

IN THE SUPREME COURT OF FLORIDA

DEPARTMENT OF HIGHWAY  
SAFETY and MOTOR VEHICLES,

*Appellant,*

CASE NO. SC02-\_\_\_\_\_

v.  
1617)

(Fifth DCA case no. 5D01-

ROBERT P. CRITCHFIELD,

*Appellee.*

\_\_\_\_\_ /

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On Appeal of Right from the District Court  
of Appeal, Fifth District of Florida

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INITIAL BRIEF OF APPELLANT

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**STATEMENT OF THE CASE AND FACTS**

The Department of Highway Safety and Motor Vehicles appeals of right from a decision by the Fifth District Court of Appeal, which held ch. 98-223, Laws of Florida, violates the single subject rule in Art. III, §6 of the Florida Constitution. Based on this holding, Critchfield was found not legally barred from applying for a hardship driver's license despite four convictions for DUI.

Critchfield received his fourth DUI conviction in 1987. His driver's license was "permanently" revoked. Nevertheless, he applied for a hardship license in 1995; that application was denied. (R2:273).<sup>1</sup>

He re-applied in 1999. DHSMV determined he was not eligible for a license due to a change in the law. (R1:4, ¶22). That

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<sup>1</sup>The record on appeal consists of two volumes of filings, and will be cited as (R[vol. #]:[page #]).

change was made by §8 of ch. 98-223, Laws of Florida,<sup>2</sup> effective July 1, 1998. (R2:273-4).

Critchfield brought a two-count complaint for declaratory relief; count two alleged ch. 98-223 included more than one subject. (R1:5-6). Both parties moved for summary judgment. (R1:86-97;R2:188-271). Ruling only on the single-subject issue, the trial court granted Critchfield's motion, and entered final judgment for him. (R2:272-77,295-6).

DHSMV appealed to the Fifth DCA, which affirmed. It held there was no natural or logical connection between §2 of ch. 98-223 and the remainder of that act. Department of Highway Safety and Motor Vehicles v. Critchfield, 27 Fla.L.Weekly D130 (5th DCA Jan. 4, 2002). DHSMV's motion for clarification was denied January 29. DHSMV filed its notice of appeal February 12, 2002.

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<sup>2</sup>Section 8 of ch. 98-223 amended §322.26(1)(a), Fla. Stat., to provide:

The department shall forthwith revoke the license or driving privilege of any person upon receiving a record of such person's conviction of any of the following offenses:

(1)(a) ... [A] fourth violation of s. 316.193 or former s. 316.1931. For such cases, the revocation of the driver's license or driving privilege shall be permanent.

(underlining original).

## SUMMARY OF THE ARGUMENT

The small part (section 2) of ch. 98-223, Laws of Florida, which troubled the Fifth DCA could not possibly have been enacted through "log-rolling." Moreover, ch. 98-223 can reasonably be read to include only one subject; that is, be interpreted in a constitutional manner.

All substantive provisions of ch. 98-223 relate to suspension of a driver's license upon prosecution for a bad check; issuance or revocation of driver's licenses after DUI offenses; other traffic infractions, and the crime of driving with a revoked license. In short, all of ch. 98-223 addresses conditions legislatively required to continue the privilege of driving a motor vehicle. The district court erred by discerning more than one subject in ch. 98-223. Its decision must be reversed.

## ARGUMENT

### ISSUE

**WHETHER CH. 98-223, LAWS OF FLORIDA, INCLUDES MORE THAN ONE SUBJECT, IN VIOLATION OF ART. III, §6, FLORIDA CONSTITUTION.**

#### **A. Standard of Review**

Whether a session law includes more than one subject is an issue of law. The standard of review is *de novo*. See Armstrong

v. Harris, 773 So.2d 7, 11 (Fla. 2000) (reviewing a proposed constitutional amendment), *cert. den.* 121 S.Ct. 1487 (2001); Dickerson v. State, 783 So.2d 1144, 1146 (Fla. 5th DCA 2001) (reviewing a decision on the constitutionality of a statute).

