

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1389 Chauffeured Limousines
SPONSOR(S): Grant and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1618

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	8 Y, 6 N	Davy	Miller
2) Economic Affairs Committee			

SUMMARY ANALYSIS

Currently, taxi and limousine regulation is governed by local governments in the state.

The bill provides that the licensure and regulation of chauffeured limousines, chauffeured limousine services, and drivers of chauffeured limousines, is specifically preempted to the state to be regulated by the Department of Highway Safety and Motor Vehicles (DHSMV).

The bill creates a new category of public transit that provides service between specific origins and destinations selected by the individual user with such service being provided at a time that is agreed upon by the user and provider of the service. This new form of transportation, known as chauffeured limousine service, is defined as a chauffeured, non-metered motor vehicle with four or more doors, designed to carry fewer than nine passengers excluding the chauffeur, and operated for hire pursuant to an advance reservation, the fare for which is calculated on the basis of time and distance, except for trips to airports or other point-to-point trips based on well-traveled routes or for event-related trips such as sporting events, which may be charged on a flat-fee basis. The term does not include taxicabs, vehicles used for not-for-profit, tax-exempt operations, or a vehicle used for transportation of persons between home and work locations or of persons having a common work-related trip when ridesharing is incidental to another purpose of the driver.

The bill creates sections 319.90-316.907, F.S., as the "Chauffeured Limousines and Services Safety Act". Generally the act provides the following for chauffeured limousine services:

- definitions;
- legislative intent;
- rules of operation;
- vehicle standards;
- requirements for drivers;
- penalties;
- a process for appeal of penalties; and
- authorizing DHSMV to adopt rules to implement.

In addition, the bill revises proof of insurance requirements for owners or operators of chauffeured limousines and chauffeured limousine services.

The bill is expected to increase DHSMV's expenditures relating to the regulation of chauffeured limousine services and increase fee revenues to the Florida Department of Law Enforcement of performing background checks of drivers. Local governments may have a decrease in revenues and expenditures due to the bill's preemption of local regulations. See fiscal comments.

The act has an effective date of October 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

“Paratransit” means those elements of public transit which provide service between specific origins and destinations selected by the individual user with such service being provided at a time that is agreed upon by the user and provider of the service. Paratransit service is provided by taxis, limousines, “dial-a-ride,” buses, and other demand-responsive operations that are characterized by their nonscheduled, non-fixed route nature.¹

Currently, the majority of taxi regulation in the State of Florida is controlled by local governments. Florida law currently provides the following relating to limousines and taxis to:

- require that taxis and limousines must maintain a motor vehicle liability policy with minimum limits of \$125,000 per person for bodily injury, up to \$250,000 per incident for bodily injury, and \$50,000 for property damage;²
- qualify an owner or lessee who is required to maintain insurance under s. 324.021(9)(b), F.S., and who operates at least 300 taxicabs, limousines, jitneys, or any other for-hire passenger vehicles to fulfill the requirement through self-insurance as provided by s. 324.171, F.S.;³
- define that with respect to workers’ compensation an “employee” is not a taxicab, limousine, or other passenger vehicle-for-hire driver who operates said vehicles pursuant to a written agreement with a company which provides any dispatch, marketing, insurance, communications, or other services under which the driver and any fees or charges paid by the driver to the company for such services are not conditioned upon, or expressed as a proportion of, fare revenues;⁴
- provide that the child restraint requirements imposed by s. 316.613, F.S., do not apply to a chauffeur-driven taxi, limousine, sedan, van, bus, motor coach, or other passenger vehicle if the operator and the motor vehicle are hired and used for the transportation of persons for compensation;
- provide that, to the extent not inconsistent with general or special law, the legislative and governing body of a county must have the power to carry on county government, including, but not restricted to, the power to license and regulate taxis, jitneys, limousines for hire, rental cars, and other passenger vehicles for hire that operate in the unincorporated areas of the county; except that any constitutional charter county as defined in s. 125.011(1), F.S.,⁵ must on July 1, 1988, have been authorized to have issued a number of permits to operate taxis which is no less than the ratio of one permit for each 1,000 residents of said county, and any such new permits issued after June 4, 1988, must be issued by lottery among individuals with such experience as a taxi driver as the county may determine.⁶

Effect of Proposed Changes

The bill provides that notwithstanding any provision of s. 125.01, F.S., the legislative and governing body of a county does not have the power to license or regulate chauffeured limousines, chauffeured limousine services, and drivers of chauffeured limousines, as defined in s. 316.901, F.S., and the licensure and regulation thereof is specifically preempted to the state.

