

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 1104

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); Transportation Committee; and Senator Brandes

SUBJECT: Transportation

DATE: March 6, 2018

REVISED: _____

| ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----------|----------------|-----------|--------------------------|
| 1. Jones | Miller | TR | Fav/CS |
| 2. Wells | Hrdlicka | ATD | Recommend: Fav/CS |
| 3. Wells | Hansen | AP | Fav/CS |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1104 makes numerous changes relating to transportation. The bill:

- Clarifies the organization of the Florida Department of Transportation (FDOT) and removes the requirement that the Governor must pick an FDOT secretary from the Florida Transportation Commission's (FTC) nominated FDOT secretary candidates;
- Defines "mobile carriers" and provides regulations for such devices;
- Increases the allowable weight of a personal delivery device to less than 100 pounds, instead of less than 80 pounds;
- Repeals s. 316.0895(2), F.S., which prohibits trucks and vehicles towing other vehicles or trailers from following one another within 300 feet on roadways outside of a business or residence district;
- Updates various commercial motor vehicle regulations to address compatibility issues with federal law and the International Registration Plan;
- Authorizes the Florida Turnpike Enterprise to fund, construct, and operate test facilities for the advancement of autonomous and connected transportation technology solutions for improving safety and congestion;
- Extends the Pilot Rebuilt Motor Vehicle Inspection Program to July 1, 2020, requires the Department of Highway Safety and Motor Vehicles (DHSMV) to submit a report evaluating the program by January 1, 2019, and provides additional requirements for the program;

- Prohibits the DHSMV or tax collectors from charging a title transfer fee when transferring a Florida motor vehicle title from a deceased owner to the deceased's parent or child within 30 days of the death;
- Requires the motor vehicle registration application and renewal form include a voluntary checkoff to allow contributions of \$1 per applicant to be distributed to the Alzheimer's Association, Inc.;
- Expands businesses that may be authorized to use the DHSMV's electronic filing system to an entity that, in the normal course of its business, process title transactions, derelict motor vehicle certificates, or certificates of destruction for derelict or salvage motor vehicles;
- Increases the time-frame apportionable vehicles must replace their license plates from annually to every five years;
- Allows the DHSMV to authorize the format of an electronic certificate of registration;
- Authorizes a DHSMV-approved electronic copy of a motor vehicle certificate of registration or motor vehicle rental or lease documentation be accepted by law enforcement or agents of the DHSMV as proof of possession of such documentation, and provides restrictions and liability regarding the electronic device displaying such documentation;
- Allows motor vehicle dealers and fleet companies to purchase specialty license plates for use on dealer and fleet vehicles directly from the DHSMV upon approval by the specialty license plate's sponsoring organization;
- Creates a Fleet Vehicle Temporary Tag pilot program, which allows the DHSMV to partner with a county tax collector to establish an agreement with up to three companies allowing the issuance of up to 50 temporary tags at a time for use by the company's fleet vehicles;
- Requires the DHSMV to competitively procure providers for an electronic driver license (electronic credential), provides requirements for the electronic credential and verification solution providers (including technological requirements), and authorizes the issuance and use of electronic credentials;
- Exempts a caregiver of a foster child, who signs the application for the minor's learner's driver license, from any obligation or liability for damages caused by the negligence or willful misconduct of the minor by reason of having signed the application;
- Provides that a motor vehicle rental company is deemed to have met the requirements of inspecting a driver license and prohibiting the rental of a motor vehicle to a person required to be licensed who is not, if the renter verifies he or she holds a valid driver license and the vehicle is rented from the company through digital, electronic, or other means not requiring direct contact with an employee of the rental company;
- Removes a requirement that a person who rents a vehicle to another person compare the signature of the renter with the renter's driver license signature; instead the person must verify that the renter's driver license is unexpired;
- Allows for-hire passenger vehicles to be insured by certain eligible nonadmitted insurers who are not members of the Florida Insurance Guaranty Association;
- Reduces the number of for-hire passenger vehicles an owner or lessee must operate to self-insure, from 300 to 150 for-hire vehicles;
- Requires the FDOT to charge a customer the minimum express lane toll for a *segment* of the express lane if the average travel speed of that *segment* falls below 40 miles per hour, rather than for the customer's entire trip;
- Provides that, when variable pricing in express lanes is allowed, the Florida Turnpike Enterprise (FTE) can charge a person for the *segment's* general toll amount plus the

segment's minimum toll amount, rather than the general toll lane amount plus an amount set by FDOT;

- Prohibits a local governmental entity from preventing public motor vehicle use or access to an existing transportation facility or corridor if it is the only point, or one of two points, of ingress to and egress from a state university;
- Creates a first degree grand theft crime for an offender who commits cargo theft and, in the course of committing the offense, uses a device that interferes with a global positioning system or similar system used to identify the location of the cargo or vehicle; and
- Makes technical and cross-reference changes to conform to changes made by the bill.

The bill also makes changes regarding motor vehicle platooning. Specifically, it:

- Repeals s. 316.0896, F.S., related to the assistive truck platooning technology pilot program, which has been conducted by the FDOT in consultation with the DHSMV;
- Defines the term “platoon” for purposes of the State Uniform Traffic Control Law;
- Authorizes motor vehicle platoons to be operated upon Florida roadways after an operator provides notification to the DHSMV and is issued a permit to operate such platoon by the FDOT;
- Requires the FDOT to adopt rules for the issuance of the permit and provides matters that must be addressed by such rules; and
- Provides that s. 316.303, F.S., concerning television receivers, does not prohibit use of an electronic display by an operator of a platoon.

The bill may reduce revenues to the DHSMV, the Highway Safety Operating Trust Fund, the State Transportation Trust Fund, the General Revenue Fund, and local tax collectors by an indeterminate amount. However, the provision allowing the use of electronic credentials may generate revenue to the Highway Safety Operating Trust Fund.

The bill may reduce expenses of the FTC. The bill will increase expenditures by the FDOT and DHSMV by an indeterminate amount.

The bill makes changes to address compliance issues with federal laws relating to commercial motor vehicles. The state could experience a reduction of Federal-aid highway funds if the state remains non-compliant with such federal laws.

The Criminal Justice Impact Conference has indicated that provisions of the bill may have a positive indeterminate impact on prison beds, meaning the bill will result in an unquantifiable increase in prison beds.

Except as otherwise expressly provided, the bill takes effect October 1, 2018.

II. Present Situation:

Due to the disparate issues in the bill, the present situation for each section is discussed below in conjunction with the effect of the proposed changes.

III. Effect of Proposed Changes:

FDOT Organization and Nomination of the FDOT Secretary (Section 1)

Present Situation

The FDOT is statutorily organized into seven districts, each of which is headed by a district secretary, as well as a turnpike enterprise and a rail enterprise, each of which is headed by an executive director.¹ The secretary, appointed by the Governor from among three persons nominated by the Florida Transportation Commission (FTC) and subject to confirmation, must be a proven, effective administrator who by education and experience clearly possesses broad knowledge of the administrative, financial and technical aspects of the development, operation, and regulation of transportation systems and facilities.²

The FDOT's central office is directed to establish departmental policies, rules, procedures, and standards and to monitor the implementation of such policies, etc., in order to ensure uniform compliance and quality performance by the districts and central office units.³ Additionally, to provide for efficient operations and expedite the decision-making process, the FDOT is directed to provide for maximum decentralization to the districts.⁴

Effect of Proposed Changes

Section 1 of the bill amends s. 20.23(1), F.S., to restate current law by providing that the FDOT shall consist of:

- A central office, which establishes policies and procedures; and
- Districts, which carry out projects as authorized or required under the policies and procedures established by the central office pursuant to the existing statutory direction.

In addition, this section of the bill removes the provision requiring the Governor to appoint the FDOT secretary from among three persons nominated by the FTC. Under the bill, the FTC would no longer be required to undertake the process of reviewing and selecting candidates for the FDOT secretary nominations, and the Governor would not be restricted to appointing as the FDOT secretary one of the three persons nominated by the FTC.

Platoons (Sections 2, 5, 6 and 9)

Present Situation

Platooning is an emerging automated driving technology that allows vehicles to communicate with one another in order to electronically “link” to each other in a line at close proximity, where the lead vehicle controls the speed and braking of the following vehicles.⁵ Each vehicle platoons by using an onboard computer connected to a vehicle-to-vehicle (V2V) communications device that receives and transmits data using Dedicated Short-Range Communications (DSRC), a two-

¹ Section 20.23(4)(a), F.S.

² Section 20.23(1), F.S.

³ Section 20.23(3)(a), F.S.

⁴ Section 20.23(4)(a), F.S.

⁵ U.S. Department of Transportation, Volpe Center, *How an Automated Car Platoon Works* (July 31, 2017), <https://www.volpe.dot.gov/news/how-automated-car-platoon-works> (last visited Feb. 5, 2018).

way wireless communications capability permitting very high data transmission.⁶ DSRC is used by both V2V communications as well as vehicle-to-infrastructure (V2I) communications to provide connectivity among vehicles and between infrastructure to prevent crashes and enable safety, mobility, and environmental sustainability.⁷

The National Highway Traffic Safety Administration (NHTSA) published a Notice of Proposed Rulemaking in January 2017, proposing to mandate V2V communications for new light vehicles and standardize the message and format of V2V transmissions to create a standard system, both of which would enable vehicle manufacturers to develop safety applications using V2V communications.⁸ These V2V communication device requirements would use DSRC devices to transmit basic information on the road, such as a vehicle's speed, heading, brake status and path predictions, which can be used to provide drivers timely warnings of impending crash situations that drivers may not otherwise be capable of seeing.⁹ NHTSA has expressed that V2V communication "shows great promise in helping to avoid crashes, ease traffic congestion, and improve the environment."¹⁰

Driver-Assistive Truck Platooning

One form of V2V technology is driver-assistive truck platooning (DATP), which allows trucks to communicate with one another and to travel as close as 30 feet apart with automatic acceleration and braking. A draft is created, reducing wind resistance and cutting down on fuel consumption.¹¹

In 2016, s. 316.0896, F.S., was created to require the Florida Department of Transportation (FDOT), in consultation with the Department of Highway Safety and Motor Vehicles (DHSMV), to study the use and safe operation of DATP technology,¹² develop and conduct a pilot project to test the use and safe operation of vehicles equipped to operate using DATP, and submit results of the study and any findings or recommendations from the pilot project to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The FDOT developed the pilot project as a demonstration and operational phase to:

- Evaluate impacts of DATP on surrounding traffic and infrastructure;
- Evaluate feasibility of conducting enforcement responsibilities when DATP trucks are operating; and

⁶ *Id.*

⁷ U.S. Department of Transportation, Intelligent Transportation Systems Joint Program Office, *DSRC: The Future of Safer Driving*, https://www.its.dot.gov/factsheets/dsrc_factsheet.htm (last visited Feb. 5, 2018).

⁸ Federal Motor Vehicle Safety Standards; V2V Communications, 82 Fed. Reg. 3854 (Jan. 12, 2017), <https://www.federalregister.gov/documents/2017/01/12/2016-31059/federal-motor-vehicle-safety-standards-v2v-communications> (last visited Feb. 5, 2018).

⁹ *Id.*

¹⁰ NHTSA, *Vehicle-to-Vehicle Communication*, <https://www.nhtsa.gov/technology-innovation/vehicle-vehicle-communication> (last visited Feb. 5, 2018).

¹¹ Go by Truck Global News, *Driver Survey: Platooning* (Nov. 18, 2014), <http://www.gobytrucknews.com/driver-survey-platooning/123> (last visited Feb. 5, 2018).

