

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1189 Commercial Motor Vehicles
SPONSOR(S): Government Accountability Committee and Payne
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1104

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	10 Y, 0 N	Roth	Vickers
2) Appropriations Committee	18 Y, 0 N	Cobb	Leznoff
3) Government Accountability Committee	18 Y, 0 N, As CS	Roth	Williamson

SUMMARY ANALYSIS

This bill revises numerous provisions relating to commercial motor vehicles (CMV). In summary, the bill:

- Removes the definition of “driver-assistive truck platooning technology” and reference to the term in the Florida Statutes.
- 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.
- Authorizes a motor vehicle platoon to be operated on Florida roadways after an operator provides notification to Florida Department of Transportation and the Department of Highway Safety and Motor Vehicles (DHSMV).
- Updates various CMV regulations to address compatibility concerns with federal law.
- Provides that certain CMV regulations do not apply to covered farm vehicles.
- Removes exceptions regarding the visibility of headlamps and turn signals by waste collection vehicles under specified circumstances.
- Provides an effective date for certain requirements relating to the use of electronic logging devices and hours of service support documents.
- Removes language requiring intrastate CMVs that are not carrying hazardous materials to comply with certain federal regulations providing maximum drive time requirements.
- Removes a duplicative \$100 fine for falsifying hours of service records.
- Removes a provision requiring a motor carrier to maintain documentation of driving times if a driver is not released from duty within 12 hours after arriving for duty.
- Requires charter buses operating interstate to register as apportionable vehicles.
- Provides a date by which a vehicle that has an apportioned registration will be issued a license plate and a cab card.
- Provides that an apportionable license plate will be replaced every five years, that the registration period is every 12 months, that the validation sticker is \$28, and that the license plate may be replaced at no charge if it is damaged or worn.
- Creates a Fleet Vehicle Temporary Tag pilot program.
- Provides that if an offender uses any type of device to defeat, block, disable, jam, or interfere with a GPS or similar system he or she commits grand theft in the first degree.

According to DHSMV, the bill will have a negative, but insignificant fiscal impact to state expenditures. Additionally, classifying charter buses as an apportionable vehicle may have an indeterminate impact to state revenues. See fiscal analysis for discussion.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Platoons

Current 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.¹ Vehicles platoon 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-way wireless communications capability permitting very high data transmission.² DSRC is used by both V2V communications as well as vehicle-to-infrastructure communications to provide connectivity among vehicles and between infrastructure to prevent crashes, and enable safety, mobility, and environmental sustainability.³ 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, which enables vehicle manufacturers to develop safety applications using V2V communications.⁴ NHTSA has expressed that V2V communication “shows great promise in helping to avoid crashes, ease traffic congestion, and improve the environment.”⁵

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, which creates a draft, reducing wind resistance and cutting down on fuel consumption.⁶ In 2016, s. 316.0896, F.S., was created to require the Florida Department of Transportation (DOT), in consultation with the Department of Highway Safety and Motor Vehicles (DHSMV), to study the use and safe operation of DATP technology,⁷ 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 Florida’s Governor and Legislature. DOT 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
- Evaluate administrative aspects of permitting DATP systems.⁸

¹ U.S. Department of Transportation, Volpe Center, *How an Automated Car Platoon Works* (July 31, 2017), available at <https://www.volpe.dot.gov/news/how-automated-car-platoon-works> (last visited February 8, 2018).

² *Id.*

³ U.S. Department of Transportation, *Intelligent Transportation Systems Joint Program Office, DSRC: The Future of Safer Driving*, available at https://www.its.dot.gov/factsheets/dsrc_factsheet.htm (last visited February 8, 2018).

⁴ Federal Register, *Federal Motor Vehicle Safety Standards; V2V Communications*, 82 Fed. Reg. 3854 (Jan. 12, 2017), available at <https://www.federalregister.gov/documents/2017/01/12/2016-31059/federal-motor-vehicle-safety-standards-v2vcommunications> (last visited February 8, 2018).

⁵ NHTSA, *Vehicle-to-Vehicle Communications*, available at <http://www.safercar.gov/v2v/index.html> (last visited February 8, 2018).

⁶ Go by Truck Global News, *Driver Survey: Platooning*, available at <http://www.gobytrucknews.com/driver-survey-platooning/123> (last visited February 8, 2018).

⁷ Section 316.003(52), 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.”