¹ Section 427.011(9), F.S.

² Section 324.032(1), F.S.

³ Section 324.032(2), F.S.

⁴ Section 440.02, F.S.

⁵ “County” means any county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred. Use of the word “county” within the above provisions must include “board of county commissioners” of such county.

⁶ Section 125.01 (1)(n), F.S.

The Chauffeured Limousines and Services Safety Act

The bill creates sections 319.90-316.907, F.S., as the "Chauffeured Limousines and Services Safety Act". Generally the act provides the following for chauffeured limousine services:

- definitions;
- legislative intent;
- rules of operation;
- vehicle standards;
- requirements for drivers;
- penalties;
- a process for appeal of penalties; and
- authorizing DHSMV to adopt rules to implement.

In addition, the bill revises proof of insurance requirements for owners or operators of chauffeured limousines and chauffeured limousine services.

Definitions

The bill creates s. 316.901, F.S., to provide the following definitions:

- "Advance reservation" means a reservation made in advance by a person requesting the use of a chauffeured limousine for transportation of a passenger or passengers for a specified period of time, or from and to a specific location.
- "Chauffeured limousine" means a chauffeured, non-metered motor vehicle with four or more doors, designed to carry fewer than nine passengers excluding the chauffeur, and operated for hire pursuant to an advance reservation, the fare for which is calculated on the basis of time and distance, except for trips to airports or other point-to-point trips based on well-traveled routes or for event-related trips such as sporting events, which may be charged on a flat-fee basis. The term does not include a taxicab, a vehicle used for not-for-profit, tax-exempt operations, or a vehicle used for transportation of persons between home and work locations or of persons having a common work-related trip when ridesharing is incidental to another purpose of the driver.
- "Chauffeured limousine service" means any business that provides chauffeured limousines by advance reservation.
- "Department" means DHSMV.

Legislative Intent

The bill creates s. 316.902, F.S., to declare that the emerging field of transportation technology is a statewide concern. The Legislature intends to provide a uniform statewide level of regulation of emerging transportation technology to provide stability and predictability to businesses seeking to implement such technology, to provide convenience and safety to the traveling public, and to enhance personal mobility. Accordingly, the regulation of chauffeured limousines, chauffeured limousine services, and drivers of chauffeured limousines is preempted to the state. Further regulation thereof by a county, a municipality, or any other political subdivision of the state is void.

Rules of Operation

Before engaging in business in this state as a chauffeured limousine service, and at all times thereafter while so actively engaged, a chauffeured limousine service must establish and maintain the following:

- A publicly listed telephone number identifying the business name and actual physical address for the purpose of receiving telephone calls related to the chauffeured limousine service.
- A website that provides:
 - The telephone number and actual physical address of the business.
 - Specific information regarding the method of fare calculation and the rates and fees charged by the chauffeured limousine service.
 - A mechanism for passengers of the chauffeured limousine service to file complaints regarding the service through the website.
- A zero-tolerance intoxicating substance policy for drivers of chauffeured limousines.

- A central records repository located in this state for the maintenance of records required by the department. A chauffeured limousine service must make such records available for inspection to the department for the purpose of establishing compliance with this act.

In addition, such services must only employ drivers that meet the requirements of the act. In addition to obtaining sufficient proof that a driver meets the requirements of s. 316.905, F.S., prior to a driver's employment the chauffeured limousine service must also obtain at least 1 year of the driver's driving history and must check the driver's record quarterly thereafter to ensure that disqualifying violations specified in s. 316.905(1)(c)1., F.S., have not occurred. Ensure that valid background-screening certificates of the driver and the insurer certificates of the chauffeured limousine are displayed inside the chauffeured limousine so the certificates are plainly visible to the passengers. A chauffeured limousine service may not unlawfully discriminate against passengers or potential passengers based upon the geographic beginning point or end point of the ride.

