implementation of driver improvement education curriculum and courses.	The Department proposes this law change in response to JAPC's questions regarding the Department's authority in Rule 15A-8.	No	318.1451; 322.095, F.S.

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<b>Specialty License Plates</b>	Recent implementation of new specialty license plates has shown a need to clarify and set expectations with regard to the start-up costs.	DHSMV is proposing the following remedies; <ul style="list-style-type: none"> <li>• Define the types of expenditures that are allowable as start-up costs.</li> <li>• Limit the time in which start-up costs may be incurred.</li> <li>• Clear directives for the Department on administrative oversight of organizations which have failed to use revenues in accordance with the law.</li> </ul>	To help prevent abuse of annual use fees distributed to Specialty License Plate organizations.	No	320.08053; 320.08062, F.S.
<b>Commercial Drivers and Commercial Learners</b>	Florida laws must be updated to implement recent changes to federal law regulating commercial drivers.	The following changes are being proposed for 2013; Set statutory fine amounts for texting while driving <ul style="list-style-type: none"> <li>• Make uniform the penalties for CDL and CLP holders</li> <li>• Clean-up IRP definitions in statute</li> <li>• Change Commercial Learner's Permits from paper to plastic cards</li> <li>• Make regulations for inter- and intrastate trucking uniform and in compliance with cargo tank regulations as well as liquid petroleum standards.</li> </ul>	Now required by federal rule, 49 CFR.	Potential loss in Federal Funds if not implemented.	320.0715; 322.21; 318.14; 322.61; 322.212; 320.071; 316.545; 316.025 F.S.

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<b>Medical Advisory Board and Examinations for Driver Licenses</b>	Medical Examination is an important part of the licensing process. Medical Advisory Board Members must be a member of the FMA, FOA, or FOMA. Drivers requiring vision tests must be tested by Florida licensed physicians. Lastly, statute which requires Tax Collector's to perform all medical examinations by 2015 is confused by an old statute which must be deleted.	<ul style="list-style-type: none"> <li>• Eliminates the requirements that a medical board member be a member of other associations, simply require appointees be Florida Physicians.</li> <li>• Eliminates the requirement that vision tests can only be submitted by Doctors licensed to practice in the State of Florida.</li> <li>• Clarifies that medical re-examinations be performed by tax collectors in accordance with DL Transition plan.</li> </ul>	These changes are needed to help Floridians have access to quality medical examinations and timely services as they seek new or renewed driver licenses.	No	322.125; 322.135; 322.18, F.S.
<b>Departmental Records and Modernization</b>	With millions of driver records, crash reports, and communication between of those records between agencies - the Department continues to focus on making our data and our data-exchanges electronic.	<p>The following items will help to modernize and make uniform our records and data exchanges;</p> <ul style="list-style-type: none"> <li>• Electronic Crash Reports.</li> <li>• Electronic notifications to the Department by the Clerks of Court.</li> <li>• Clean-up of public records fees - starting the process of pulling MV and DL fees under one easy-to-read section and clarifying fees with multiple codes or costs.</li> </ul>	These policy tweaks will help DHSMV to move forward with the concept of the 21st century Dept. of Highway Safety.	Yes	316.066; 316.068; 322.245; 320.05; 322.20, F.S.

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## Department of Highway Safety and Motor Vehicles 2013 Legislative Proposals



Issue	Current Situation	Proposed Change	Justification	Fiscal Impact	Statutory Sites
<b>Excessive funds retained for Vessel Registration Program Costs</b>	Section 328.76(1) provides for the Dept. to retain \$1.4m to fund administrative costs from revenues collected related to vessel registration. Due to reorganization & efficiencies the Department's administrative costs for the Vessel Registration program have been significantly reduced. The amount being retained is in excess of actual administrative costs.	328.76(1): Except as otherwise specified in this subsection and less the amount equal to administrative costs which shall be deposited into the Highway Safety Operating Trust Fund.	Agency will be authorized to retain an amount equal to the cost of administering the Vessel Registration program.	Yes -675K to DHSMV, but positive to FWC = no statewide impact	328.76(1) F.S.