

# CHAPTER 98-414

## House Bill No. 3509

An act relating to motor vehicles; amending s. 320.08053, F.S.; revising language with respect to requirements for requests to establish specialty license plates; amending s. 320.08056, F.S.; revising language with respect to specialty license plates to provide criteria for the discontinuance of the issuance of an approved plate; amending s. 320.08062, F.S.; revising language with respect to an annual required audit or report; revising language with respect to annual use fees of special license plates; creating s. 320.023, F.S.; revising language with respect to requirements for requests to establish voluntary contributions on motor vehicle registration applications; providing criteria for the discontinuance of the issuance of an approved voluntary contribution; requiring an annual audit or report; providing criteria for discontinuing a voluntary contribution; creating s. 322.081, F.S.; revising language with respect to requirements for requests to establish voluntary contributions on driver's license applications; providing criteria for the discontinuance of the issuance of an approved voluntary contribution; requiring an annual audit or report; providing criteria for discontinuing a voluntary contribution; amending s. 320.08056, F.S.; increasing the annual use fee for manatee license plates; amending s. 320.08058, F.S.; revising the permitted use of such fees; amending s. 215.22, F.S.; exempting the Save the Manatee Trust Fund from certain required contributions to the General Revenue Fund; providing an effective date.

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

Section 1. Subsection (1) of section 320.08053, Florida Statutes, is amended to read:

320.08053 Requirements for requests to establish specialty license plates.—

(1) An organization that seeks authorization to establish ~~the establishment of~~ a new specialty license plate for which an annual use fee is to be charged must submit to the department:

(a) A request for the particular specialty license plate being sought, describing the proposed specialty license plate in general terms.

(b) The results of a scientific sample survey of Florida motor vehicle owners that indicates at least 15,000 motor vehicle owners intend to purchase the proposed specialty license plate at the increased cost. The sample survey of registered motor vehicle owners must be performed independently of the requesting organization by an organization that conducts similar sample surveys as a normal course of business. Prior to conducting a sample survey for the purposes of this section, a requesting organization must obtain a determination from the department that the organization selected

to conduct the survey performs similar surveys as a normal course of business and is independent of the requesting organization. A petition, on a form approved by the department, signed by 10,000 or more residents who state their intent to purchase the requested specialty license plate.

(c) An application fee, not to exceed \$60,000 \$30,000, to defray the department's cost for reviewing the application and developing the specialty license plate, if authorized. State funds may not be used to pay the application fee, except for collegiate specialty license plates authorized in s. 320.08058(3) and (13). The specialty license plate application provisions of this act shall not apply to any organization which has requested and received the required forms for obtaining a specialty license plate authorization from the Department of Highway Safety and Motor Vehicles, has opened a bank account for the funds collected for the specialty license tag and has made deposits to such an account, and has obtained signatures toward completing the requirements for the specialty license tag. All applications requested on or after the effective date of this act must meet the requirements of this act.

(d) A marketing strategy outlining short-term and long-term marketing plans for the requested specialty license plate and a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the sale of the requested specialty license plates.

The information required under this subsection must be submitted to the department at least 90 days before the convening of the next regular session of the Legislature.

Section 2. Subsections (8) and (9) of section 320.08056, Florida Statutes, are amended, and subsection (10) is added to said section, to read:

320.08056 Specialty license plates.—

(8)(a) The department must discontinue the issuance of an approved specialty license plate if:

1. Less than 8,000 plates are issued for that specialty license plate by the end of the 5th year of sales.

2. Less than 8,000 plates are issued for that specialty license plate during any subsequent 5-year period.

(b) The department is authorized to discontinue the issuance of a specialty license plate and distribution of associated annual use fee proceeds if the organization no longer exists, if the organization has stopped providing services that are authorized to be funded from the annual use fee proceeds, or pursuant to an organizational recipient's request.

(c) The requirements of paragraph (a) shall not apply to collegiate specialty license plates authorized in s. 320.08058(3) and (13). If annual use fee revenues from the sale of a specialty license plate exceed the department's costs by the 5th year of sales, that specialty license plate may be issued for an additional period of 5 years. However, if in the 5th year of each additional

~~5-year period, the department determines that annual use fee revenues from the sale of a specialty license plate are insufficient to defray all of the department's costs related to that specialty license plate, the department shall discontinue issuing that specialty license plate.~~

(9) The organization that requested the specialty license plate may not redesign the specialty license plate ~~before the end of the 5th year unless the inventory of those plates has been depleted.~~ However, the organization may purchase the remaining inventory of the specialty license plates from the department at cost.

(10) A specialty license plate annual use fee collected and distributed under this chapter, or any interest earned from those fees, may not be used for commercial or for-profit activities nor for general or administrative expenses, except as authorized by s. 320.08058 or to pay the cost of the audit or report required by s. 320.08062(1).