If, in the interim between background screenings of a driver or between issuance and renewal of insurance as required under s. 316.905, F.S., an event occurs that renders the driver or the chauffeured limousine out of compliance with the standards in this act, the driver or the vehicle, or both, as appropriate, shall be disqualified from providing chauffeured limousine services. The chauffeured limousine service is prohibited from using the driver or the vehicle until such time as compliance is reestablished in accordance with this act.

A chauffeured limousine service must immediately suspend any driver who receives a disqualifying violation on his or her driving record until such time as the driver's compliance is reestablished, or any driver that is reported by a person who reasonably suspects the driver was under the influence of alcohol or drugs during the course of a passenger's trip pending an investigation of the report.

A chauffeured limousine service must provide to the driver a waybill for each ride that includes the driver's name, motor vehicle license plate number, and the time and date of the advance reservation. Such a service must also provide each customer a paper or electronic receipt that lists the origination and destination of the trip, the total distance and time of the trip, and a breakdown of the total fare paid, including fees and gratuity, if any.

A chauffeured limousine service must annually provide a report to the department that includes:

- the number of rides requested and accepted by drivers within each zip code where the service operates in the state;
- the number of driver violations and suspensions, including a list of complaints of driver alcohol or drug intoxication and the outcome of investigations into those complaints; and
- a listing of each accident or other incident that involved a chauffeured limousine service's driver, including the date, time, and cause of the incident, and the amounts paid, if any, by the driver's insurance and the service's insurance.

Vehicle Standards

The bill creates s. 316.904, F.S., to provide that a chauffeured limousine may not be older than 5 model years of age when initially placed into service by a chauffeured limousine service and must be taken out of service at 10 model years of age. If a chauffeured limousine is taken out of service for more than 30 calendar days after its initial placement into service, the chauffeured limousine is no longer a previously in-service vehicle.

Chauffeured Limousine Drivers

The bill creates s. 316.905, F.S., to provide standards and requirements for chauffeured limousine service drivers.

A driver for a chauffeured limousine service must:

- Possess a valid driver license issued in this state or any other state which has been active for at least 5 years.
- Hold a motor vehicle liability policy in accordance with ss. 324.031 or s. 324.032, F.S., if the driver owns or leases the chauffeured limousine, or be in possession of such proof provided by the owner or lessee of the chauffeured limousine.

- Successfully complete a Level 1 background screening under s. 435.03, F.S., conducted by the Department of Law Enforcement (FDLE).
 - The screening must include a statewide criminal correspondence check through FDLE, a check of the Dru Sjodin National Sex Offender Public Website, a local criminal records check through local law enforcement agencies, and a check of the driver's driving record to ensure the driver has no conviction or an arrest awaiting final disposition for driving under the influence of alcohol, chemical substances, or controlled substances in violation of chapter 316, F.S., in addition to any offense prohibited under s. 435.04(2), F.S., or similar law of another jurisdiction.
 - The driver must be rescreened annually following the date of his or her most recent background screening.
 - Upon receipt of payment of the appropriate fee, FDLE must conduct the screenings required by this paragraph. The department must issue a certificate or renewed certificate, as applicable, to any driver found to be in compliance with the screening standards specified in this paragraph. Each certificate is valid for 14 months and must contain a unique identification number associated with the driver.
- Ensure that the valid background-screening certificates and insurer certificates are displayed inside the chauffeured limousine and are plainly visible to the passengers.
- Ensure that all chauffeured limousine passenger trips are arranged only through advance registration. The driver of a chauffeured limousine may not accept or solicit street hails.