¹² Section 316.003(20), F.S., defines "driver-assistive truck platooning technology" as "[v]ehicle automation and safety technology that integrates sensor array, wireless vehicle-to-vehicle communications, active safety systems, and specialized software to link safety systems and synchronize acceleration and braking between two vehicles while leaving each vehicle's steering control and systems command in the control of the vehicle's driver in compliance with the National Highway Safety Administration rules regarding vehicle-to-vehicle communications."

- Evaluate administrative aspects of permitting DATP systems.¹³

The pilot project was conducted with Peloton Technology, one developer of DATP vehicle systems. Peloton's DATP is a cloud-based system that uses integrated sensors, controls, and wireless communications to determine in real time whether conditions are appropriate to allow specific trucks to engage in platooning operations.¹⁴ Using V2V communications, the system synchronizes acceleration and braking between tractor-trailers, leaving steering to the drivers, but eliminating braking distance otherwise caused by lags in the front or rear driver's response time.¹⁵ According to Peloton Technology, Peloton's demonstration of its DATP technology occurred on the Florida Turnpike and covered over 1,000 miles using two trucks traveling at a separation distance of approximately 65 feet.¹⁶ At this time, FDOT has not submitted its report of the results of the study and any findings or recommendations from the pilot project.¹⁷

State Platoon Laws

According to Peloton, nine states have confirmed allowance for commercial deployment of DATP.¹⁸ At least ten states with "following too closely" laws, including Florida,¹⁹ exempt vehicles equipped with a DATP system or a platooning system from such state law.²⁰ Additionally, Arkansas, Michigan, Nevada, and Tennessee passed laws expressly allowing a person to operate DATP or platooning systems; however, Arkansas, Michigan, and Tennessee only allow operation upon state approval of a submitted operations plan or following a certain number of days after submission of such plan, if the plan is not rejected by the overseeing agency.²¹ Several states and the federal government are continuing testing of DATP and other platooning systems.

Following Too Closely and TV Receiver Prohibitions

Section 316.0895, F.S., prohibits a driver of a motor vehicle to follow another vehicle more closely than is reasonable and prudent. It is unlawful, when traveling upon a roadway outside a business or residence district, for a motor truck or vehicle towing another vehicle or trailer to

¹³ See Florida Vender Bid System, *Request for Information from the FDOT – Driver Assistive Truck Platooning Pilot Project* (July 6, 2017), http://www.myflorida.com/apps/vbs/vbs_www.ad_r2.view_ad?advertisement_key_num=134408 (last visited Feb. 5, 2018).

¹⁴ Peloton, *How It Works, The Platooning Experience*, <https://peloton-tech.com/how-it-works/> (last visited Feb. 5, 2018).

¹⁵ *Id.*

¹⁶ Peloton, *Peloton Technology demonstrates driver-assistive truck platooning system to Florida transportation leaders in connection with Florida Pilot Project* (Dec. 20, 2017), <https://peloton-tech.com/driver-assistive-truck-platooning-demonstration-florida-transportation-leaders-connection-florida-pilot-project/> (last visited Feb. 5, 2018).

¹⁷ DHSMV staff has indicated to the staff of the Senate Transportation Committee that the report is in the process of being finalized.

¹⁸ Peloton *supra* note 14.

¹⁹ See ss. 316.0895 and 316.0896(2), F.S.

²⁰ The other states are Arkansas, California (only for testing), Georgia, Michigan, Nevada, North Carolina, South Carolina, Tennessee, and Texas. See National Conference of State Legislatures, *Autonomous Vehicles – Self-Driving Enacted Legislation, Enacted Autonomous Vehicles Legislation* (Jan. 2, 2018), <http://www.ncsl.org/research/transportation/autonomous-vehicles-self-driving-vehicles-enacted-legislation.aspx> (last visited Feb. 5, 2018).

²¹ *Id.*

follow within 300 feet of a similar vehicle. The law exempts the vehicles operating as part of the FDOT's pilot project in a manner and at locations determined by the FDOT.²²

Section 316.303, F.S., prohibits a motor vehicle operated on the highways of this state to be equipped with television-type receiving equipment that is visible from the driver's seat; however, this prohibition does not apply to an electronic display:

- Used in conjunction with a vehicle navigation system;
- Used in a vehicle equipped with autonomous technology in autonomous mode; or
- Used in a vehicle equipped and operating with DATP technology.

Effect of Proposed Changes

The bill repeals the pilot projects for DATP and permits platooning on Florida roadways after an operator provides notification to the DHSMV and the FDOT and obtains a permit by the FDOT.

Section 2 amends s. 316.003, F.S., to repeal the definition of "driver-assistive truck platooning technology," and add a definition for the term "platoon." The bill defines "platoon" as "a group of individual truck-tractor semi-trailer combinations which do not require placards traveling in a unified manner via wireless communications at electronically coordinated speeds and following distances."

Section 5 repeals s. 316.0896, F.S., which created the assistive truck platooning technology pilot project conducted by the FDOT in consultation with the DHSMV.

Section 6 creates s. 316.0897, F.S., to allow an operator to operate in a platoon on Florida roadways after the operator provides notification to the DHSMV and obtains a permit to operate in a platoon from the FDOT. The FDOT is required to adopt rules for the issuance of such permits. Such rules must address:

- The safety of the traveling public;
- The preservation of infrastructure; and
- Platooning technology.

This section is repealed October 1, 2023, unless reviewed and saved from repeal by the Legislature.

Section 9 amends s. 316.303, F.S., to remove reference to DATP technology and adds that the prohibition on television receivers does not apply to an electronic display used by an operator of a platoon.

The bill does not specify how notification to the DHSMV is required to be made or what information is required from the operator. It is unclear how law enforcement will be able to identify that a vehicle is operating in a platoon and thus exempt from certain traffic law requirements.

²² Section 316.0896, F.S.

Personal Delivery Devices (Section 2)

Present Situation

Personal delivery devices (PDDs) are low-weight, low-speed devices that can carry roughly the equivalent of two grocery bags and resemble a box on wheels. PDDs can navigate around objects and people. Using a combination of mobile technology, the devices operate on integrated navigation and obstacle avoidance software that enable autonomous movement, but human operators may step in to ensure safety.²³ A PDD's cargo bay is locked when sent to make a delivery; only the delivery recipient can unlock the box with a code specific to that recipient. PDD locations are tracked, and delivery recipients can monitor the PDD's progress on a smartphone.²⁴

In 2017, the Legislature established a regulatory framework for PDDs, creating definitions and approved operating parameters in ch. 316, F.S., the Florida Uniform Traffic Control Law. With certain exceptions,²⁵ and in the absence of a local prohibition, PDD operation on sidewalks and crosswalks within a county or municipality is authorized²⁶ when such use is permissible under federal law.²⁷ However, the law does not restrict a county or municipality from otherwise adopting regulations for the safe operation of PDDs.²⁸

Section 316.003(51), F.S., currently defines “personal delivery device” to mean an electrically powered device²⁹ that:

- Is operated on sidewalks and crosswalks and intended primarily for transportation of property;
- Weighs less than 80 pounds, excluding cargo;
- Has a maximum speed of ten miles per hour; and
- Is equipped with technology to allow for operation of the device with or without the active control or monitoring of a natural person.

Effect of Proposed Changes

Section 2 amends s. 316.003(51), F.S., the definition of “personal delivery device,” to increase the currently allowable PDD weight, excluding cargo, from less than 80 pounds to less than 100 pounds.

²³ See Starship Technologies Business, <https://www.starship.xyz/business/> (last visited Feb. 16, 2018).

²⁴ *Id.*

²⁵ PDD operation on the Florida Shared-Use Nonmotorized Trail Network created under s. 339.81, F.S., or on components of the Florida Greenways and Trails System created under ch. 260, F.S., is prohibited. Section 316.008(7)(b)2., F.S.

²⁶ Section 316.2071, F.S.

²⁷ Federal law, specifically 23 U.S.C. s. 217(h), prohibits any motorized vehicle on pedestrian walkways funded in whole or in part with federal dollars, except for maintenance purposes, snowmobiles when snow conditions and state or local regulations permit, motorized wheelchairs, electric bicycles when state or local regulations permit, and such other circumstances as the U.S. Department of Transportation secretary deems appropriate.

²⁸ Section 316.008(7)(b), F.S.

²⁹ A PDD is not considered a vehicle unless expressly defined by law as a vehicle. PDDs are also excluded from registration and insurance requirements under s. 320.02(19), F.S.; but the owner or operator of a PDD must maintain an insurance policy providing general liability coverage of at least \$100,000 for damages arising from PDD operation.

Mobile Carriers (Sections 2, 3, 7, 13, 14, and 32)

Present Situation

Mobile carriers are electronic devices designed to carry cargo and follow its operator through an electronic connection. For example, Piaggio Fast Forward has created a mobile carrier named Gita,³⁰ which is capable of hauling up to 44 pounds of goods while following a human operator or moving autonomously through an environment that has been previously mapped by the device.³¹ The device does this by “linking” up to a belt with cameras worn by the user or by the device referring back to a specific map of a path it has already traveled. The device utilizes cameras and an ultrasonic range-finding system to avoid obstacles in its way.³²

Currently, a mobile carrier is not defined in Florida law and Florida law does not contain any provisions regarding the operation of mobile carriers.

Effect of Proposed Changes

Section 2 amends s. 316.003, F.S., to define “mobile carrier” as an electrically powered device that weighs less than 80 pounds (excluding cargo), has a maximum speed of 12.5 miles per hour, is operated on sidewalks and crosswalks, is intended primarily for transporting property, is primarily designed to remain within 25 feet of the property owner, and is equipped with technology to transport personal property with active monitoring of the property owner.

This section also provides that a mobile carrier is not considered a vehicle, motor vehicle, or a personal delivery device.

Section 3 amends s. 316.008, F.S., to authorize a mobile carrier to be operated on sidewalks and crosswalks within a county or municipality when such use is permissible under federal law,³³ but does not restrict a county or municipality from adopting regulations for the safe operation of mobile carriers.

Section 7 amends s. 316.2071, F.S., relating to personal delivery devices (PDDs), to provide regulation of mobile carriers similar to the state’s regulation of PDDs. Specifically, the bill provides that a mobile carrier:

- Operating on a sidewalk or crosswalk has all the rights and duties applicable to a pedestrian under the same circumstances, except that the mobile carrier may not unreasonably interfere with pedestrians or traffic and must yield the right-of-way to pedestrians;
- Must obey all official traffic and pedestrian control signals and devices;
- Must be equipped with a braking system that, when active or engaged, enables the mobile carrier to come to a controlled stop;

³⁰ Gita means a trip or outing in Italian.

³¹ See Piaggio Fast Forward, *Introducing Gita*, <https://www.piaggiofastforward.com/gita> (last visited Feb. 16, 2018).

³² Wired, *The Cute Robot That Follows You Around and Schleps All Your Stuff* (Feb. 16, 2017), <https://www.wired.com/2017/02/piaggio-gita-drone/> (last visited Feb. 16, 2018).

³³ Federal law, specifically 23 U.S.C. s. 217(h), prohibits any motorized vehicle on pedestrian walkways funded in whole or in part with federal dollars, except for maintenance purposes, snowmobiles when snow conditions and state or local regulations permit, motorized wheelchairs, electric bicycles when state or local regulations permit, and such other circumstances as the U.S. Department of Transportation secretary deems appropriate.

- May not operate on a public highway except to cross a crosswalk;
- May not operate on a sidewalk or crosswalk unless the property owner remains within 25 feet of the mobile carrier; and
- May not transport hazardous materials.³⁴

Sections 13 and 32 amend ss. 320.01 and 324.021, F.S., respectively, to provide that the term “motor vehicle” does not include mobile carriers.

Additionally, **section 14**, amends s. 320.02(19), F.S., to provide that a mobile carrier is not required to be registered or insured to be operated within the state.