Because statutes are presumed constitutional, the challenged statute--not the decision under review--enjoys deference from this Court. See State v. Slaughter, 574 So.2d 218, 220 (Fla. 1st DCA 1991) (when trial court holds statute unconstitutional, "the statute, rather than the trial court's ruling, is favored with a presumption of validity").



**B. Section 2 of Ch. 98-223 could not have been Enacted through "Log-Rolling"**

As mentioned, the Fifth DCA concluded ch. 98-223 included more than one subject, in violation of Article III, §6 of the Florida Constitution.<sup>3</sup> However, that court actually found only one, small part (section 2) of ch. 98-223 to constitute the "second" subject:<sup>4</sup>

Section 2 lacks a logical or natural connection to driver's licenses, registrations or operation of motor vehicles which are the subject matter of Chapter 98-223. It rather relates to collection of debts evidenced by bad checks by private debt collectors and recovery of reasonable collection fees incurred by such private debt collectors.

\* \* \*

Here a natural or logical connection exists between driver's licenses, vehicle registrations and operation of motor vehicles. However, no such connection exists with use of private debt collectors to collect debts evidenced by bad checks. Unlike section 1, nothing in section 2 refers to driver's licenses or to the suspension

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<sup>3</sup>Art. III, §6 provides in relevant part:

Every law shall embrace but one subject and matter properly connected therewith, and the subject shall be briefly expressed in the title.

<sup>4</sup>The trial court found fault with section 2 only. See Critchfield, 27 Fla.L.Weekly (quoting the trial court: "Specifically, section two of the act cannot be read in any way which would relate it to driver's licenses." [e.s.]). (App. A, p.6).

thereof or for that matter to the operation of motor vehicles. Section 2 applies to private collection efforts on bad checks and has nothing whatsoever to do with driver's licenses or operation of motor vehicles.

Critchfield, 27 Fla.L.Weekly at D130 (App. A, p.7-8).

In short, the Fifth DCA invalidated all of ch. 98-223 because section 2 provided an alternative to prosecution for bad checks. However, simple comparison of section 2 to sections 1 and 3 of ch. 98-223 reveals that section 2 could not possibly have been enacted in violation of Art. III, §6; that is, through "log-rolling." See Martinez v. Scanlan, 582 So.2d 1167, 1172 (Fla. 1991) ("The purpose of this constitutional prohibition against a plurality of subjects in a single legislative act is to prevent "logrolling" where a single enactment becomes a cloak for dissimilar legislation ....").

Sections 1-3 of ch. 98-223 provide:

Section 1. Section 832.09, Florida Statutes, is created to read:

832.09. Suspension of driver license after warrant or capias is issued in worthless check case.--

(1) Any person who is being prosecuted for passing a worthless check in violation of s. 832.05, who fails to appear before the court and against whom a warrant or capias for failure to appear is issued by the court shall have his or her driver's license suspended or revoked pursuant to s. 322.251.

(2) Within 5 working days after the issuance of a warrant or capias for failure to appear the clerk of the court in the county where the warrant or capias is issued, shall notify the Department of Highway Safety and Motor Vehicles by the most efficient method available of the action of the court.

Section 2. Section 832.10, Florida Statutes, is created to read:

832.10. Alternative to bad check diversion program; fees for collection.--

(1) Prior to presenting a complaint about a dishonored check to a state attorney, a payee on such bad check may place or assign the debt evidenced by the bad check for collection pursuant to this section by a private debt collector registered under part VI, chapter 559, Florida Statutes.

(2) Upon such placement or assignment the payee shall be entitled to add a collection fee to offset the cost of collection. This collection fee is in addition to the bad check service charges authorized by law. The collection fee payable to the debt collector shall be a reasonable fee in accord with industry standards, based upon the total amount collected.