⁸ See RFI Document at MyFlorida.com, *Request for Information from DOT – Driver Assistive Truck Platooning Pilot Project* (July 6, 2017), available at

The pilot project was conducted with Peloton Technology, one developer of DATP vehicle systems. According to Peloton Technology, the 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.⁹ At this time, FDOT has not submitted its report of the results of the study and any findings or recommendations from the pilot project.¹⁰

According to Peloton, nine states have confirmed allowance for commercial deployment of DATP.¹¹ At least 10 states with “following too closely” laws, including Florida,¹² exempt vehicles equipped with a DATP system or a platooning system from such state law.¹³ 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.¹⁴ Several states and the federal government are continuing testing of DATP and other platooning systems.

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, motor truck drawing another vehicle, or vehicle towing another vehicle or trailer to follow within 300 feet of another vehicle.

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.

Proposed Changes

The bill amends s. 316.003, F.S., removing the definition of “driver-assistive truck platooning technology,” and adding a definition for the term “platoon.” The bill defines “platoon” as a group of individual motor vehicles traveling in a unified manner at electronically coordinated speeds at following distances that are closer than defined under s. 316.0895(2), F.S.

The bill repeals s. 316.0896, F.S., which created the assistive truck platooning technology pilot project conducted by DOT in consultation with DHSMV.

The bill creates s 316.0897, F.S., providing that a platoon may be operated on Florida roadways after an operator provides notification to DOT and DHSMV. Additionally, Florida’s “following too closely” law¹⁵ does not apply to the operator of a non-lead vehicle in a platoon.

http://www.myflorida.com/apps/vbs/vbs_www.ad_r2.view_ad?advertisement_key_num=134408, (last visited February 8, 2018).

⁹ Peloton, *Peloton Technology demonstrates driver-assistive truck platooning system to Florida transportation leaders in connection with Florida Pilot Project* (Dec. 20, 2017), available at <https://peloton-tech.com/driver-assistive-truck-platooning-demonstration-florida-transportation-leaders-connection-florida-pilot-project/> (last visited February 8, 2018).

¹⁰ DHSMV staff has indicated to staff of the House Transportation and Infrastructure subcommittee that the report is in the process of being finalized.

¹¹ *Supra*, FN 9.

¹² See s. 316.0895, F.S.

¹³ 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* (Jan. 2, 2018), available at <http://www.ncsl.org/research/transportation/autonomous-vehicles-self-driving-vehicles-enacted-legislation.aspx> (last visited February 8, 2018).

¹⁴ *Id.*

¹⁵ Section 316.0895, F.S.

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

The bill does not provide how notification to DOT and 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, thus exempt from certain traffic law requirements.

Federal Motor Carrier Safety Administration Compatibility

Current Situation

The primary mission of the Federal Motor Carrier Safety Administration (FMCSA), within the United States Department of Transportation, is to prevent commercial motor vehicle-related fatalities and injuries.¹⁶ In 2007, FMCSA presented to Florida a Motor Carrier Safety Assistance Program (MSCAP) review, which concluded that Florida Statutes have multiple compatibility concerns with federal commercial motor vehicle (CMV) safety regulations.¹⁷

Florida law defines “commercial motor vehicle” as any self-propelled or towed vehicle used on public highways in commerce to transport passengers or cargo, if such vehicle:

- Has a gross vehicle weight rating of 10,000 pounds or more;
- Is designed to transport more than 15 passengers, including the driver; or
- Is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act,¹⁸ as amended.¹⁹

Section 316.302(1)(a), F.S., provides that all owners and drivers of CMVs operating on the state’s public highways while engaged in *interstate* commerce are subject to the following parts of 49 C.F.R.:

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

Section 320.302(1)(b), F.S., provides that, with certain exceptions, all owners or drivers of CMVs engaged in *intrastate* commerce are subject to the following parts of 49 C.F.R. except as it relates to the definition of bus, as those rules and regulations existed on December 31, 2012:

Part	Heading
382	Controlled Substance and Alcohol Use Testing
383	Commercial Driver’s License Standards; Requirements and Testing
385	Safety Fitness Procedures
390	Federal Motor Carrier Safety Regulations; General
391	Qualifications of Drivers and Longer Combination Vehicle Driver Instructors
392	Driving of Commercial Motor Vehicles

¹⁶ Federal Motor Carrier Safety Administration, available at <https://www.fmcsa.dot.gov/mission/about-us> (last visited January 11, 2018).

¹⁷ 2007 Florida State MSCAP Review (Copy on file with Transportation & Infrastructure Subcommittee).

¹⁸ 49 U.S.C. ss. 1801 et seq.

¹⁹ Section 316.003(12), F.S.