Following Too Closely Law (Section 4)

Present Situation

Section 316.0895(1), F.S., prohibits a driver of a motor vehicle to follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of vehicles and traffic upon, and the condition of, the highway. Section 316.0895(2), F.S., prohibits a motor truck, motor truck drawing another vehicle, or vehicle towing another vehicle or trailer, when traveling upon a roadway outside a business or residence district, to follow within 300 feet of another motor truck, motor truck drawing another vehicle, or vehicle towing another vehicle or trailer.

“Following-too-closely” (FTC) laws vary by state and can differ based on specific classes of vehicles. Among the states, the most common FTC law for cars require vehicle operators to follow vehicles in a manner that is “reasonable and prudent;” the most common FTC law for heavy trucks specifies required distances or distance intervals, or requires sufficient space for vehicles to enter and occupy without danger; and the least common FTC law requires specified time intervals between vehicles.³⁵ Additionally, some U.S. jurisdictions lack explicit FTC laws.³⁶

Effect of Proposed Changes

Section 4 repeals s. 316.0895(2), F.S., to remove the 300 feet requirement for trucks or vehicles towing another vehicle or trailer when following a similar vehicle. This section also amends s. 316.0895(1), F.S., to provide that the prohibition on following another vehicle more closely than is reasonable and prudent may not be construed to prevent overtaking and passing.

³⁴ As defined in s. 316.003(28), F.S., a hazardous material is any substance or material determined by U.S. Department of Transportation Secretary to be capable of imposing an unreasonable risk to health, safety, and property. This includes hazardous waste as defined in s. 403.703, F.S.

³⁵ Competitive Enterprise Institute, *Authorizing Automated Vehicle Platooning* (July 18, 2017), <https://cei.org/sites/default/files/Marc%20Scribner%20-%20Authorizing%20Automated%20Vehicle%20Platooning%202017.pdf> (last visited Feb. 16, 2018).

³⁶ *Id.*

Federal Motor Carrier Safety Administration Compatibility (Section 8)

Present Situation

The Federal Motor Carrier Safety Administration (FMCSA) was established within the United States Department of Transportation on January 1, 2000. Its primary mission is to prevent commercial motor vehicle (CMV)-related fatalities and injuries.³⁷

Section 316.302, F.S., provides that all owners and drivers of CMVs³⁸ operated on the public highways of this state while engaged in *interstate* commerce are subject to the rules and regulations contained in the following parts of the Federal Motor Carrier Safety Regulations:³⁹

- Part 382, Controlled Substance and Alcohol Use and Testing;
- Part 385, Safety Fitness Procedures;
- Part 390, General Federal Motor Carrier Safety Regulations;
- Part 391, Qualifications of Drivers;
- Part 392, Driving of Commercial Motor Vehicles;
- Part 393, Parts and Accessories Necessary for Safe Operation;
- Part 395, Hours of Service of Drivers;
- Part 396, Inspection, Repair, and Maintenance; and
- Part 397, Transportation of Hazardous Materials; Driving and Parking Rules.

Owners and drivers of CMVs engaged in *intrastate* commerce are subject to the same rules and regulations, unless otherwise provided in s. 316.302, F.S., as such rules and regulations existed on December 31, 2012.⁴⁰ To remain compatible with the Federal Motor Carrier Safety Regulations, states generally have up to three years from the effective date of new federal requirements to adopt and enforce such requirements.⁴¹ States that remain incompatible risk losing federal funding. A 2007 Florida State Motor Carrier Safety Assistance Program (MCSAP) review found that the Florida Statutes contain multiple compatibility issues.⁴²

2007 Florida State MCSAP Review Findings

Section 316.302(1)(b), F.S., provides an exception from 49 C.F.R. s. 390.5 as it relates to the definition of a bus, defined as “any motor vehicle designed, constructed, and/or used for the transportation of passengers, including taxicabs.” Florida law excludes taxicabs from the definition of a bus.⁴³ The MCSAP Review noted that Florida Statutes “exempting, from the

³⁷ FMCSA website, *About Us* (Mar. 31, 2014), <https://www.fmcsa.dot.gov/mission/about-us> (last visited Feb. 16, 2018).

³⁸ Section 316.003(12), F.S., defines “commercial motor vehicle” as “any self-propelled or towed vehicle used on the public highways in commerce to transport passengers or cargo, if such vehicle: (a) Has a gross vehicle weight rating of 10,000 pounds or more; (b) Is designed to transport more than 15 passengers, including the driver; or (c) Is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act, as amended (49 U.S.C. ss. 1801 et seq.).”

³⁹ 49 C.F.R. ch. III, subchapter B.

⁴⁰ Section 316.302(1)(b), F.S.

⁴¹ 49 C.F.R. *Appendix A to Part 355 – Guidelines for the Regulatory Review – State Determinations* (2016).

⁴² 2007 Florida State MCSAP Review, *Summary Findings, Recommendations, and Noteworthy Practices* (June 2007) (on file with the Senate Committee on Transportation).

⁴³ Section 316.003(6), F.S.

definition of a bus, taxicabs as it applies to the intrastate private transportation of passengers, is not compatible” with federal law.⁴⁴

Federal law prohibits certain lamps and reflective devices from being obscured on CMVs.⁴⁵ However, s. 316.215(5), F.S., provides an exception from this requirement for front-end loading collection vehicles that are engaged in collecting solid waste or recyclable or recovered materials and are being operated at less than 20 miles per hour with hazard-warning lights activated. According to the MCSAP review, federal law provides no such exemption.⁴⁶

Section 316.302(2)(d), F.S., provides an exemption from compliance with 49 C.F.R. s. 395.8, requiring record of a driver’s duty status, for a driver of a CMV if the driver:

- Is operating solely in intrastate commerce;
- Is not transporting any hazardous materials in amounts that require placarding;⁴⁷
- Is within 150-air miles of the vehicle’s base location; and
- Complies with specific federal requirements relating to hours of service.⁴⁸

Additionally, state law provides that if a driver is not released from duty within 12 hours of arriving on duty, the motor carrier must maintain documentation of the driver’s driving times throughout the duty period. The MCSAP review found that the exemption and alternate records requirement contained in s. 316.302(2)(d), F.S., does not comply with federal regulations because the federal exemption for such drivers also requires that the driver return to the work reporting location and is released from work within 12 consecutive hours.⁴⁹

Federal law allows a state to exempt a CMV from all or part of its laws or regulations relating to intrastate commerce if the vehicle’s gross vehicle weight, gross vehicle weight rating, gross combined weight, or gross combined weight rating is less than 26,001 pounds and the vehicle is not:

- Transporting hazardous materials requiring a placard; or
- Designed or used to transport 16 or more people, including the driver.⁵⁰

However, s. 316.302(2)(f), F.S., provides exemptions from federal laws or regulations for a person who operates a CMV solely in intrastate commerce, having a *declared* gross vehicle weight of less than 26,001 pounds, and who is not transporting hazardous materials in an amount that requires placarding or who is transporting petroleum products. According to the MCSAP Review, the state interprets this statute as exempting such vehicles transporting petroleum products even if a hazardous materials placard is required, which is not in compliance with federal regulations.⁵¹

⁴⁴ 2007 Florida State MCSAP Review, at p. 2, *FL/FI-1*.

⁴⁵ 49 C.F.R. s. 393.9(b)

⁴⁶ 2007 Florida State MCSAP Review, at p. 4, *FL/FI-7*.

⁴⁷ Pursuant to 49 C.F.R. part 172

⁴⁸ As provided in 49 C.F.R. s. 395.1(e)(1)(iii) and (v).

⁴⁹ 2007 Florida State MCSAP Review, at p. 5, *FL/FI-8*.

⁵⁰ 49 C.F.R. s. 350.341(a)

⁵¹ 2007 Florida State MCSAP Review, at p. 5, *FL/FI-3*.

Maximum Driving Time

Section 316.302(2), F.S., provides prohibitions to the length of time CMV drivers may drive, as well as exemptions from federal requirements for specified vehicles. Section 316.302(2)(b), F.S., provides that a person who operates a CMV solely in intrastate commerce without any hazardous materials in amounts requiring placarding may not drive:

- More than 12 hours following 10 consecutive hours off duty; or
- For any period after the end of the 16th hour after coming on duty following 10 consecutive hours off duty.

Except as provided in the federal hours of service rules,⁵² a person operating a CMV solely in intrastate commerce not transporting any hazardous material may not drive after having been on duty more than 70 hours in any period of seven consecutive days or more than 80 hours in any period of eight consecutive days if the motor carrier operates every day of the week.⁵³ Upon request of DHSMV, motor carriers are required to furnish time records or other written verification so that DHSMV can determine compliance with the hours of service requirements. Falsification of time records is subject to a civil penalty not to exceed \$100.⁵⁴

Effect of Proposed Changes

Section 8 amends multiple provisions in s. 316.302, F.S., to address federal compatibility issues.

This section amends s. 316.302(1), F.S., to clarify that the section applies to all CMVs and buses, except as provided in s. 316.302(3), F.S., relating to covered farm vehicles.

This section adopts federal laws that intrastate CMV owners and drivers are required to comply with as such federal rules and regulations existed on December 31, 2017.⁵⁵ However, s. 316.302(1)(e), F.S., is created to delay the requirement for electronic logging devices and hours of service support documents⁵⁶ for intrastate motor carriers not carrying hazardous materials in amounts requiring placarding until December 31, 2018.

This section amends s. 316.302(1)(d), F.S., to repeal an exemption from federal law allowing specified CMVs to obscure certain lighting or reflective devices.

Due to changes in federal law, the section amends s. 316.302(2)(a), F.S., to provide clarity that drivers of intrastate CMVs that are not transporting hazardous materials requiring placarding are exempt from 49 C.F.R. s. 395.3, which provides maximum driving times for property-carrying vehicles. These drivers continue to be subject to the maximum driving times required by state law.

⁵² 49 C.F.R. s. 395.1

⁵³ Section 316.302(2)(c), F.S.

⁵⁴ This penalty is found in s. 316.302(2)(c), F.S. However, s. 316.3025, F.S., relating to CMV penalties, provides that a penalty of \$100 may be assessed for a violation of s. 316.302(2)(b) or (c), F.S.

⁵⁵ A list of Final Rules adopted as of December 31, 2016, that affect FMCSA rules and regulations are available on the FMCSA website, *Rulemaking Documents*,

<https://www.fmcsa.dot.gov/regulations/search/rulemaking?keyword=&dt=final&topic> (last visited Feb. 5, 2018).

⁵⁶ Electronic Logging Devices and Hours of Service Supporting Documents, 80 Fed. Reg. 78291 (Dec. 16, 2015), <https://www.federalregister.gov/documents/2015/12/16/2015-31336/electronic-logging-devices-and-hours-of-service-supporting-documents> (last visited Feb. 5, 2018).

Section 316.302(2)(c), F.S., is amended to remove a duplicate penalty for falsifying hours of service records.

Section 316.302(2)(d), F.S., is amended to refer to the correct federal regulations that allow a motor carrier to be exempt from being required to maintain records of duty status for short-haul drivers. In order to be exempt, the driver must also return to the work reporting location and be released from work within 12 consecutive hours and have either 10 or 8 hours off (property-carrying and passenger-carrying CMVs).

Lastly, the section amends s. 316.302(2)(f), F.S., to remove specified exemptions from federal law or regulations for drivers transporting petroleum products. The paragraph is also amended to refer to the federal criteria for the exemption: CMVs having a *gross vehicle weight, gross vehicle weight rating, and gross combined weight rating* of less than 26,001 pounds, instead of a *declared* gross vehicle weight.

Innovative Technology/Turnpike Funding (Section 10)

Present Situation

Section 338.2215, F.S., expresses Legislative intent that the Florida Turnpike Enterprise (FTE) within the FDOT maximize the advantages obtainable through fully leveraging the turnpike system asset, and that the additional powers and authority granted to the FTE will provide it with the autonomy and flexibility to enable it to more easily pursue innovations and best practices found in the private sector in, among other items, operations. Section 338.2216(1)(d), F.S., directs the FTE in part to “pursue and implement new technologies and processes in its operations.”