(3) Unless extended by the payee, the debt collector shall have 90 days from the date of placement or assignment of the debt for collection within which to collect the amount of the bad check, applicable bad debt charges, and the collector's collection fee. Upon the expiration of such 90 day period and any extensions thereof, the payee then may present a complaint to the appropriate state attorney. The debt collector may continue to try to collect the debt, provided such collection effort does not impede the prosecution or other disposition of the case by the state attorney.

(4) The debt collector may not compromise the amount to be collected without the express consent of the payee of the check. The debt collector shall remit to the payee the amount collected less the collector's fee percentage on the total amount collected.

(5) The use of such debt collector shall not affect the authority of the state attorney to prosecute any person for any violation of s. 832.04, s. 832.041, s. 832.05, or s. 832.06. The use of this section by a payee on a bad check shall not affect the rights of the payee, other than as set forth in this section, to present a complaint to the appropriate state attorney.

Section 3. Subsection (7) is added to section 322.251, Florida Statutes, to read:

322.251. Notice of cancellation, suspension, revocation, or disqualification of license.--

(7)(a) A person whose driving privilege is suspended or revoked pursuant to s. 832.09 shall be notified, pursuant to this section, and the notification shall direct the person to surrender himself or herself to the sheriff who entered the warrant to satisfy the conditions of the warrant. A person whose driving privilege is suspended or revoked under this subsection shall not have his or her driving privilege reinstated for any reason other than:

1. Full payment of any restitution, court costs, and fees incurred as a result of a warrant or capias being issued pursuant to s. 832.09;

2. The cancellation of the warrant or capias from the Department of Law Enforcement recorded by the entering agency; and

3. The payment of an additional fee of \$10 to the Department of Highway Safety and Motor Vehicles to be paid into the Highway Safety Operating Trust Fund; or

4. The department has modified the suspension or revocation of the license pursuant to s. 322.271 restoring the driving privilege solely for business or employment purposes.

(b) The Department of Law Enforcement shall provide electronic access to the department for the purpose of identifying any person who is the subject of an outstanding warrant or capias for passing worthless bank checks.

(c) The Department of Highway Safety and Motor Vehicles and the Department of Law Enforcement shall develop and implement a plan to ensure the identification of any person who is the subject of an outstanding warrant or capias for passing worthless bank checks and to ensure the identification of the person's driver's license record.

1998 Laws of Florida, v. 1, part Two, p.2101-03 (underlying original).

It is inconceivable that any legislator willing to vote for passage of sections 1 and 3--relating to suspension of drivers licenses for passing bad checks--would feel forced to accede to section 2, which indirectly provides from relief from suspension. In short, the Fifth DCA (and the trial court) were so intent on discerning a "second" subject in ch. 98-223, that each court overlooked the purpose of the single subject rule. There can be no legitimate fear that section 2 was indeed enacted through logrolling. In short, the decision of the Fifth

DCA (and the trial court) placed form over substance.<sup>5</sup> This Court should not repeat that mistake.

**C. Ch. 98-223 does not Violate the Single Subject Rule**

Chapter 98-223, Laws of Florida, can reasonably be interpreted in a constitutional manner; that is, to conclude it addresses only one "subject." Its two main topics, worthless checks and issuance or revocation of driver's licenses after DUI convictions, are superficially disparate. Fair, but closer, reading discloses a unifying theme: all substantive provisions relate to the issuance or revocation of driver's licenses, or to traffic offenses; that is, to conditions legislatively required in return for the privilege of driving a motor vehicle. The Fifth District erred by concluding otherwise.

DHSMV's position provided a constitutional interpretation of ch. 98-223, which the court should have followed. As this Court recently said:

There is a strong presumption that statutes are constitutionally valid. Therefore, we are obligated to interpret statutes in such a manner as to uphold their constitutionality if it is reasonably possible to do so.

Dickerson, 783 So.2d at 1146 [cites omitted]. See State ex rel.