Part	Heading
393	Parts and Accessories Necessary for Safe Operation
395	Hours of Service for Drivers
396	Inspection, Repair, and Maintenance
397	Transportation of Hazardous Materials; Driving and Parking Rules

Federal regulations define “bus” as “any motor vehicle designed, constructed, and/or used for the transportation of passengers, including taxicabs.”²⁰ In its 2007 review, FMCSA found that Florida’s exemption for taxicabs was not compatible with federal regulations, which includes taxicabs in the definition of “bus.”²¹

In its 2007 review, FMCSA also found that the statutory provision exempting trucks transporting solid waste and recyclable materials with specified mechanisms operating at speeds of less than 20 miles per hour from certain lighting provisions is incompatible with federal regulations,²² which does not contain a similar exemption and that federal regulations expressly prohibit lamps and reflectors from being obscured.²³

Federal regulations provide that with some exceptions, CMV drivers are required to be at least 21 years of age.²⁴ Federal regulations also provide maximum drive time requirements for property carrying vehicles.²⁵ Section 316.302(2)(a), F.S., provides that a person operating a CMV solely in intrastate commerce and not transporting any hazardous material in amounts that require placarding²⁶ are not required to comply with the above-referenced federal regulations.

Federal regulations provide hours of service rules for CMV drivers.²⁷ Florida law also provides that, except as provided in federal regulations, a person operating a CMV solely in intrastate commerce and not transporting any hazardous material 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.²⁸

These provisions do not apply to drivers of utility service vehicles.²⁹

Section 316.302(2)(c), F.S., provides that, except as provided in the federal hours of service rules,³⁰ 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

²⁰ 49 C.F.R. 390.5.

²¹ *Supra* FN 17 at FL/FI-1.

²² 49 C.F.R. 393 Subpart B.

²³ *Supra* FN 17 at FL/FI-7.

²⁴ 49 C.F.R. s. 391.11(b)(1).

²⁵ 49 C.F.R. s. 395.3(a) and (b).

²⁶ Placarding is required pursuant to 49 C.F.R. part 172. In this analysis, everywhere there is a discussion regarding the transportation of hazardous materials, it is assumed to be in amounts that require placarding.

²⁷ 49 C.F.R. s. 395.

²⁸ Section 316.302(2)(b), F.S.

²⁹ 49 C.F.R. s. 395.2, defines “utility service vehicle” as any commercial motor vehicle:

(1) Used in the furtherance of repairing, maintaining, or operating any structures or any other physical facilities necessary for the delivery of public utility services, including the furnishing of electric, gas, water, sanitary sewer, telephone, and television cable or community antenna service;

(2) While engaged in any activity necessarily related to the ultimate delivery of such public utility services to consumers, including travel or movement to, from, upon, or between activity sites (including occasional travel or movement outside the service area necessitated by any utility emergency as determined by the utility provider); and

(3) Except for any occasional emergency use, operated primarily within the service area of a utility’s subscribers or consumers, without regard to whether the vehicle is owned, leased, or rented by the utility.

³⁰ 49 C.F.R. s. 395.1.

more than 80 hours in any period of eight consecutive days if the motor carrier operates every day of the week. 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.

Section 316.302(2)(d), F.S., provides that a person operating a CMV solely in intrastate commerce not transporting any hazardous material within a 150 air-mile radius is not required to comply with federal provisions regarding a driver's record of duty status³¹ if the requirements of certain federal rules regarding short-haul operations³² are met. If a driver is not released from duty within 12 hours after the driver arrives for duty, the motor carrier must maintain documentation of the driver's driving times throughout the duty period.

Section 316.302(2)(f), F.S., provides that a person who is operating a CMV having a declared gross vehicle weight of less than 26,001 pounds operating solely in intrastate commerce and who is not transporting hazardous materials or who is transporting petroleum products³³ is exempt from s. 316.302(1), F.S. However, such person must comply with 49 C.F.R. parts 382, 392, and 393, and with 49 C.F.R. ss. 396.3(a)(1) and 396.9.

In its 2007 findings, FMCSA determined that s. 316.302(2)(f), F.S., is not compatible with federal regulations since it exempts vehicles transporting petroleum products and the state definition of petroleum products includes liquids that could require placarding, while federal regulations do not allow drivers of vehicles requiring placarding to be exempt from applicable requirements.³⁴

Proposed Changes

The bill amends various provisions of ss. 316.302(1) and (2), F.S., addressing issues related to Florida's CMV regulations and their incompatibility with federal law.