Section 3. Section 320.08062, Florida Statutes, is amended to read:

320.08062 Audits required; annual use fees of special license plates.—

(1)(a) All organizations that receive annual use fee proceeds from the department are responsible for ensuring that proceeds are used in accordance with ss. 320.08056 and 320.08058.

(b) All organizational recipients of any specialty license plate annual use fee authorized in this chapter, not otherwise subject to annual audit by the Office of the Auditor General, shall submit either an annual or biennial audit of the expenditures of annual use fees and interest earned from these fees, to determine if expenditures are being made in accordance with the specifications outlined by law. The audit shall be prepared by a certified public accountant licensed under chapter 473 at that organizational recipient's expense. The notes to the financial statements should state whether expenditures were made in accordance with ss. 320.08056 and 320.08058. Such audits shall be delivered to the President of the Senate, the Speaker of the House of Representatives, the Office of the Governor, and the department no later than December 31 of the calendar year in which the audit was performed.

(c) In lieu of an annual audit, any organization receiving less than \$25,000 in annual use fee proceeds directly from the department, or from another state agency, may annually report, under penalties of perjury, that such proceeds were used in compliance with ss. 320.08056 and 320.08058. The attestation shall be made annually in a form and format determined by the department.

(d) The annual audit or report shall be submitted to the department for review within 180 days after the end of the organization's fiscal year.

~~(2) A specialty license plate annual use fee collected and distributed under this chapter, or any interest earned from those fees, may not be used for commercial or for-profit activities nor for general or administrative expenses, except to pay the cost of the independent audit required by subsection (1).~~

~~(2)(3)~~ Within 90 days after receiving an organization's audit or report By February 1 of each year, the department shall determine which recipients of revenues from specialty license plate annual use fees have not complied with subsection (1). If the department determines that an organization has not complied with subsection (1) or has failed to use the revenues in accordance with ss. 320.08056 and s. 320.08058, the department must may discontinue the distribution of the revenues to the organization until the department determines that the organization has complied is complying with those provisions. If an organization fails to comply within 12 months after the annual use fee proceeds are withheld by the department, the proceeds shall be deposited into the Highway Safety Operating Trust Fund to offset department costs related to the issuance of specialty license plates.

~~(3)(4)~~ The Auditor General and the department have has the authority to examine all records pertaining to the use of funds from the sale of specialty license plates.

Section 4. Section 320.023, Florida Statutes, is created to read:

320.023 Requests to establish voluntary check off on motor vehicle registration application.—

(1) An organization that seeks authorization to establish a voluntary contribution on a motor vehicle registration application must submit to the department:

(a) A request for the particular voluntary contribution being sought, describing the proposed voluntary contribution in general terms.

(b) An application fee, not to exceed \$10,000 to defray the department's cost for reviewing the application and developing the voluntary contribution checkoff, if authorized. State funds may not be used to pay the application fee.

(c) A marketing strategy outlining short-term and long-term marketing plans for the requested voluntary contribution and a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the voluntary contribution.

The information required under this subsection must be submitted to the department at least 90 days before the convening of the next regular session of the Legislature.

(2) If the voluntary contribution is not approved by the Legislature, the application fee must be refunded to the requesting organization.

(3) The department must include any voluntary contributions approved by the Legislature on the motor vehicle application form when the form is reprinted by the agency.

(4)(a) The department must discontinue the voluntary contribution if:

1. Less than \$25,000 has been contributed by the end of the 5th year.

2. Less than \$25,000 is contributed during any subsequent 5-year period.

(b) The department is authorized to discontinue the voluntary contribution and distribution of associated proceeds if the organization no longer exists, if the organization has stopped providing services that are authorized to be funded from the voluntary contributions, or pursuant to an organizational recipient's request.

(5) A voluntary contribution collected and distributed under this chapter, or any interest earned from those contributions, may not be used for commercial or for-profit activities nor for general or administrative expenses, except as authorized by law, or to pay the cost of the audit or report required by law.

(a) All organizations that receive annual use fee proceeds from the department are responsible for ensuring that proceeds are used in accordance with law.

(b) All organizational recipients of any voluntary contributions in excess of \$15,000, not otherwise subject to annual audit by the Office of the Auditor General, shall submit an annual audit of the expenditures of these contributions and interest earned from these contributions, to determine if expenditures are being made in accordance with the specifications outlined by law. The audit shall be prepared by a certified public accountant licensed under chapter 473 at that organizational recipient's expense. The notes to the financial statements should state whether expenditures were made in accordance with law. Such audits must be delivered to the department no later than December 31 of the calendar year in which the audit was performed.

(c) In lieu of an annual audit, any organization receiving less than \$15,000 in voluntary contributions directly from the department may annually report, under penalties of perjury, that such proceeds were used in compliance with law. The attestation shall be made annually in a form and format determined by the department.

(d) Any voluntary contributions authorized by law shall only be distributed to an organization under an appropriation by the Legislature.