Flink v. Canova, 94 So.2d 181, 184-5 (Fla. 1957):

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<sup>5</sup>DHSMV did not argue "harmless error" before the Fifth DCA, if that principle is available when a law is challenged for including more than one subject.

Should any doubt exist that an act is in violation of art. III, Sec. 16 of the [1868] Constitution,<sup>[6]</sup> ... the presumption is in favor of constitutionality. To overcome the presumption, the invalidity must appear beyond reasonable doubt .... Therefore, the act must be construed, if fairly possible, as to avoid unconstitutionality ....

Flink rejected a single subject challenge to an act relating to drug stores and pharmacy. Here, it is fairly possible to interpret the provisions of ch. 98-223 as relating to conditions placed upon the privilege of driving.

Chapter 98-223 has 15 sections; 13 are substantive.<sup>7</sup> Section 1 provides for suspension of a driver's license upon prosecution for passing a worthless check; section 3, for notice to the licensee, etc. upon such suspension. These provisions establish reasonable conditions for holding a driver's license, because "driving is a privilege, and the privilege can be taken away or encumbered as a means of meeting a legitimate legislative goal." Lite v. State, 617 So.2d 1058, 1060 (Fla. 1993) (upholding statute which required revocation of driver's license upon conviction for possession or sale controlled substance, even when vehicle not used).

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<sup>6</sup>Art. III, sec. 16 of the 1868 Constitution began: "Each law enacted in the Legislature shall embrace but one subject and matter properly connected therewith ...."

<sup>7</sup>Section 5 appropriates \$35,000; section 15 provides an effective date. They will not be addressed further.

Section 4 authorizes DHSMV to sell digital images and other driver's license information for the purpose of preventing fraud. It implies the acceptance of a license constitutes consent to such sale.

Sections 6 and 7 establish various non-criminal traffic infractions. They encumber the driving privilege by specifying civil penalties for such infractions.

Section 8 is the one affecting Critchfield. In pertinent part, it requires DHSMV to permanently revoke the "driver's license or driving privilege" upon a person's fourth DUI conviction. It places express conditions upon the privilege of driving.

Section 9 limits "reinstatement" of the privilege to drive after suspension or revocation of licenses. It prohibits certain persons from petitioning DHSMV for reinstating the privilege to drive; by requiring "no" prior DUI convictions as a condition for reinstatement. Section 9 thereby places conditions on the privilege of driving.

Sections 10 and 11 provide for the period of suspension or revocation of licenses. Section 12 creates a rebuttable presumption of knowledge that a driver's license has been suspended.



Section 13 creates a third-degree felony for driving with a revoked license. Its relationship to the driving privilege is self-evident. Section 14 amends the statute requiring all motor vehicle owners or registrants to have "security" (insurance). That requirement is a broad condition on maintaining a license to drive.

Only section 2--the lone part of ch. 98-223 which troubled the Fifth DCA--remains. Contrary to the reasoning in the decision below, this section can be logically connected to the rest of ch. 98-223.

Section 2 provides for assignment of a bad check to a debt collector before prosecution by the state attorney. If the recipient of the bad check is satisfied, the state attorney can drop the case. There is no prosecution, and thus no hearing.

Absent a hearing, there is no opportunity for the writer of a bad check to have his or her driver's license automatically suspended by not appearing. In this manner, section 2 indirectly provides an incentive for a person (confronted by a private debt collector) to make good on a bad check--and avoid the possibility of license suspension. Restated, section 2 provides an incentive for someone to retain their privilege to drive.

Section 2 was enacted between two other sections (one and three) expressly mentioning drivers licenses. Because sections one, two and three were adopted simultaneously and specifically address the same subject (bad checks), they must be construed together. See McGhee v. Volusia County, 679 So.2d 729, 730 n. 1 (Fla. 1996) ("The doctrine of in pari materia requires the courts to construe related statutes together so that they illuminate each other and are harmonized.").