As an example of such efforts, the FTE and other entities are participating in a project called SunTrax. According to the project website, “located off I-4 between Orlando and Tampa, SunTrax is a large-scale, cutting-edge facility dedicated to the research, development and testing of emerging transportation technologies in safe and controlled environments.”⁵⁷ Site construction began in June 2017. The site covers 400 acres containing a multi-lane 2.25-mile long oval track and a 200-acre infield designed specifically for development and testing of automated driving systems.⁵⁸

Effect of Proposed Changes

Section 10 amends s. 316.85, F.S., to authorize the FTE to fund, construct, and operate test facilities for the advancement of autonomous, connected, and innovative transportation technology solutions for the purposes of improving safety and decreasing congestion for the traveling public and to otherwise advance the FTE’s objectives under ch. 338, F.S.

⁵⁷ For more information, see the SunTrax website at <http://www.suntraxfl.com/#about-us> (last visited Feb. 16, 2018).

⁵⁸ See SunTrax Brochure, <http://www.suntraxfl.com/wp-content/uploads/2017/11/SunTrax-Brochure-.pdf>. (last visited Feb. 16, 2018).

Pilot Rebuilt Motor Vehicle Inspection Program (Section 11)

Present Situation

A person may not sell a rebuilt vehicle until the vehicle's title labels that vehicle as rebuilt, which requires the motor vehicle go through a physical rebuilt motor vehicle inspection conducted by the DHSMV.⁵⁹ The purpose of the rebuilt inspection is to assure the identity of the vehicle and all major component parts that have been repaired or replaced. After an approved rebuilt inspection, the DHSMV affixes a decal to the vehicle that identifies the vehicle as a rebuilt vehicle.

The 2013 Florida Legislature created s. 319.141, F.S., for the implementation of a Pilot Rebuilt Vehicle Inspection Program (PRVIP) conducted in Miami-Dade and Hillsborough counties. The DHSMV set standards for the program and certified private sector inspection facilities in Miami-Dade County.⁶⁰ The program's purpose is to evaluate private sector alternatives for rebuilt inspection services, including the feasibility of using private facilities, the cost impact to consumers, and the potential savings to the DHSMV. The DHSMV is required to establish a memorandum of understanding (MOU) that allows private parties participating in the pilot program to conduct rebuilt vehicle inspections and specifies requirements for oversight, bonding and insurance, procedure, and forms, and requires the electronic submission of documents.

To be approved to conduct rebuilt vehicle inspections under the program, s. 319.141, F.S., requires an applicant:

- Have and maintain a surety bond or irrevocable letter of credit in the amount of \$100,000, executed by the applicant;
- Secure and maintain a facility at a permanent structure at an address recognized by the United States Postal Service where the only services provided are rebuilt inspection services;
- Annually attest that he or she is not employed by or does not have an ownership interest in or financial arrangement with a motor vehicle repair shop, motor vehicle dealer, towing company, storage company, vehicle auction, insurance company, salvage yard, metal retailer, or metal rebuilder, from which he or she receives remuneration for the referral of customers for rebuilt inspection services;
- Have and maintain garage liability and other insurance required by the DHSMV;
- Have completed criminal background checks of the owners, partners, and corporate officers and the inspectors employed by the facility; and
- Meet any additional criteria the DHSMV determines necessary to conduct proper inspections.

As required by law, the DHSMV submitted a report⁶¹ in 2015, which summarized the implementation of the pilot program and program results. Since October 1, 2013, the DHSMV has certified eight private businesses in the Miami area to conduct rebuilt vehicle inspections.⁶²

⁵⁹ Section 319.14(1)(b), F.S. A rebuilt vehicle is one that has been built from salvage or junk.

⁶⁰ No entities from Hillsborough County applied to participate in the program.

⁶¹ DHSMV, *Florida's Private Rebuilt Vehicle Inspection Program – Pilot Program Report* (Jan. 30, 2015), <http://www.flhsmv.gov/pdf/cabinetreports/privaterebuiltreport.pdf> (last visited Feb. 16, 2018).

⁶² DHSMV, Office of Inspector General, *Rebuilt Vehicle Inspection Program Audit Report 201617-24* (Dec. 5, 2017), <https://www.flhsmv.gov/pdf/igoffice/20161724.pdf> (last visited Feb. 16, 2018).

During Fiscal Year 2016-2017, a total of 71,342 rebuilt vehicle inspections were conducted in the state, of which 35,325 were by the PRVIP businesses.⁶³

Currently, the DHSMV employees in Miami-Dade County are still responsible for conducting rebuilt vehicle inspections at the DHSMV Regional Office and at various off-site locations, and for monitoring the PRVIP businesses to ensure inspections are conducted in accordance with program standards.⁶⁴

According to the DHSMV, each of the eight pilot program participants have met, and continue to meet, all of the statutory requirements and the MOU executed with DHSMV. Statutorily authorized state rebuilt inspection fees (\$40) and re-inspection fees (\$20) have been collected and remitted to the state as required. In addition, each pilot program participant is allowed to assess customers a service fee for each inspection. Service fees range from \$50 to \$85 and are not regulated in any manner by the DHSMV.⁶⁵

The pilot rebuilt motor vehicle inspection program is repealed on July 1, 2018, unless saved from repeal through reenactment by the Legislature.

Effect of Proposed Changes

Section 11 amends s. 319.141, F.S., to require PRVIP business operators to:

- As part of the rebuilt inspection services, photograph the interior driver and passenger sides of the vehicle if the airbags were previously deployed and replaced;
- Secure and maintain a facility that is a permanent fixed structure which has an address identified by a county-issued tax folio number;
- Annually attest that there have been no changes in the ownership structure of the facility and that the only services being provided at the property are rebuilt vehicle inspection services approved by the DHSMV;
- Have a designated office and customer waiting area that is separate from and not within view of the vehicle inspection area;
- Have a vehicle inspection area capable of accommodating all vehicle types and equipped with cameras allowing the DHSMV to view and monitor inspections.

This section prohibits program participants from conducting an inspection of a vehicle to be purchased by the current program applicant. Such vehicles must be inspected by the DHSMV.

This section also:

- Requires an applicant for a rebuilt title that fails an initial rebuilt inspection to have that vehicle re-inspected only by the DHSMV or the facility that conducted the original inspection;
- Prohibits a person or business authorized by the DHSMV to train, certify, or recertify operators and inspectors of private rebuilt inspection facilities from certifying or recertifying themselves or their employees;

⁶³ *Id.*

⁶⁴ DHSMV, *Pilot Program Report*.

⁶⁵ DHSMV, *Pilot Program Report*.

- Requires the DHSMV to conduct onsite facility inspections at least twice a year;
- Requires the current facility operator to give the DHSMV a 45 day written notice of the intended transfer of ownership of the facility, and requires the transferee to meet all eligibility requirements of the program;
- Reenacts the pilot program, which saves the program from repeal on July 1, 2018, and provides for the repeal of the program on July 1, 2020, unless saved from repeal through reenactment by the Legislature; and
- Requires the DHSMV to submit a written report to the President of the Senate and the Speaker of the House of Representatives on or before January 1, 2019, evaluating the current program and its benefits to consumers and the DHSMV.

Motor Vehicle Title Transfer Fee (Section 12)

Present Situation

Section 319.32(1), F.S., provides for a \$70 fee for each original and duplicate certificate of title, except for motor vehicles for hire,⁶⁶ which are \$49, and \$2 for each salvage certificate of title. The DHSMV also charges \$2 to note a lien on the certificate, \$1 to cover the cost of materials, and \$2.50 for shipping and handling. Additionally, s. 319.32(2), F.S., provides that there is a \$4.25 service charge for each certificate of title application, a \$10 additional fee for an original certificate of title issued for a vehicle registered outside of Florida, and a \$7 additional fee for each lien placed on a vehicle by the state child support enforcement program.

The \$70 fee is distributed between the State Transportation Trust Fund and the General Revenue Fund, excluding \$1 that is deposited into the Highway Safety Operating Trust Fund (HSOTF) to fund the DHSMV's efforts to prevent and detect odometer fraud.⁶⁷ The DHSMV or the tax collector who processes the application retains the \$4.25 service charge.⁶⁸ Additionally, expedited service for title transfers, issuances, duplicates, and recordation of liens is an option available for a \$10 fee. If requested, expedited service ensures the title is issued within five working days after receipt of the application.⁶⁹

In the event of the death of a motor vehicle owner, upon inheritance of the motor vehicle, a surviving spouse may dispose of a deceased spouse's vehicle without being required to transfer the certificate of title in his or her name.⁷⁰ Co-owners of a vehicle with names appearing conjoined by an "or" on the title are not required to apply for a new title when the other co-owner dies, as he or she already has absolute rights to the vehicle. As of July 1, 2017, the DHSMV and tax collector are prohibited from charging fees or service charges (excluding an expedited title fee, if applicable) for issuance of a motor vehicle certificate of title when the title is being issued solely to remove a deceased spouse as a co-owner of the vehicle when the other

⁶⁶ Vehicles registered under s. 320.08(6), F.S.

⁶⁷ Sections 319.32(5) and 319.324, F.S.; Section 319.32(5), F.S., provides that \$47 of each fee collected for an original or duplicate certificate of title is deposited into the State Transportation Trust Fund, which may receive up to \$200 million in any fiscal year. The remainder of the fee and any fees in excess of the \$200 million are deposited into the General Revenue Fund.

⁶⁸ Section 319.32(2)(b), F.S.

⁶⁹ Section 319.323, F.S.

⁷⁰ Section 319.28(1)(c), F.S.

co-owner is the surviving spouse.⁷¹ In any other situation when a person inherits a vehicle that he or she wishes to operate or sell, such person is required to transfer the certificate of title into his or her name and pay the applicable title fees.

Effect of Proposed Changes

Section 12 amends s. 319.32(7), F.S., to prohibit the DHSMV and tax collectors from charging any fee or service charge, other than the expedited title fee, if applicable, for issuing a certificate of title to transfer a Florida-titled vehicle from a deceased owner, who is a Florida resident, to the deceased's child or parent, who is also a Florida resident. The title transfer must be made within 30 days of the owner's death for the child or parent to receive the fee exemption.

International Registration Plan – Charter Buses (Section 13)

Present Situation

The International Registration Plan (IRP) is a registration reciprocity agreement among all states in the contiguous United States, the District of Columbia, and several Canadian provinces. It provides for the payment of license fees based on fleet operation in various member jurisdictions.⁷² This allows carriers to operate inter-jurisdictionally while only needing to register its vehicles in its base jurisdiction, which is the state or province where the registrant has an established place of business.⁷³

All “apportionable vehicles” domiciled in the state are required to be registered in accordance with the IRP and display “Apportioned” license plates.⁷⁴

Apportionable vehicles that do not regularly operate in a particular jurisdiction also have the option to register for trip permits in order to operate in IRP member jurisdictions for limited periods where they do not pay license taxes.⁷⁵

An “apportionable vehicle” is any vehicle that is used or intended for use in two or more member jurisdictions and that is used for the transportation of persons for hire or designed, used, or maintained primarily for the transportation of property, and:⁷⁶

- Is a power unit having a gross vehicle weight in excess of 26,000 pounds;
- Is a power unit having three or more axles, regardless of weight; or
- Is used in combination, when the weight of such combination exceeds 26,000 pounds gross vehicle weight.

⁷¹ Section 319.32(7), F.S., created by ch. 2017-89, Laws of Florida.

⁷² International Registration Plan, Inc., *About IRP*, <http://www.irponline.org/?page=AboutIRP> (last visited Feb. 16, 2018).