At all times while operating a chauffeured limousine, the driver must have in his or her possession:

- a valid driver license;
- proof of insurance that meets the requirements of ss. 324.031 or 324.032, F.S.;
- a valid background screening certificate issued under s. 316.905, F.S., of the act;
- a valid certificate issued by the motor vehicle insurer attesting to the vehicle's compliance with the safety equipment standards of chapter 316, F.S., and any other applicable requirements on the date of issuance or renewal of the motor vehicle liability policy; and
- a waybill for each ride which includes the driver's name, vehicle license plate number, and the time and date of the advance reservation.

The driver must produce the waybill for any law enforcement officer upon request.

The driver of chauffeured limousine may not unlawfully discriminate against passengers or potential passengers based upon the geographic beginning point or end point of the ride. The driver of a chauffeured limousine must monthly provide an affidavit attesting to continued compliance with the act's driver requirements and standards to the chauffeured limousine service. If, in the interim between background screenings or between issuance and renewal of insurance as required by this section, an event occurs that renders the driver noncompliant with the standards in the act, the driver must report the event to the chauffeured limousine service, and the driver is prohibited from operating any chauffeured limousine until such time as the driver meets the requirements of the act. A driver that meets the requirements of the act may not operate a chauffeured limousine for passenger trips of the chauffeured limousine service which does not meet the standards under s. 316.904, F.S., of the act, until such time as the limousine's compliance is reestablished.

Compliance Inspections and Noncompliance Penalties

The bill creates s. 316.906, F.S., to provide that the department may conduct reviews and inspections of chauffeured limousine services for the purpose of determining compliance with this act. Further, the department may impose the penalties for violations of this act as provided in chapters 316, 318, 319, 320, 322, and 324, F.S., and violations of this act are punishable as provided in s. 316.655, F.S.

All civil penalties imposed and collected under this subsection must be paid to the Chief Financial Officer, who must credit the total amount collected to the State Transportation Disadvantaged Trust Fund for use as provided in s. 427.0159, F.S. The civil penalties are as follows:

- a civil penalty of \$1,000 for violations identified in an initial compliance review or inspection;

- a civil penalty of \$2,500 for violations found in a follow up compliance review or inspection conducted within 6 months after a previous compliance review or inspection where violations were identified; and
- a civil penalty of \$5,000 for violations found in a follow up compliance review or inspection conducted within 12 months after a previous compliance review or inspection where violations were identified.

A chauffeured limousine service aggrieved by the imposition of a civil penalty under this section may apply to the Commercial Motor Vehicle Review Board for a modification, cancellation, or revocation of the penalty. Such appeal proceedings must be conducted in accordance with chapter 120, F.S.

Financial Responsibility

The bill creates s. 324.031(2), F.S., to provide that the owner or operator of a chauffeured limousine, as defined in s. 316.901, F.S., may prove financial responsibility by furnishing satisfactory evidence of holding a motor vehicle liability policy, with minimum limits of \$500,000 per person for bodily injury, up to \$1,000,000 per incident for bodily injury, and \$50,000 for property damage. A chauffeured limousine service, as defined in s. 316.901, F.S., may prove financial responsibility by furnishing satisfactory evidence of holding a non-owned motor vehicle liability policy with minimum limits of \$500,000 combined single limits.

The bill further creates ss. 324.032(1)(c-d), F.S., to provide that a person who is the owner or a lessee required to maintain insurance under s. 324.021(9)(b), F.S., and who operates a chauffeured limousine, as defined in s. 316.901, may prove financial responsibility by furnishing satisfactory evidence of holding a motor vehicle liability policy, but with minimum in excess of limits of \$500,000 per person for bodily injury, up to \$1,000,000 per incident for bodily injury, and \$50,000 for property damage.

A chauffeured limousine service, as defined in s. 316.901, F.S., may prove financial responsibility by furnishing satisfactory evidence of holding a non-owned motor vehicle liability policy with minimum limits of \$500,000 combined single limits.

DHSMV Rulemaking

The bill creates s. 316.907, F.S., to provide that DHSMV may adopt or revise rules to implement and administer the Chauffeured Limousines and Services Safety Act.