Construing section 2 in light of sections 1 and 3 provides the basis for finding a unifying theme. Just as sections 1 and 3 relate to the privilege to drive by providing for automatic license suspension under certain conditions, section 2 relates to the privilege to drive by providing an alternative to suspension; when the writer of a bad check is a licensed driver.

There is another logical connection between drivers licenses and worthless checks. A driver's license is probably the most common form of identification requested when a recipient of a check verifies the writer's identity. A Florida driver's license has a picture ID, address, terse physical description, and a unique number that is not confidential. A person who uses her or his driver's license to facilitate acceptance of a worthless check should do so at the risk of losing the privilege to drive. Simply because the legislature provided a alternative

(in section 2) to prevent license suspension does not invalidate ch. 98-223.

The same reasoning furnishes the natural and logical connection among the provisions of ch. 98-223. The 1998 Legislature, initially addressing suspension of a driver's license upon prosecution for passing a worthless check, exercised its prerogative to add a logically connected subject--an alternative (assignment to private debt collector) which can work to prevent license suspension.

The single "subject" contemplated by Art. III, §6 does not require a session law to contain but one narrow topic. To the contrary, a law may contain one subject and "matter properly connected therewith." As the Supreme Court has said:

The term 'subject of an act' within this provision means the matter which forms the groundwork of the act and it may be as broad as the Legislature chooses as long as the matters included in the act have a natural or logical connection.

Board of Public Instruction of Broward County v. Doran, 224 So.2d 693, 699 (Fla. 1969) (upholding act which provided for open meetings of certain boards and commissions, and for criminal penalties and injunction relief by application of citizens). See Flink, 94 So.2d at 184 ("Provisions which ... tend to make effective or promote the object and purpose of the

legislation included in the subject expressed in the title of the act may be regarded as matters properly connected with the subject thereof." [e.s.] ).

As noted in the standard of review, ch. 98-223 enjoys a presumption of correctness on appeal. Also, Dickerson requires this Court to construe a statute in a constitutional manner if reasonably possible; a directive particularly *apropos* when, as here, the law is not being attacked in substance. *Cf. State v. Johnson*, 616 So.2d 1, 4 (Fla. 1993) ("Had the legislature passed the habitual offender amendments in a single act, this case would not be before us today.").

The well-known use of driver's licenses to facilitate acceptance of checks provides a link between worthless checks and licensing. The DUI provisions are express conditions upon issuance, revocation or suspension of a license, and reinstatement of the privilege to drive. Thus, ch. 98-223 can fairly be viewed as addressing the single subject of conditions placed on the privilege of operating a motor vehicle; effected through licensing.

The decision below relies prominently on State v. Thompson, 750 So.2d 643 (Fla. 1999); and State v. Johnson. In Thompson, this Court held ch. 95-182, Laws of Florida, violated the single subject rule. Among other things, that law "created the

'violent career criminal'" sentencing category," and "addressed several aspects of domestic violence." Thompson, 750 So.2d at 645. The court then agreed with the Second DCA's observation:

Nothing in sections 2 through 7 addresses any facet of domestic violence and, more particularly, any civil aspect of that subject. Nothing in sections 8 through 10 addresses the subject of career criminals or the sentences to be imposed upon them.

*Id.* at 648 [e.s.].

In Johnson, the court agreed with the First DCA's observation as to the subject matter of the challenged law, that it was "difficult to discern a logical or natural connection between career criminal sentencing and repossession of motor vehicles by private investigators." *Id.* 616 So.2d at 4 (internal quote omitted).

Thompson and Johnson addressed session laws which combined topics not only distinct in substance, but including mutually exclusive criminal and civil provisions. The challengers in both cases were subjected to more severe criminal sentences by the laws at issue.

Neither circumstance is true here. Although §13 of ch. 98-223 creates a third-degree felony, for driving with a permanently revoked license, that felony relates directly to

licensure. Moreover, Critchfield is not at all affected by that provision.