(6) By February 1 each year, the department shall determine which recipients have not complied with subsection (5). If the department determines that an organization has not complied or has failed to use the revenues in accordance with law the department must discontinue the distribution of the revenues to the organization until the department determines that the organization has complied. If an organization fails to comply within 12 months after the voluntary contributions are withheld by the department, the proceeds shall be deposited into the Highway Safety Operating Trust Fund to offset department costs.

(7) The Auditor General and the department have the authority to examine all records pertaining to the use of funds from the voluntary contributions authorized.

Section 5. Section 322.081, Florida Statutes, is created to read:

322.081 Requests to establish voluntary check off on driver's license application.—

(1) An organization that seeks authorization to establish a voluntary contribution on a driver's license application must submit to the department:

(a) A request for the particular voluntary contribution being sought, describing the proposed voluntary contribution in general terms.

(b) An application fee, not to exceed \$10,000 to defray the department's cost for reviewing the application and developing the voluntary contribution checkoff, if authorized. State funds may not be used to pay the application fee.

(c) A marketing strategy outlining short-term and long-term marketing plans for the requested voluntary contribution and a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the voluntary contribution.

The information required under this subsection must be submitted to the department at least 90 days before the convening of the next regular session of the Legislature.

(2) If the voluntary contribution is not approved by the Legislature, the application fee must be refunded to the requesting organization.

(3) The department must include any voluntary contributions approved by the Legislature on the driver's license application form when the form is reprinted by the agency.

(4)(a) The department must discontinue the voluntary contribution if:

1. Less than \$25,000 has been contributed by the end of the 5th year.

2. Less than \$25,000 is contributed during any subsequent 5-year period.

(b) The department is authorized to discontinue the voluntary contribution and distribution of associated proceeds if the organization no longer exists, if the organization has stopped providing services that are authorized to be funded from the voluntary contributions, or pursuant to an organizational recipient's request.

(5) A voluntary contribution collected and distributed under this chapter, or any interest earned from those contributions, may not be used for commercial or for-profit activities nor for general or administrative expenses, except as authorized by law, or to pay the cost of the audit or report required by law.

(a) All organizations that receive annual use fee proceeds from the department are responsible for ensuring that proceeds are used in accordance with law.

(b) All organizational recipients of any voluntary contributions in excess of \$15,000, not otherwise subject to annual audit by the Office of the Auditor General, shall submit an annual audit of the expenditures of these contributions and interest earned from these contributions, to determine if expenditures are being made in accordance with the specifications outlined by law. The audit shall be prepared by a certified public accountant licensed under chapter 473 at that organizational recipient's expense. The notes to the financial statements should state whether expenditures were made in accordance with law. Such audits must be delivered to the department no later than December 31 of the calendar year in which the audit was performed.

(c) In lieu of an annual audit, any organization receiving less than \$15,000 in voluntary contributions directly from the department may annually report, under penalties of perjury, that such proceeds were used in compliance with law. The attestation shall be made annually in a form and format determined by the department.

(d) Any voluntary contributions authorized by law shall only be distributed to an organization under an appropriation by the Legislature.

(6) By February 1 each year, the department shall determine which recipients have not complied with subsection (5). If the department determines that an organization has not complied or has failed to use the revenues in accordance with law the department must discontinue the distribution of the revenues to the organization until the department determines that the organization has complied. If an organization fails to comply within 12 months after the voluntary contributions are withheld by the department, the proceeds shall be deposited into the Highway Safety Operating Trust Fund to offset department costs.

(7) The Auditor General and the department have the authority to examine all records pertaining to the use of funds from the voluntary contributions authorized.

Section 6. Effective July 1, 1999, paragraph (a) of subsection (4) of section 320.08056, Florida Statutes, is amended to read:

320.08056 Specialty license plates.—

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

(a) Manatee license plate, \$20 \$15.

Section 7. Effective July 1, 1999, paragraph (b) of subsection (1) of section 320.08058, Florida Statutes, is amended to read:

320.08058 Specialty license plates.—

(1) ~~MANATEE LICENSE PLATES.~~—

~~(b)1.~~ The manatee license plate annual use fee must be deposited into the Save the Manatee Trust Fund, created within the Department of Environmental Protection. The funds deposited in the Save the Manatee Trust Fund

may be used only for manatee-related environmental education; manatee research; facilities, as provided in s. 370.12(5)(b); and manatee protection and recovery.

~~2. For fiscal year 1996-1997, 25 percent of the manatee license plate annual use fee must be deposited into the Save the Manatee Trust Fund within the Department of Environmental Protection and shall be used for manatee facilities as provided in s. 370.12(5)(b).~~

Section 8. Effective July 1, 1999, paragraph (t) is added to subsection (1) of section 215.22, Florida Statutes, to read:

215.22 Certain income and certain trust funds exempt.—

(1) The following income of a revenue nature or the following trust funds shall be exempt from the deduction required by s. 215.20(1):

(t) The Save the Manatee Trust Fund.

Section 9. This act shall take effect upon becoming a law.

Became a law without the Governor's approval June 17, 1998.

Filed in Office Secretary of State June 11, 1998.