⁷³ As defined by the IRP. IRP, *International Registration Plan with Official Commentary* (Jan. 1, 2017), http://c.ymcdn.com/sites/www.irponline.org/resource/resmgr/publications/IRP_agreement_eff_january_1_.pdf at p. 16 (last visited Feb. 16, 2018).

⁷⁴ Sections 320.0715(1) and 320.06(3)(a), F.S.

⁷⁵ *Id.* See also IRP, *Trip Permits-Cost/Duration* (May 2016),

http://www.irponline.org/resource/resmgr/Jurisdiction_Info_2/Trip_Permits_5.19.2016.xlsx (last visited Feb. 16, 2018).

⁷⁶ Section 320.01(24), F.S. IRP

http://c.ymcdn.com/sites/www.irponline.org/resource/resmgr/publications/IRP_agreement_eff_january_1_.pdf, at p. 12-13 (last visited Feb. 16, 2018)

The Florida definition excludes recreational vehicles, vehicles displaying restricted plates, city pickup and delivery vehicles, government-owned vehicles, and buses used in transportation of chartered parties. The IRP definition excludes a recreational vehicle, a vehicle displaying restricted plates, or a government-owned vehicle. Excluded vehicles may voluntarily register.

Prior to January 1, 2016, charter buses were excluded from having to register under the IRP. The IRP was amended to remove charter buses from the exemption, requiring charter bus operations to register under the IRP. This registration ensures that a charter bus operation will pay license fees to each jurisdiction it operates in, and prevents or suspends the registration of unsafe carriers.⁷⁷

Effect of Proposed Changes

Section 13 amends s. 320.01(24), F.S., to remove the exclusion of charter buses from the definition of apportionable vehicle. This change is necessary to align with the requirements of the IRP. All charter buses operating interstate are required to obtain an IRP registration or purchase trip permits.

Voluntary Contribution Checkoffs (Section 14)

Present Situation

An organization may seek a voluntary contribution checkoff to be placed on the motor vehicle registration application and renewal forms, which allows individuals the option to contribute \$1 or more to such organizations.

An organization that seeks authorization to establish a voluntary contribution checkoff on a motor vehicle registration application is required to submit specified information to the DHSMV at least 90 days before the convening of the next regular session of the Legislature.⁷⁸ Specifically, the organization must submit:

- A request for the voluntary contribution checkoff being sought, including a description of the proposed voluntary contribution;
- An application fee, not to exceed \$10,000, to defray departmental costs for reviewing the application and developing the checkoff (the fee is refunded if the checkoff is not approved by the Legislature); and
- A marketing strategy for the checkoff and financial analysis outlining anticipated revenues and planned expenditures of the revenues derived from the checkoff.⁷⁹

Additionally, s. 320.023, F.S., provides general regulations for the use of contributions received from checkoffs, and provides that approved voluntary contribution checkoffs must be discontinued if less than \$25,000 has been contributed during any 5-year period, if the organization no longer exists, if the organization stops providing services authorized to be funded with the contributions, or pursuant to an organizational recipient's request.

⁷⁷ See IRP, *Official Amendment to the International Registration Plan* (June 2014)

http://c.ymcdn.com/sites/www.irponline.org/resource/resmgr/irp_ballots/ballot_391.pdf (last visited Feb. 16, 2018).

⁷⁸ Section 320.023(1), F.S.

⁷⁹ *Id.*

Effect of Proposed Changes

Section 14 amends s. 320.02, F.S., to add a voluntary contribution checkoff (notwithstanding the statutory requirements of s. 320.023, F.S.) to the motor vehicle registration application and renewal forms, which allows an applicant to contribute \$1 to the Alzheimer's Association, Inc.

DHSMV's Electronic Filing System (Section 15)

Present Situation

Section 320.03, F.S., provides the duties of tax collectors as it relates to motor vehicle licensing. It provides that jurisdiction over the electronic filing system (EFS) for use by authorized EFS agents for certain purposes is expressly preempted to the state, and the DHSMV has regulatory authority over the system. Specifically, the EFS is used to:

- Electronically title or register motor vehicles, vessels, mobile homes, or off-highway vehicles;
- Issue or transfer registration license plates or decals;
- Electronically transfer fees due for the title and registration process; and
- Perform inquiries for title, registration, and lienholder verification and certification of service providers.

The section provides that an entity that, in the normal course of its business, sells products that must be titled or registered, provides title and registration services on behalf of its consumers, *and* meets the requirements established by the DHSMV shall not be precluded from participating in the EFS upon request from the qualified entity.⁸⁰ The EFS must be available for use statewide and applied uniformly throughout the state. Additionally, the EFS agents may charge a fee to the customer for use of the EFS.

The EFS is primarily used by Florida's motor vehicle dealers to acquire access to the DHSMV registration and title information and to process title and registration transactions.⁸¹

Effect of Proposed Changes

Section 15 amends s. 320.03(10), F.S., to provide that the EFS system can be used to process title transactions, derelict motor vehicle certificates, and certificates of destruction for derelict and salvage motor vehicles. The bill adds that an entity that, in the normal course of its business, processes title transactions, derelict motor vehicle certificates, or certificates of destruction for derelict or salvage motor vehicles and meets the requirements established by the DHSMV may be an authorized EFS agent.

This section also provides that DHSMV *may* adopt rules to administer the section, including, but not limited to, rules establishing participation requirements, certification of service providers, EFS requirements, disclosures, and enforcement authority for noncompliance. The current rulemaking authority related to the EFS is mandatory rather than permissive.

⁸⁰ Rule 15C-16.010 sets forth the DHSMV's requirements to be an EFS agent.

⁸¹ For more information, see DHSMV website, *Electronic Filing System (EFS)*, <https://www.flhsmv.gov/motor-vehicles-tags-titles/electronic-lien-titles/electronic-filing-system-efs/> (last visited Feb. 16, 2018).

This section is effective January 1, 2019.

Issuance of Apportionable Vehicle Plates (Sections 16 and 18)

Present Situation

Section 320.06, F.S., provides for motor vehicle registration certificates, license plates, and validation stickers. Registration license plates, which bear a graphic symbol and alphanumeric system of identification, are issued for a 10-year period. However, “Apportioned” license plates issued to vehicles registered under the IRP are issued annually.⁸² Each original license plate costs \$28, which is deposited into the Highway Safety Operating Trust Fund (HSOTF). Apportioned vehicles are also issued an annual cab card that denotes the declared gross vehicle weight for each apportioned jurisdiction where the vehicle is authorized to operate.⁸³

Effect of Proposed Changes

Sections 16 and 18 amend ss. 320.06 and 320.0607, F.S., respectively, to provide that beginning October 1, 2019, apportioned vehicles will be issued license plates valid for a 5-year period, instead of annually. If the license plate is damaged or worn prior to the end of the 5-year period, the DHSMV may replace it at no charge upon application and surrender of the current plate. Cab cards and validation stickers will continue to be issued annually. The \$28 annual fee will apply to the issuance of an original or renewal validation sticker, instead of for the cost of the plate.

Electronic Motor Vehicle Registrations and Rental Agreements (Sections 17 and 23)

Present Situation

Section 320.0605, F.S., requires certificates of registration for motor vehicles. The registration certificate or an official copy, a true copy of rental or lease documentation issued for a motor vehicle or issued for a replacement vehicle in the same registration period, a temporary receipt printed upon self-initiated electronic renewal of a registration via the Internet, or a cab card issued for a vehicle registered under the IRP must, at all times while the vehicle is being used or operated on the roads of this state, be in the possession of the operator of the vehicle, or be carried in the vehicle for which it was issued. The certificate must be exhibited upon demand of any authorized law enforcement officer or an agent of the DHSMV, except for a registered fleet vehicle.⁸⁴ This provision does not apply during the first 30 days after purchase of a replacement vehicle. A violation is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in ch. 318, F.S.⁸⁵

Section 320.0605, F.S., requires that a person who rents or leases a vehicle is required to possess a true copy of rental or lease documentation for the motor vehicle at all times while the vehicle is

⁸² Section 320.06(1)(b)1., F.S.

⁸³ See IRP, *State of Florida Apportioned Cab Card Sample*, http://c.ymcdn.com/sites/www.irponline.org/resource/resmgr/cab_cards/fl_cc_sample.pdf (last visited Feb. 16, 2018).

⁸⁴ A fleet vehicle registered under s. 320.0657, F.S., provides for the permanent registration of fleet license plates.

⁸⁵ Chapter 318, F.S., relates to the disposition of traffic infractions.

being operated.⁸⁶ The documentation must include certain information including the date of the rental and the time of exit from the rental facility.

Effect of Proposed Changes

Section 17 amends s. 320.0605, F.S., to authorize a person to possess a DHSMV-authorized electronic copy of a motor vehicle registration or an electronic copy of a rental or lease documentation to be displayed upon the request of a law enforcement officer or an agent of the DHSMV.

This section also repeals the requirement that the rental or lease documentation must include the time of exit from the rental facility.

Section 23 amends s. 320.95, F.S., to allow the DHSMV to authorize the format of an electronic certificate of registration in addition to a paper certificate. The section also authorizes presentation of the department-issued electronic certificate if the paper certificate is not available for inspection, is damaged, or is otherwise illegible.

Both sections provide that displaying the electronic copy does not constitute consent for the officer or agent to access any information on the device other than the displayed documentation. Additionally, the person who presents the device to the officer or agent assumes liability for any resulting damage to the device.

Specialty License Plates for Motor Vehicle Dealers and Fleets (Sections 16, 19, 20 and 21)

Present Situation

A franchised motor vehicle dealer, independent motor vehicle dealer, marine boat trailer dealer, or mobile home dealer and manufacturer license plate is subject to an annual license tax of \$17.⁸⁷ These license plates are imprinted with the word “Dealer” at the bottom of the plate.⁸⁸ Dealers may, upon payment of the dealer plate license tax, secure one or more dealer license plates. These plates are valid while the motor vehicles are in the dealer’s inventory and for sale, or while being operated in connection with the dealer’s business, except when used as for-hire vehicles.⁸⁹

Fleet license plates are available for companies that own or lease a minimum number of nonapportioned motor vehicles used for business purposes.⁹⁰ Such permanent plates are available upon approval by the DHSMV and payment of license taxes prescribed under s. 320.08, F.S. Fleet vehicle license plates have the word “Fleet” imprinted at the bottom of the plate.⁹¹

⁸⁶ A person who cannot display such documentation upon request from an officer or agent of the DHSMV is guilty of a noncriminal traffic infraction, punishable as a nonmoving violation.

⁸⁷ Section 320.08(12), F.S.

⁸⁸ Section 320.06(3), F.S.

⁸⁹ Section 320.13, F.S.

⁹⁰ Section 320.0657. DHSMV, Division of Motorist Services, Procedure RS-55, *Fleet Registration Program* (Feb. 8, 2013), <http://www3.flhsmv.gov/dmv/Proc/RS/RS-55.pdf> (last visited Feb. 16, 2018), provides that the fleet company must have a minimum of 200 vehicles or 25 trailers or semitrailers used exclusively to haul agricultural products.

⁹¹ *Id.*

There are over 120 specialty license plates available for purchase in Florida.⁹² However, neither dealer license plates nor fleet license plates are eligible to be specialty license plates. Specialty license plates require payment of an annual use fee, ranging from \$15 to \$25, paid in addition to required license taxes and service fees.⁹³ These annual use fees are distributed to an organization or organizations in support of a particular cause or charity signified in the plate's design and designated in statute.⁹⁴

Effect of Proposed Changes

Sections 16, 19, 20, and 21 amend ss. 320.06, 320.0657, 320.08, and 320.08056, F.S., respectively, to allow a dealer or fleet company, with the permission of the specialty license plate organization, to purchase specialty license plates directly through the DHSMV to be used on dealer or fleet vehicles. The dealer or fleet company that orders specialty license plates for its vehicles must pay the annual use fee of the specialty license plate and any other applicable license taxes or fees. The specialty license plate will include the letters "DLR" for dealer license plates and "FLT" for fleet license plate embossed on the right side of the plate.

