

Senate Bill No. 196

An act relating to the exclusionary rule; creating s. 90.959, F.S.; providing legislative findings regarding the Division of Driver Licenses and the Division of Motor Vehicles of the Department of Highway Safety and Motor Vehicles; providing legislative findings regarding records maintained by the divisions; providing legislative findings regarding the missions of the divisions and the department; providing legislative findings regarding the application of the exclusionary rule; prohibiting the exclusion of evidence in certain circumstances; amending s. 322.20, F.S.; providing that the creation and maintenance of records of the Department of Highway Safety and Motor Vehicles and the Division of Driver Licenses pursuant to ch. 322, F.S., are not law enforcement functions; amending s. 320.05, F.S.; providing that the creation and maintenance of records of the Department of Highway Safety and Motor Vehicles and the Division of Motor Vehicles pursuant to ch. 320, F.S., are not law enforcement functions; providing an effective date.

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

Section 1. Section 90.959, Florida Statutes, is created to read:

90.959 Admission of evidence obtained from the Division of Driver Licenses and the Division of Motor Vehicles.—

(1) The Legislature finds that the Division of Driver Licenses and the Division of Motor Vehicles of the Department of Highway Safety and Motor Vehicles are not law enforcement agencies. The Legislature also finds that the divisions are not adjuncts of any law enforcement agency in that employees have no stake in particular prosecutions. The Legislature further finds that errors in records maintained by the divisions are not within the collective knowledge of any law enforcement agency. The Legislature also finds that the missions of the Division of Driver Licenses, the Division of Motor Vehicles, and the Department of Highway Safety and Motor Vehicles provide a sufficient incentive to maintain records in a current and correct fashion.

(2) The Legislature finds that the purpose of the exclusionary rule is to deter misconduct on the part of law enforcement officers and law enforcement agencies.

(3) The Legislature finds that the application of the exclusionary rule to cases where a law enforcement officer effects an arrest based on objectively reasonable reliance on information obtained from the divisions is repugnant to the purposes of the exclusionary rule and contrary to the decisions of the United States Supreme Court in Arizona v. Evans, 514 U.S. 1 (1995) and United States v. Leon, 468 U.S. 897 (1984).

(4) In any case where a law enforcement officer effects an arrest based on objectively reasonable reliance on information obtained from the divi-

sions, evidence found pursuant to such an arrest shall not be suppressed by application of the exclusionary rule on the grounds that the arrest is subsequently determined to be unlawful due to erroneous information obtained from the divisions.

Section 2. Subsection (15) is added to section 322.20, Florida Statutes, to read:

322.20 Records of the department; fees; destruction of records.—

(15) The creation and maintenance of records by the department and the Division of Driver Licenses pursuant to chapter 322 shall not be regarded as law enforcement functions of agency recordkeeping.

Section 3. Subsection (5) is added to section 320.05, Florida Statutes, to read:

320.05 Records of the department; inspection procedure; lists and searches; fees.—

(5) The creation and maintenance of records by the department and the Division of Motor Vehicles pursuant to chapter 320 shall not be regarded as law enforcement functions of agency recordkeeping.

Section 4. This act shall take effect July 1, 2002.

Approved by the Governor May 1, 2002.

Filed in Office Secretary of State May 1, 2002.