B. SECTION DIRECTORY:

- Section 1: amends s. 125.01, F.S., preempting the licensing and regulation of chauffeured limousines, chauffeured limousine services, and drivers of chauffeured limousines to the state.
- Section 2: creates s. 316.90, F.S., providing a short title.
- Section 3: creates s. 316.901, F.S., providing definitions.
- Section 4: creates s. 316.902, F.S., providing legislative findings and intent.
- Section 5: creates s. 316.903, F.S., providing rules of operation for a chauffeured limousine service.
- Section 6: creates s. 316.904, F.S., providing chauffeured limousine vehicle standards.
- Section 7: creates s. 316.905, F.S., providing requirements for chauffeured limousine drivers.
- Section 8: creates s. 316.906, F.S., providing penalties and for appeal of penalties.
- Section 9: creates s. 316.907, F.S., authorizing the DHSMV to adopt rules.

- Section 10: amends s. 324.031, F.S., revising proof of insurance requirements for owners or operators of chauffeured limousines and chauffeured limousine services.
- Section 11: amends s. 324.032, F.S., revising proof of insurance requirements for owners or operators of chauffeured limousines and chauffeured limousine services.
- Section 12: amends s. 324.023, F.S., conforming cross-references.
- Section 13: amends s. 324.151, F.S., conforming cross-references.
- Section 14: amends s. 627.733, F.S., conforming cross-references.
- Section 15: provides an effective date of October 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
See fiscal comments.
2. Expenditures:
See fiscal comments..

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
See fiscal comments.
2. Expenditures:
See fiscal comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will provide a uniform statewide level of regulation of emerging transportation technology, specifically chauffeured limousines, to provide stability and predictability to businesses seeking to implement such technology, to provide convenience and safety to the traveling public, and to enhance personal mobility.

D. FISCAL COMMENTS:

DHSMV has not yet released its fiscal projections of implementation costs. However, the bill is likely to result in an increase in state expenditures associated with regulating chauffeured limousines. The amount of this increase in expenditures is dependent upon the number of business entities and drivers regulated.

The employer or the employee is responsible for payment of the required level 1 background screening under s. 435.03, F.S. Payment must be submitted to FDLE (FDLE) with the request for screening. DHSMV is responsible for collecting and paying any fee related to fingerprints retained on its behalf to FDLE for costs resulting from the fingerprint information retention services. The amount of the annual fee and procedures for the submission and retention of fingerprint information and for the dissemination of search results is established by rule of FDLE. The current cost for a state record check is \$24.⁷

⁷ FDLE Agency Analysis for HB 1389. Information received 3/20/14 and on file with the Transportation & Highway Safety Subcommittee.

To the extent that individuals apply to become drivers for chauffeured limousine services, FDLE will see an increase in fee revenues associated with performing the required level 1 background screening. In addition, driver's certificate declaring them to be in compliance with the screening standards must be renewed every 14 months to remain eligible to operate any chauffeured limousine.

To the extent that individuals are charged with civil penalties for non-compliance with the act, the Transportation Disadvantaged Trust Fund will see an increase in revenues.

To the extent that individuals are aggrieved by the imposition of civil penalties and apply to the Commercial Motor Vehicle Review Board (CMVRB) for a modification, the Department of Transportation may see an increase in expenditures related to the administration of the CMVRB and review of cases.

Fee revenue related to regulation of chauffeured limousine services and drivers provided by municipal and county codes is likely to decrease as a result of the bill. Likewise the bill would result in a corresponding decrease in local government expenditures relating to the regulation of chauffeured limousine services and drivers.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Fee revenue related to regulation of chauffeured limousine services and drivers provided by municipal and county codes is likely to decrease as a result of the bill. Likewise the bill would result in a corresponding decrease in local government expenditures relating to the regulation of chauffeured limousine services and drivers. The net result of the bill is an insignificant fiscal impact to local governments therefore the bill appears to be exempt from the mandates provisions.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill creates s. 316.907, F.S., to provide that DHSMV may adopt or revise rules to implement and administer the Chauffeured Limousines and Services Safety Act.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.