The Doran court's language bears repeating: "The fact that a statute embracing the matter of open meetings for certain boards and commissions also contains provisions for criminal penalties and an injunction by application of citizens does not make the act unconstitutional." *Id.*, 224 So.2d 699. By the same logic, ch. 98-223 is constitutional. It embraces only one subject, conditions placed on operation of motor vehicles, effected through licensure revocation or suspension; with a modest provision alleviating automatic license suspension upon prosecution for a bad check. Chapter 98-223 is not a potpourri of civil and criminal subjects. It does not violate the single subject rule in Art. III, §6.

#### **CONCLUSION**

The Court should find ch. 98-223 does not violate the single-subject rule, and reverse the decision by the Fifth DCA.

Respectfully submitted,

**ROBERT A. BUTTERWORTH**  
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**CERTIFICATE OF SERVICE**

I certify a true copy of this initial brief has been furnished by U.S. Mail to **MICHAEL J. SNURE**, counsel for Appellee, Kirkconnell et al., P.A., 1150 Louisiana Avenue, Suite 1, P.O. Box 2728, Winter Park, Florida 32790-2728; this \_\_\_ day of February, 2002.

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**Charlie McCoy**

Assistant Attorney General

**CERTIFICATE OF COMPLIANCE WITH RULE 9.210**

I certify Courier New 12-point, non-proportionately spaced type is used in this brief, in accord with Fla.R.App.P. 9.210(a)(2).

**TABLE OF APPENDICES**

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APPENDIX A

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FIFTH DISTRICT  
JULY TERM 2001

DEPARTMENT OF HIGHWAY SAFETY  
AND MOTOR VEHICLES ,

Appellant,

v. Case No. 5D01-  
1617

ROBERT P. CRITCHFIELD,

Appellee.

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Opinion filed January 4, 2002

Appeal from the Circuit Court  
for Orange County,  
James C. Hauser, Judge.

Robert A. Butterworth, Attorney  
General and Charlie McCoy, Assistant  
Attorney General, Tallahassee, for  
Appellant.

Michael J. Snure of Kirkconnell,  
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Winter Park, for Appellee.

COBB, J.

The Department of Highway Safety and Motor Vehicles (DHSMV) appeals from a final judgment entered in favor of Robert Critchfield. The trial court granted summary judgment for Critchfield, and held Chapter 98-223, Laws of Florida, violates the single subject rule in Article III, section 6 of the Florida

Constitution. Based on this holding, Critchfield was found not legally barred from applying for a hardship driver's license despite four convictions for DUI.

Critchfield received his fourth DUI conviction in 1987. His driver's license was permanently revoked. At the time of sentencing, Critchfield was informed that he would be eligible for a hardship license after five years.

Critchfield applied in 1999 but was told he was no longer eligible due to a change in the law. That change was made by section 8 of Chapter 98-223, Laws of Florida, effective July 1, 1998 which provided:

The department shall forthwith revoke the license or driving privilege of any person upon receiving a record of such person's conviction of any of the following offenses:

(1)(a) . . . [A] fourth violation of s. 316.193 or former s. 316.1931. For such cases, the revocation of the driver's license or driving privilege shall be permanent. (Emphasis original).

On April 4, 2000, Critchfield brought a two-count complaint for declaratory relief. Count two alleged Chapter 98-223 is unconstitutional as it encompassed more than one subject in violation of the single subject requirement of the Florida Constitution. The trial court granted Critchfield's motion for summary judgment on the basis of the single subject rule. We affirm.