Fleet Vehicle Temporary Tag Pilot Program (Section 22)

Present Situation

Section 320.131, F.S., authorizes the DHSMV to design, issue, and regulate the use of temporary tags for use in certain cases provided in law when a permanent plate may not be immediately available, and provides penalties for the misuse of temporary tags. Generally, a temporary tag is valid for 30 days.⁹⁵ Temporary tags cost \$2 each, of which \$1 is deposited into the Brain and Spinal Cord Injury Program Trust Fund and \$1 into the Highway Safety Operating Trust Fund. DHSMV uses a print-on-demand electronic temporary tag registration, record retention, and issue system that is required to be used by every department-authorized issuer of temporary tags.⁹⁶ These issuers include motor vehicle dealers and tax collectors who frequently issue temporary tags on behalf of the DHSMV.

Effect of Proposed Changes

Section 22 amends s. 320.131, F.S., to create a Fleet Vehicle Temporary Tag Pilot Program. Beginning October 1, 2018, the DHSMV may partner with a county tax collector to conduct a pilot program that provides up to 50 temporary tags at a time to fleet companies who have at least 3,500 fleet vehicles registered in Florida. The DHSMV shall establish a memorandum of understanding (MOU) that allows a maximum of three companies to participate in the pilot program.

Under the pilot program:

⁹² A list of Florida's specialty license plates is available on the DHSMV website at <http://www.flhsmv.gov/dmv/specialtytags/> (last visited Feb. 16, 2018).

⁹³ Section 320.08056, F.S.

⁹⁴ Section 320.08058, F.S.

⁹⁵ However, a temporary tag issued to a vehicle required to be weighed or emission tested prior to registration or required to have the vehicle identification number verified is valid for 10 days, and a temporary tag issued for a vehicle waiting for manufacturing of a purchased specialty or personalized prestige plate is valid for 90 days. See ss. 320.131(1)(f) and (j), F.S.

⁹⁶ Section 320.131(9), F.S.

- The temporary tags must be used exclusively on the company's fleet vehicles and may not be used on any other vehicle;
- Each temporary plate must be used on only one vehicle, and each vehicle may only use one temporary plate;
- Upon issuance of the vehicle's permanent license plate and registration, the temporary tag becomes invalid and must be removed from the vehicle and destroyed;
- Upon a finding by the DHSMV that a temporary tag has been misused under this program, the DHSMV may terminate the MOU with the company, invalidate all temporary tags issued to the company, and require the company to return any unused temporary tags.

This program is repealed on October 1, 2021, unless saved from repeal through reenactment by the Legislature.

Digital Driver Licenses and Electronic Credentials (Sections 24-26, 28, and 29)

Present Situation

Section 322.032, F.S.,⁹⁷ provides for the establishment of a digital proof of driver license. This section requires the DHSMV to begin to review and prepare for the development of a secure and uniform system for issuing an optional digital proof of driver license. DHSMV is authorized to contract with one or more private entities to develop a digital proof of driver license system.

The digital proof of driver license developed by the DHSMV or by an entity contracted by the DHSMV is required to be in such a format as to allow law enforcement to verify the authenticity of the digital proof of driver license. The DHSMV may adopt rules to ensure valid authentication of digital driver licenses by law enforcement.

This section also establishes certain penalties for a person who manufactures or possesses a false digital proof of driver license. Specifically, a person who:

- Manufactures a false digital proof of driver license commits a third degree felony, punishable by up to five years in prison⁹⁸ and a fine not to exceed \$5,000.⁹⁹
- Possesses a false digital proof of driver license commits a second degree misdemeanor, punishable by up to 60 days in jail.¹⁰⁰

Currently, there are six states who are piloting or have completed pilot projects testing digital driver license applications with limited populations; however, no state has implemented use of a statewide digital driver license.¹⁰¹ The American Association of Motor Vehicle Administrators (AAMVA) represents state and provincial officials who administer and enforce motor vehicle laws in the United States and Canada, and develops programs to encourage uniformity and reciprocity among the states and provinces, including developing driver license and identification

⁹⁷ This section was created in 2014. See ch. 2014-216, Laws of Fla.

⁹⁸ Section 775.082, F.S.,

⁹⁹ Section 775.083, F.S.

¹⁰⁰ Section 775.082, F.S.

¹⁰¹ Iowa plans to develop an app-based mobile driver's license for statewide deployment this year. See Government Technology, *Iowa, Five Other States Will Try Digital Driver's License Projects in 2018* (Oct. 20, 2017), <http://www.govtech.com/transportation/Iowa-Five-Other-States-Will-Try-Digital-Drivers-License-Projects-in-2018.html> (last visited Feb. 16, 2018).

card design standards.¹⁰² The AAMVA has brought together its Card Design Standard Committee and an Electronic Identity Working Group to recommend standards regarding the use of mobile or electronic driver licenses and identification cards.¹⁰³

At this time, AAMVA has not released its standards for electronic identification, but has produced a continuously updated white paper discussing the functional needs for and practical considerations associated with a mobile driver license solution.¹⁰⁴

Effect of Proposed Changes

The bill replaces references in the Florida Statutes to a “digital proof of driver license” with the term “electronic credential,” which refers to an “electronic representation of a physical driver license or identification card which is viewable on an electronic credential system and capable of being verified and authenticated.” The bill provides requirements to implement the creation and use of statewide electronic credentials.

Section 24 amends s. 322.01, F.S., to define terms as used in ch. 322, F.S., relating to driver licenses. Specifically, the bill defines the terms “credential service provider,” “digital identity verifier,” “electronic,”¹⁰⁵ “electronic credential,” “electronic credential holder,” “electronic credential provider,” “electronic credential system,” “electronic device,” “electronic ID,”¹⁰⁶ and “qualified entity.”

Section 25 amends s. 322.032(1), F.S., to require the DHSMV to develop and implement secure and uniform protocols that comply with national standards for issuing an optional electronic credential. The bill also requires the DHSMV to:

- Competitively procure a related technology solution that uses a revenue-sharing model;
- Procure at least two but no more than five electronic credential providers to develop and implement an *initial phase* to provide a secure electronic credential system;
- Maintain the protocols and national standards necessary for a digital verifier or an electronic credential provider to request authorized access to an application programming interface, or an appropriate technological tool, necessary for such private entity to consume an electronic ID;¹⁰⁷
- Timely review requests for authorized access and approve all requests by digital identify verifiers which meet the DHSMV’s requirements;
- Enter into agreements with electronic credential providers which describe the permitted uses, terms and conditions, privacy policy, and uniform remittance terms relating to the consumption of an electronic credential; and

¹⁰² See AAMVA, *About AAMVA*, <https://www.aamva.org/about-aamva/> and *DL/ID Standards*, <https://www.aamva.org/dl-id-card-design-standard/> (last visited Feb. 16, 2018).

¹⁰³ AAMVA, *Mobile Driver’s License (mDL)*, <https://www.aamva.org/Mobile-Drivers-License/> (last visited Feb. 16, 2018).

¹⁰⁴ AAMVA, *Mobile Driver’s License – Functional Needs White Paper 0.8 Document Version* (revised Sept. 5, 2017), <https://www.aamva.org/mDLFunctionalNeedsRequirements-08/> (last visited Feb. 16, 2018).

¹⁰⁵ This definition is identical to the definition of “electronic” as used in Florida’s Uniform Electronic Transaction Act. See s. 668.50(2)(e), F.S.

¹⁰⁶ This definition is identical to the definition of “electronic record” as used in Florida’s Uniform Electronic Transaction Act. See s. 668.50(2)(g), F.S.

¹⁰⁷ An “electronic ID” is defined as a “technology solution by which a qualified entity authenticates the identity of an individual receiving goods or services.”

- Upon completion of the *initial phase*, submit a report regarding the continued implementation and tools necessary for future phases to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The electronic credential provider must have the necessary technological capabilities to execute the authentication of an electronic credential across all states, jurisdictions, federal and state agencies, and municipalities. The electronic credential and verification solution must provide the standardized system integration necessary:

- For qualified entities to securely consume the electronic credential;
- For the production of a fully compliant electronic credential electronic credential providers; and
- To successfully ensure secure authentication and validation of data from disparate sources.

Qualified entities are required to have technological capabilities necessary to integrate with the credential service provider (an electronic credential provider competitively procured by the DHSMV).

This section requires the DHSMV to provide access to a standardized digital transaction process for use by electronic credential providers to enable the financial transaction be completed in such a manner that the proceeds are accepted by the DHSMV at the point of sale. This process must enable the providers of the credential to direct through their electronic commerce workflows to a standardized checkout process and be able to document the providers involved.

This section authorizes the DHSMV to issue electronic credentials to persons who hold a Florida driver license or identification card. The bill does not specifically state that a person must pay a fee to have an electronic credential or authorize the DHSMV to set a fee, but the bill does state that the DHSMV must provide the electronic credential providers “access to a standardized digital transaction process that provides the proceeds of a completed financial transaction to the department at the point of sale.” Revenue generated from the electronic credential system must be deposited into the Motor Vehicle Licensing Clearing Trust Fund and distributed pursuant to a legislative appropriation and the DHSMV agreements with the electronic credential providers.

Additionally, the DHSMV may assess a market rate fee structure for use of the credential service provider for any qualified entity to obtain an electronic ID. Revenue generated from use of the service provider by digital identity verifiers is shared between the state and the credential provider and distributed pursuant to DHSMV agreements with digital identity verifiers.

Fees may not be charged to any state court, state governmental entity, or law enforcement agency.

The electronic credential is required to be in a format that allows law enforcement or an authorized consumer to verify the authenticity of the credential, identify the identity of the holder, and to validate the status of the holder’s driving privilege associated with the credential. It provides that the act of presenting the electronic credential to a law enforcement officer does not constitute consent for inspection of any information on the device other than the displayed credential, and the person who presents the device assumes liability for any resulting damage to the device.

Finally, the bill amends various sections of statute to replace the term “digital proof of driver license” or add the term “electronic credential.” Specifically:

- **Section 25** amends s. 322.032, F.S., to prohibit a person from being issued an electronic credential until he or she has satisfied all requirements of ch. 322, F.S., to be issued a physical driver license or identification card;
- **Section 25** amends s. 322.032, F.S., to penalize a person who manufactures or possesses a false electronic credential as a third degree felony;
- **Section 26** amends s. 322.059, F.S., to require the DHSMV invalidate the electronic credential if the person’s driver license has been suspended;
- **Section 28** amends s. 322.143, F.S., to add that the term “swipe” used in reference to the use of a driver license or identification card includes consuming an electronic credential; and
- **Section 29** amends s. 322.15, F.S., to authorize a licensee to present or submit the electronic credential upon request of a law enforcement officer or an authorized representative of the DHSMV in lieu of a physical driver license.

Learner’s Driver License for Minors in Foster Care (Section 27)

Present Situation

The application for a driver license for any person under the age of 18 years old must be signed by the person’s parent or guardian, or, if there is no parent or guardian, by another responsible adult willing to assume such obligation.¹⁰⁸ The signee is jointly and severally liable with the minor for any damages caused by negligence or willful misconduct of the minor when driving a motor vehicle.¹⁰⁹

However, for a minor in foster care,¹¹⁰ the minor’s foster parent, caseworker, authorized representative for the residential group home where the minor resides, or a guardian ad litem authorized by the minor’s caregiver may sign the application for the minor’s learner’s driver license without assuming any obligation or liability for damages caused by the minor.¹¹¹

Effect of Proposed Changes

Section 27 amends s. 322.09, F.S., to add that a *caregiver* of a minor who is in foster care may sign the minor’s application for a learner’s driver license without assuming any obligation or liability for damages caused by the minor.