Chapter 98-223 contains 15 sections of which 13 are substantive.<sup>8</sup> Section 1 creates section 832.09, Florida Statutes to provide for suspension of a driver's license for failure to appear before the court in connection with prosecution for passing a worthless check. Section 2 creates section 832.10, Florida Statutes to provide that a payee on a worthless check may place the check for collection by a private debt collector prior to presenting the check to the state attorney for prosecution and that the payee may recover reasonable collection fees. Section 3 creates section 322.251, Florida Statutes to provide for notice to a licensee whose driving privilege is suspended pursuant to section 832.09. Section 4 adds a subsection to section 322.142, Florida Statutes to provide for the DHSMV to sell copies of photographs or digital imaged driver's licenses under certain circumstances. Section 6 amends section 318.18(3), Florida Statutes to increase the fines for speeding. Section 7 amends section 320.07(3), Florida Statutes which deals with expiration of license plates. Section 8 amends section 322.26, Florida Statutes which deals with mandatory revocation of driver's licenses. Section 9 amends section

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<sup>8</sup>Section 5 appropriates \$35,000; section 15 provides an effective date.

322.271, Florida Statutes, which deals with petitions for reinstatement of driving privileges. Section 10 deals with amendments to section 322.28, Florida Statutes, concerning the period of suspensions and revocations of driver's licenses. Section 11 creates section 322.28, Florida Statutes relating to the commencement of the period of suspension or revocation of driver's licenses for incarcerated offenders while section 12 amends section 322.34, Florida Statutes dealing with driving while license suspended, revoked, canceled or disqualified. Section 13 creates section 322.341, Florida Statutes which makes it a third degree felony to drive while a license is permanently revoked. Finally, section 14 amends section 627.733, Florida Statutes which deals with suspension of a motor vehicle registration for lack of required security.

Article III, section 6 of the Florida Constitution provides in relevant part:

Every law shall embrace but one subject and matter properly connected therewith, and the subject shall be briefly expressed in the title.

This single subject requirement is not designed to deter or impede legislation by requiring laws to be unnecessarily restrictive in their scope and operation. State v. Wittman, 794 So. 2d 725 (Fla. 3d DCA 2001). Rather, the requirement primarily is intended to prevent hodge-podge or logrolling

legislation, i.e., putting two unrelated matters in one act. Smith v. City of St. Petersburg, 302 So. 2d 756 (Fla. 1974).

In Wittman the Third District explained that the purpose of the constitutional prohibition against a plurality of subjects in a single legislative act is to prevent a single enactment from becoming a "cloak" for dissimilar legislation having no necessary or appropriate connection with the subject matter. See State v. Lee, 356 So. 2d 276 (Fla. 1978). The test for determining duplicity of a subject "is whether or not the provisions of the bill are designed to accomplish separate and disassociated objects of legislative effort." See Burch v. State, 558 So. 2d 1, 2 (Fla. 1990). While the subject matter of an act may be as broad as the Legislature chooses, the matters included must have a natural or logical connection. See Chenoweth v. Kemp, 396 So. 2d 1122 (Fla. 1981), receded from on other grounds in Sheffield v. Superior Insurance Co., 26 Fla. L. Weekly S706 (Fla. Oct. 25, 2001).

In Wittman, the state challenged a trial court order declaring section 322.34(5), Florida Statutes, to be unconstitutional on the ground that Chapter 97-300 violated the single subject requirement. Chapter 97-300 altered the penalty in section 322.34(5), driving while license suspended, from a

first degree misdemeanor to a third degree felony. The trial court found that Chapter 97-300 applies to both civil and criminal subjects which are not rationally related and applies to issues which have no natural or logical connection. The appellate court disagreed, explaining:

Chapter 97-300 incorporates interrelated laws dealing with the definition of motor vehicles, punishment for crimes relating to motor vehicles and regulation and operation of motor vehicles under the authority of the Department of Highway Safety and Motor Vehicles. These provisions all have a natural and logical connection. See Chenoweth [v. Kemp], 396 So. 2d 1122, 1124 (Fla. 1981)] at 1124 (chapter that covers broad range of statutory provisions dealing with medical malpractice and insurance did not violate "one subject" rule of state constitution as provisions [related to tort litigation and insurance reform] had a natural and logical connection); Smith v. Department of Ins., 507 So. 2d 1080, 1087 (Fla. 1987) (tort reform and insurance act did not violate single subject requirement, where the challenged sections addressed one primary goal: the availability of affordable liability insurance). It is clear that the provisions of chapter 97-300 are directed toward one purpose: the regulation and operation of vehicles, and of the concomitant crimes related to such regulation. (Emphasis added).