Renting a Motor Vehicle to Another (Section 30)

Present Situation

Section 322.38, F.S., sets the requirements for an individual who wishes to rent a motor vehicle to another. These include that the individual inspects the:

¹⁰⁸ Section 322.09(1), F.S.

¹⁰⁹ Section 322.09(2), F.S.

¹¹⁰ As defined in s. 39.01, F.S., “foster care” means “care provided a child in a foster family or boarding home, group home, agency boarding home, child care institution, or any combination thereof.”

¹¹¹ Section 322.091(4), F.S.

- Driver license of the person to whom the vehicle is to be rented, and compares and verifies the signature thereon with the signature of such person written in his or her presence before the vehicle can be rented.
- Further, the individual must keep a record of the registration number of the motor vehicle rented, the name and address of the person renting and the number, date, and place of issue.

Effect of Proposed Changes

Section 30 amends s. 322.38, F.S., to eliminate the requirement that a person renting a motor vehicle to another verify the latter individual's signature on his or her driver license, and adds the requirement that the individual renting the vehicle to another verify that the renter's driver license is unexpired. The bill also eliminates the requirement that the individual renting the vehicle to another record the date on which the driver license was issued.

This section creates s. 322.38(4), F.S., to provide that a rental car company that rents a motor vehicle to a person through digital, electronic, or other means which allows the renter to obtain possession of the vehicle without direct contact with an agent or employee of the rental car company, or where the renter does not execute a rental contract at the time he or she takes possession of the vehicle, is deemed to have met the license inspection requirements if the renter verifies that he or she is duly licensed and the license is unexpired. Such verification *may* occur when the renter enrolls in a rental company's membership program, master agreement, or other means of establishing use of the company's services or at any time thereafter.

For-hire Passenger Vehicle Insurance (Sections 33 and 34)

Present Situation

Section 324.031, F.S., provides that the owner or operator of a taxicab, limousine, jitney, or any other for-hire passenger transportation vehicle may prove financial responsibility by providing satisfactory evidence of holding a motor vehicle liability policy, which is issued by an insurance carrier that is a member of the Florida Insurance Guaranty Association (FIGA).¹¹²

A person required to maintain motor vehicle insurance who is the owner or registrant of a vehicle that operates as a taxicab and who operates one or more for-hire passenger vehicles may prove financial responsibility with evidence of holding a motor vehicle insurance liability policy with minimum limits of \$125,000/250,000/50,000.¹¹³ However, a motor vehicle owner or lessee required to maintain insurance under s. 324.021(9)(b), F.S., which includes lessors of motor vehicles and owners who loan out their motor vehicles, and who operates at least 300 for-hire passenger vehicles may prove financial responsibility through self-insurance as provided in s. 324.171, F.S.¹¹⁴

¹¹² The Florida Insurance Guaranty Association is created in s. 631.55, F.S.

¹¹³ Section 324.032(1)(a), F.S. Section 324.032, F.S., provides it is notwithstanding the provisions of s. 324.031, F.S.

¹¹⁴ Section 324.032(2), F.S. The maximum amount of self-insurance permissible under this section is \$300,000 on a per occurrence basis, and the self-insurer must maintain adequate excess insurance issued by an authorized or eligible insurer licensed or approved by the Office of Insurance Regulation.

Effect of Proposed Changes

Section 33 amends s. 324.031, F.S., to provide that a for-hire passenger vehicle's motor vehicle liability policy must be provided by an insurer *authorized to do business in this state* and who is a member of the FIGA, *or* by an eligible nonadmitted (or surplus lines) insurer that has a superior, excellent, exceptional, or equivalent financial strength rating by a rating agency acceptable to the Office of Insurance Regulation.

Section 34 amends s. 324.032(2), F.S., to reduce the minimum number of for-hire passenger vehicles an owner or lessee must operate to be eligible to self-insure, from 300 vehicles to 150 vehicles.

High-Occupancy Toll Lanes and Express Lanes (Sections 35 and 36)

Present Situation

A high-occupancy-vehicle (HOV) lane is a lane of a public roadway designated for use by vehicles in which there is more than one occupant.¹¹⁵ A high-occupancy toll lane is an HOV lane that requires payment of a toll. Tolled HOV lanes are referred to as high-occupancy toll lanes, or HOT lanes.

The FDOT manages such tolled lanes so that, generally, the required toll amount for use of the lane "is dynamically [or variably] priced based on the congestion in the express lanes with a goal of providing a free flow condition [in the express lanes]."¹¹⁶ The FDOT's general goal is that a driver in such a lane should be able to maintain an average speed of 45 miles per hour or greater while traveling in the lane.¹¹⁷

The 2017 Legislature amended s. 338.166(5), F.S., effective July 1, 2018, to require a customer to be charged the minimum express lane toll if a customer's average travel speed for a *trip* in an FDOT express lane falls below 40 miles per hour. The provision currently defines a customer's express lane average travel speed as the customer's average travel speed from the customer's entry point to the customer's exit point.¹¹⁸

The Legislature also amended s. 338.2216(1)(d), F.S., to prohibit variable pricing in express lanes on the turnpike system when the level of service in the express lane, determined in accordance with the Transportation Research Board Highway Capacity Manual (5th Edition, HCM 2010),¹¹⁹ as amended, is equal to level of service A.¹²⁰ When the level of service in the

¹¹⁵ Section 316.0741(1)(a), F.S.

¹¹⁶ For a detailed discussion of the FDOT's management of express lanes, see the Senate Bill Analysis of CS/CS/SB 1562, April 26, 2017, at p. 8, <http://www.flSenate.gov/Session/Bill/2017/1562/Analyses/2017s01562.ap.PDF> (last visited Mar. 1, 2018.)

¹¹⁷ See the FDOT email to Senate Transportation Committee staff dated April 18, 2017 (On file in the Senate Transportation Committee).

¹¹⁸ Chapter 2017-182, L.O.F.

¹¹⁹ Copy on file with the Senate Transportation Committee.

¹²⁰ According to the manual, level A is characterized by free-flow operations meaning that free-flow speed prevails on the freeway and vehicles are almost completely unimpeded in their ability to maneuver within the traffic stream.

express lane is level B,¹²¹ variable pricing in the express lane may only be implemented by charging the general toll lane toll amount, plus an amount set by FDOT rule. Pricing in express lanes when the level of service is other than level of service A or B may vary in the manner established by the Florida Turnpike Enterprise (FTE) to manage congestion in the express lanes, with an exception: effective July 1, 2018, if a customer's average travel speed for a *trip* in an express lane falls below 40 miles per hour, the customer must be charged the general toll lane toll amount plus an amount set by FDOT rule. A customer's express lane average travel speed is also defined as the customer's average travel speed from the customer's *entry point* to the customer's *exit point*.

Effect of Proposed Changes

Section 35 amends s. 338.166(5), F.S., to require that if a customer's average travel speed for a *segment* of an express lane falls below 40 miles per hour, the toll charged must be the *segment's* minimum toll amount. An express lane segment is defined as the distance between the customer's *point of entry* to the *first available* exit. Additional segments are defined by the distance between subsequent exits.

Section 36 amends s. 338.2216(1)(d), F.S., to authorize variable pricing in express lanes when the level of service in the lane is level B, but only by charging the *segment's* general toll amount plus the *segment's* minimum toll amount. The bill defines an express lane segment as the distance between the customer's *point of entry* to the *first available exit*, with additional segments defined by the distance between subsequent exits. The current exception to be effective July 1, 2018, is removed.

Local Road Closure - State University Ingress and Egress (Section 37)

Present Situation

Section 336.09, F.S., authorizes county commissioners, with respect to property under their jurisdiction, to close any existing public or private street, road, or highway, other than a state or federal highway, and to disclaim any right of the county and the public in any underlying land.¹²²

Section 2(b), Art. VIII of the Florida Constitution grants municipalities "governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law." Statutory implementation of the constitution's broad grant of home rule authority to municipalities is reflected in s. 166.021, F.S., which defines "municipal purpose" as "any activity or power which may be exercised by the state or its political subdivisions." Current law contains no provision specifically addressing or otherwise providing for municipal road closures. Thus, municipalities are authorized to close municipal streets under their home rule authority.

¹²¹ Level B is characterized by reasonably free-flow operations, meaning that free-flow speed is maintained and the ability to maneuver is only slightly restricted.

¹²² Section 336.10, F.S., sets forth the process for closing or abandoning a county road.

Effect of Proposed Changes

Section 37 creates s. 334.352, F.S., entitled “state university ingress and egress,” to prohibit a local governmental entity from preventing public motor vehicle use on, or access to, an existing transportation facility¹²³ or transportation corridor¹²⁴ if that facility or corridor is the only point, or one of only two points, of ingress to and egress from a state university defined in s. 1000.21, F.S.,¹²⁵ and regulated by the Board of Governors of the State University System.¹²⁶ Counties and municipalities are prohibited from denying vehicular use of or access to an existing transportation facility or corridor under the conditions specified.

Cargo Theft (Section 39)*Present Situation*

First degree grand theft, a first degree felony, is theft of:

- Property valued at \$100,000 or more.
- A semitrailer deployed by a law enforcement officer.
- Cargo valued at \$50,000 or more in specified circumstances.

First degree grand theft also includes any grand theft in which, in the course of committing the offense, a motor vehicle is used as specified or the offender causes damage to the real or personal property of another in excess of \$1,000.¹²⁷

A first degree felony is punishable by up to 30 years in state prison and a fine of up to \$10,000.¹²⁸

Currently, it is a second degree misdemeanor¹²⁹ to, without authority, willfully, maliciously, or intentionally tamper with, attempt to tamper with, or otherwise interfere with any motor vehicle or trailer of another which results in the:

- Cargo or contents of such motor vehicle or trailer becoming unloaded or damaged; or
- Mechanical functions of such motor vehicle or trailer becoming inoperative or impaired.¹³⁰

Global positioning system (GPS) jammers are devices using radio frequency transmitters in order to intentionally block, jam, or interfere with GPS systems. It is illegal to market, sell, or use GPS

¹²³ Defined in s. 334.03(30), F.S., as “any means for the transportation of people or property from place to place which is constructed, operated, or maintained in whole or in part from public funds. The term includes the property or property rights, both real and personal, which have been or may be established by public bodies for the transportation of people or property from place to place.”

¹²⁴ Defined in s. 334.03(29), F.S., as “any land area designated by the state, a county, or a municipality which is between two geographic points and which area is used or suitable for the movement of people and goods by one or more modes of transportation, including areas necessary for management of access and securing applicable approvals and permits.”

¹²⁵ Section 1000.21(6), F.S., lists the institutions in Florida, including any branch campuses, centers, or other affiliates of the institutions.

¹²⁶ Section 20.155, F.S.

¹²⁷ Section 812.014(2)(a), F.S.

¹²⁸ Sections 775.082 and 775.083, F.S.

¹²⁹ A second degree misdemeanor is punishable by up to 60 days imprisonment in county jail and a fine of up to \$500. *Id.*

¹³⁰ Section 860.17, F.S.

jammers in the United States.¹³¹ Such devices have been linked to cargo thefts throughout the United States.¹³²

Effect of Proposed Changes

Section 39 amends s. 812.014(2), F.S., to create a new first degree grand theft crime. A person commits first degree grand theft if he or she commits cargo theft and uses a device in the course of committing the offense to defeat, block, disable, jam, or interfere with a GPS or similar system designed to identify the location of the cargo or the vehicle or trailer carrying the cargo.

“Cargo” is “partial or entire shipments, containers, or cartons of property which are contained in or on a trailer, motortruck, aircraft, vessel, warehouse, freight station, freight consolidation facility, or air navigation facility.”¹³³

Conforming Changes (Sections 31 and 38)

The bill amends ss. 322.61 and 655.960, F.S., to make conforming changes to cross-references.