794 So. 2d at 727-728.

In the present case, the trial court found that the enactment encompassed the separate subjects of worthless checks and regulation of driver's licenses:

[T]he entire act does not have a logical and natural connection. Specifically, section two

of the act cannot be read in any way which would relate it to driver's licenses. Section two provides for private debt collection of dishonored checks. . . . [I]t has no natural or logical connection to sections four through fourteen.

The DHSMV concedes that "At first blush, § 2 is difficult to connect to the remainder of chapter 98-223" but argues that a deeper examination of the legislation reflects a unifying theme: all of the substantive provisions relate to conditions legislatively required in return for the privilege of driving a motor vehicle. The DHSMV asserts:

assignment to a debt collector occurs before prosecution by the state attorney, and does not trigger the automatic suspension authorized by §1 of ch. 98-223. In effect, §2 partially unencumbers the privilege to drive, by providing an alternative to automatic license suspension upon prosecution for a worthless check.

This effort is valiant but unavailing. Section 2 lacks a logical or natural connection to driver's licenses, registrations or operation of motor vehicles which are the subject matter of Chapter 98-223. It rather relates to collection of debts evidenced by bad checks by private debt collectors and recovery of reasonable collection fees incurred by such private debt collectors. The state's reliance on Board of Public Instruction of Broward County v. Doran, 224 So. 2d 693 (Fla. 1969) is misplaced. There the supreme court found a natural or logical connection in an enactment which, in addition

to requiring that all meetings of certain public boards and commission at which official acts were to be taken be public meetings, also contained provisions for criminal penalties and injunctive relief to enforce its provisions.

Here a natural or logical connection exists between driver's licenses, vehicle registrations and operation of motor vehicles. However, no such connection exists with use of private debt collectors to collect debts evidenced by bad checks. Unlike section 1, nothing in section 2 refers to driver's licenses or to the suspension thereof or for that matter to the operation of motor vehicles. Section 2 applies to private collection efforts on bad checks and has nothing whatsoever to do with driver's licenses or operation of motor vehicles.

This case is controlled by State v. Thompson, 750 So. 2d 643 (Fla. 2000) and State v. Johnson, 616 So. 2d 1 (Fla. 1993). In Thompson the court found that Chapter 95-182, Laws of Florida, which created violent career criminal sentencing laws, violated the single subject rule by addressing two different subjects, career criminals and domestic violence. In Johnson, the court found a violation of the single subject rule where Chapter 89-280, Laws of Florida contained two separate and distinct subjects having absolutely no cogent connection: habitual offender sentencing and licensing of private investigators and



their authority to repossess personal property. The court rejected the state's contention that the two subjects related to the single subject of controlling crime.<sup>9</sup>

Finally, we recognize that the single subject requirement of Article III, section 6 only applies to chapter or session laws and sections of the Florida Statutes need not conform to the requirement. Johnson. Once reenacted by way of an adoption act as a portion of the Florida Statutes, a chapter or session law is no longer subject to challenge on the grounds that it violates the single subject requirement. Johnson. Chapter 98-223 was enacted effective July 1, 1998 but has yet to be the subject of an adoption act which became law. Accordingly, the final judgment invalidating Chapter 98-223, Laws of Florida, based upon violation of the single subject rule is affirmed.

AFFIRMED.

THOMPSON, CJ. and ORFINGER, R. B., J., concur

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<sup>9</sup>The trial court here found that Chapter 98-223 could not be severed so as to save any portion thereof since in passing the legislation the title referred both to worthless checks and driver's licenses. The DHSMV does not challenge this conclusion on appeal.