Effective Date (Section 40)

Except as otherwise provided, the bill takes effect October 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill exempts a Florida resident from certificate of title fees when he or she is transferring a Florida-titled vehicle into his or her name from a deceased owner who is his or her parent or child. This exemption from title fees will have a recurring negative impact primarily on the General Revenue Fund, as well as the State Transportation Trust Fund, HSOTF, and local governments. The Revenue Estimating Conference has not yet

¹³¹ See GPS.gov, *Information About GPS Jamming*, <http://www.gps.gov/spectrum/jamming/> (last visited Feb. 16, 2018).

¹³² Federal Bureau of Investigation, Private Industry Notification 141002-001, *Cargo Thieves use GPS Jammers to Mask GPS Trackers* (Oct. 2, 2014), <https://info.publicintelligence.net/FBI-CargoThievesGPS.pdf> (last visited Feb. 16, 2018).

¹³³ Section 812.012(1), F.S.

estimated the impact of this provision. The DHSMV estimates that the provision could reduce revenues by \$4.5 million annually.¹³⁴

The bill creates an electronic credential for a driver license and requires fees paid to obtain an electronic credential or to access a system to verify an electronic credential to be deposited into the HSOTF and shared with the contracted providers pursuant to the agreements entered into by the DHSMV and the providers. The impact of any revenue generated under these provisions is indeterminate.

B. Private Sector Impact:

The bill may have a positive fiscal impact on:

- Manufacturers of PDDs and mobile carriers that will be authorized to be operated on sidewalks and crosswalks in the state;
- Residents of the state who will not have to pay fees to transfer a Florida-registered motor vehicle title into their name upon the death of a parent or child;
- Entities that will be authorized to use the DHSMV's EFS system;
- Operators of motor vehicle platoons and manufacturers of platooning technology that will be authorized to operate on Florida roadways;
- Specialty license plate organizations if motor vehicle dealers or fleet companies choose to purchase the organization's specialty license plate;
- Fleet companies who qualify to be part of the Fleet Vehicle Temporary Tag pilot program and will be able to receive up to 50 temporary tags at a time, which can reduce the amount of time a replacement fleet vehicle is inoperable while awaiting permanent registration and title;
- Certain nonadmitted insurers who may be able to provide a motor vehicle liability insurance policy to owners and operators of for-hire passenger vehicles; and
- Owners and lessees of 150 for-hire passenger vehicles, but less than 300, who will be authorized to self-insure;
- The Alzheimer's Association, Inc.

The bill creates a new crime for persons who commit grand theft while using a device to interfere with a GPS or similar system that is designed to identify the location of the cargo or the vehicle or trailer carrying the cargo. This provision may deter cargo theft. A first degree felony is generally punishable by up to 30 years in state prison and a fine of up to \$10,000.

There is a potential fiscal impact to the CMV industry associated with changes to the CMV regulations contained in the bill; however, the impact is indeterminate at this time.

C. Government Sector Impact:

The bill may have a negative, but indeterminate impact on the DHSMV, the HSOTF, the State Transportation Trust Fund, the General Revenue Fund, and local tax collectors.

¹³⁴ Email from the DHSMV to Senate Transportation Committee staff, March 3, 2018.

DHSMV will incur programming and implementation costs associated with changes made by the bill.

The bill makes changes to address compliance issues with federal laws relating to commercial motor vehicles. According to the DHSMV, if Florida fails to comply with FMCSA compatibility requirements, Florida may experience a reduction of up to four percent of Federal-aid highway funds following the first year of noncompliance and up to eight percent for subsequent years.¹³⁵ Noncompliance may also affect the potential award of future grants.

The FTC may have reduced administrative expenses associated with no longer receiving, reviewing, and selecting from the applications three candidates for nomination as the FDOT secretary.

The bill creates an electronic credential and allows the DHSMV to competitively procure at least 2 and no more than 5 providers to implement the credential. The procurement is for services based upon a revenue sharing model. The bill allows the DHSMV to establish a competitive market rate fee structure to verify an electronic credential. The bill exempts state courts, state governmental entities, and law enforcement agencies from these fees. The revenue generated from the electronic credential will increase revenues to the HSOTF by an indeterminate amount.

The changes made by the bill regarding high-occupancy toll and express lanes may facilitate the FDOT's ability to implement the toll reduction under the revised conditions, potentially resulting in increased toll revenues.

The bill may increase operating expenses of the DHSMV and the FDOT. For example, the cost to the FDOT to create a permit for truck platooning is unknown.

The Criminal Justice Impact Conference has reviewed the bill and estimated provisions of the bill concerning cargo theft and the illegal creation of electronic credentials may have a positive indeterminate impact on prison beds, meaning the bill will result in an unquantifiable increase in prison beds.¹³⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 6 requires an operator in a platoon to provide notification to the DHSMV in order to operate in this state. The bill does not specify how notification to the DHSMV is required to be made or what information is required from the operator. Further, it is unclear how law

¹³⁵ Email from the DHSMV (Feb. 17, 2017) (on file with the Senate Committee on Transportation).

¹³⁶ EDR, Criminal Justice Impact Conference, *CS/SB 1104 – pcs – Commercial Motor Vehicles*, available at <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/CSSB1104pcs.pdf> (last visited March 3, 2018).

enforcement will be able to identify that a vehicle is operating in a platoon and thus exempt from certain traffic law requirements.

Effective January 1, 2019, **section 15** amends the DHSMV's current statutory requirement to adopt rules to administer s. 320.03, F.S., and instead provides that DHSMV *may* adopt rules to administer the section.

Section 25 allows for an electronic version of a driver license, and appears to allow to the charge of a fee to have such version of a driver license. However, the bill does not specifically allow the DHSMV to set a fee, does not specifically state that a fee will be charged, and does not amend s. 322.21, F.S., which sets forth the fees charged for licenses.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.23, 316.003, 316.008, 316.0895, 316.2071, 316.302, 316.303, 316.85, 319.141, 319.32, 320.01, 320.02, 320.03, 320.06, 320.0605, 320.0607, 320.0657, 320.08, 320.08056, 320.131, 320.95, 322.01, 322.032, 322.059, 322.09, 322.143, 322.15, 322.38, 322.61, 324.021, 324.031, 324.032, 338.166, 338.2216, 655.960, and 812.014.

This bill creates the following sections of the Florida Statutes: 316.0897 and 334.352.

This bill repeals section 316.0896 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes: (Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Appropriations on March 2, 2018:

The committee substitute changes the “relating to” clause of the bill to “[a]n act relating to transportation” and adds or amends several new provisions to the bill. The CS/CS:

- Clarifies the organization of FDOT and removes the requirement that the Governor must pick an FDOT secretary from the FTC's nominated FDOT secretary candidates;
- Defines “mobile carriers” and provides regulations for such devices;
- Increases the allowable weight of PDDs to less than 100 pounds, instead of less than 80 pounds;
- Revises s. 316.0897, F.S., created by the bill, to require platoon operators notify the DHSMV, obtain a permit from the FDOT to operate, directs the FDOT to adopt rules for issuance of such permits, and provides for the repeal of this section on October 1, 2023, unless saved from repeal by the Legislature;
- Repeals s. 316.0895(2), F.S., which prohibits trucks and vehicles towing other vehicles or trailers from following one another within 300 feet on roadways outside of a business or residence district;
- Provides that the prohibition on following another vehicle more closely than is reasonable and prudent may not be construed to prevent overtaking and passing;

- Revises s. 316.302(1)(e), F.S., created by the bill, to exempt certain intrastate motor carriers from federal electronic logging device and hours of service support document requirements until December 31, 2018, instead of 2019, to remain compliant with federal law;
- Authorizes the FTE to fund, construct, and operate test facilities for the advancement of autonomous and connected transportation technology solutions for improving safety and congestion;
- Extends the Pilot Rebuilt Motor Vehicle Inspection Program to July 1, 2020, requires the DHSMV submit a report evaluating the program by January 1, 2019, and provides additional requirements for the program;
- Prohibits the DHSMV or tax collectors from charging title transfer fees when transferring a Florida motor vehicle title from a deceased owner to the deceased's parent or child within 30 days of the death;
- Requires the motor vehicle registration application and renewal form include a voluntary checkoff to allow contributions of \$1 per applicant to be distributed to the Alzheimer's Association, Inc.;
- Expands businesses that may be authorized to use the DHSMV's electronic filing system to an entity that, in the normal course of its business, process title transactions, derelict motor vehicle certificates, or certificates of destruction for derelict or salvage motor vehicles;
- Allows the DHSMV to authorize the format of an electronic certificate of registration;
- Authorizes a DHSMV-approved electronic copy of a motor vehicle certificate of registration or motor vehicle rental or lease documentation be accepted by law enforcement or agents of the DHSMV as proof of possession of such documentation, and provides restrictions and liability regarding the electronic device displaying such documentation;
- Removes reference in Florida Statutes to "digital proof of driver license" and replaces such term with "electronic credentials";
- Requires the DHSMV implement protocols for issuing an optional electronic credential, provides requirements for the procurement of electronic credential and verification solution providers (including technological requirements), and authorizes the issuance and use of electronic credentials;
- Exempts a caregiver of a foster child, who signs the application for the minor's learner's driver license, from any obligation or liability for damages caused by the negligence or willful misconduct of the minor by reason of having signed the application;
- Provides that a motor vehicle rental company is deemed to have met the requirements of inspecting a driver license and prohibiting the rental of a motor vehicle to a person required to be licensed who is not, if the renter verifies he or she holds a valid driver license and the vehicle is rented from the company through digital, electronic, or other means not requiring direct contact with an employee of the rental company;
- Removes a requirement that a person who rents a vehicle to another person compare the signature of the renter with the renter's driver license signature; instead the person must verify that the renter's driver license is unexpired;
- Allows for-hire passenger vehicles to be insured by certain eligible nonadmitted insurers who are not members of the Florida Insurance Guaranty Association;

- Reduces the number of for-hire passenger vehicles an owner or lessee must operate to self-insure, from 300 to 150 for-hire vehicles;
- Requires the FDOT to charge a customer the minimum express lane toll for a segment of the express lane if the average travel speed of that segment falls below 40 miles per hour, rather than for the entire customer's trip;
- Provides that, when variable pricing in express lanes is allowed, the FTE can charge a person for the segment's general toll amount plus the segment's minimum toll amount, rather than the general toll lane amount plus an amount set by FDOT;
- Prohibits a local governmental entity from preventing public motor vehicle use or access to an existing transportation facility or corridor if it is the only point, or one of two points, of ingress to and egress from a state university; and
- Makes technical and cross-reference changes to the bill.

CS by Transportation on January 18, 2018:

The CS changes the "relating to" clause of the bill to "[a]n act relating to commercial motor vehicles," and adds numerous provisions to the bill. The CS:

- Repeals s. 316.0896, F.S., creating the Assistive Truck Platooning Technology Pilot Program, which has been conducted by the FDOT in consultation with the DHSMV;
- Removes the definition of "driver-assistive truck platooning technology" and reference to the term in the Florida Statutes;
- Authorizes a motor vehicle platoon to be operated on Florida roadways after an operator provides notification to the FDOT and DHSMV;
- Defines the term "platoon" for purposes of ch. 316, F.S., and exempts certain operators of platoons from state laws relating to "following too closely" and television receiver prohibitions;
- Updates various commercial motor vehicle regulations to address compatibility issues with federal law and the International Registration Plan;
- Allows motor vehicle dealers and fleet companies to purchase specialty license plates;
- Creates a Fleet Vehicle Temporary Tag pilot program; and
- Provides enhanced penalties for persons who commit grand theft while using any device to interfere with a GPS or similar system.

B. Amendments:

None.