The bill provides that s. 316.302(1), F.S., applies to CMVs except as it relates to covered farm vehicles.³⁵ It amends s. 316.302(1)(b), F.S., removing the exception for the federal definition of a bus and updating the date of adoption to December 31, 2017, which updates the state law referencing the applicable federal rules applicable to intrastate CMV vehicles. The bill amends s. 316.302(1)(d), F.S., removing exceptions regarding headlamps and turn signals by waste collection vehicles under specified circumstances.

The bill creates s. 316.302(1)(e), F.S., providing that the requirement for electronic logging devices and hours of service support documents do not go into effect for motor carriers engaged in intrastate commerce and not carrying hazardous materials until December 31, 2018.

³¹ 49 C.F.R. 395.8.

³² 49 C.F.R. s. 395.1(e)(1)(iii) and (v) are various rules relating to short-haul operations.

³³ Section 376.301(33), F.S., defines "petroleum product" as "any liquid fuel commodity made from petroleum, including, but not limited to, all forms of fuel known or sold as diesel fuel, kerosene, all forms of fuel known or sold as gasoline, and fuels containing a mixture of gasoline and other products, excluding liquefied petroleum gas and American Society for Testing and Materials grades no. 5 and no. 6 residual oils, bunker C residual oils, intermediate fuel oils used for marine bunkering with a viscosity of 30 and higher, asphalt oils, and petrochemical feedstocks."

³⁴ *Supra* FN 17 at FL/FI-3.

³⁵ Section 316.003(14), F.S., defines "covered farm vehicles" as a straight truck, or an articulated vehicle, which is all of the following:

- Registered in a state with a license plate, or any other designation issued by that state, which allows law enforcement officers to identify it as a farm vehicle.
- Operated by the owner or operator of a farm or ranch or by an employee or a family member of an owner or operator of a farm or ranch in accordance with s. 316.302(3), F.S.
- Used to transport agricultural commodities, livestock, machinery, or supplies to or from a farm or ranch.
- Not used in for-hire motor carrier operations; however, for-hire motor carrier operations do not include the operation of a vehicle meeting certain requirements by a tenant pursuant to a crop-share farm lease agreement to transport the landlord's portion of the crops under that agreement.

The bill amends s. 316.302(2)(a), F.S., no longer requiring intrastate CMVs that are not carrying hazardous materials to comply with certain federal regulations providing maximum drive time requirements. Therefore, these vehicles will not be required to comply with 49 C.F.R. 395.3, documenting the maximum driving time for operators of property carrying vehicles. These drivers continue to be subject to the maximum driving times required by state law.

The bill amends s. 316.302(2)(c), F.S., by removing the \$100 fine for falsifying hours of service records, because it is duplicative of the fine provided in the CMV penalties statute.³⁶

The bill amends s. 316.302(2)(d), F.S., adding a reference to 49 C.F.R. 395.1(e)(1)(ii) and (iii) (A) and (C) and removing the provision that a motor carrier is required to maintain documentation of the driver's driving times if a driver is not released from duty within 12 hours after arriving for duty.

The bill amends s. 316.302(2)(f), F.S., adding the terms "gross vehicle weight rating" and "gross combined vehicle weight rating" and removing the provision regarding transporting petroleum products to conform to federal law.

Apportionable Vehicles

Current Situation

The International Registration Plan (IRP) is a registration reciprocity agreement among all of the states in the continental United States, the District of Columbia, and certain Canadian provinces.³⁷ The IRP allows a carrier to register once for all the jurisdictions, rather than dealing with each jurisdiction separately.³⁸ The IRP jurisdictions voted in favor of amending the definition of "apportionable vehicle," which went into effect on January 1, 2016. The amendment removed the exemption from IRP registration for charter buses. All charter buses operating interstate are now required to obtain IRP registration or purchase trip permits.³⁹

According to DHSMV, Congress has incentivized states to participate in the IRP by requiring participation as a condition for being able to establish, maintain, or enforce their own CMV registration laws and regulations, which limit within their own state, the operation of CMVs registered in another state.⁴⁰

Section 320.01(24), F.S., defines "apportionable vehicle" as any vehicle⁴¹ used or intended for use in two or more member jurisdictions that allocate or proportionally register vehicles and used for the transportation of persons for hire or is designed, used, or maintained primarily for the transportation of property and:

- 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.

³⁶ Section 316.3025(3)(b)1., F.S.

³⁷ International Registration Plan, Inc., *About IRP*, available at <http://www.irponline.org/?page=AboutIRP> (last visited January 11, 2018).

³⁸ International Registration Plan, Inc., *IRP Registration*, available at <http://www.irponline.org/?page=Registration> (last visited January 11, 2018).

³⁹ Department of Highway Safety and Motor Vehicles, *2017 Legislative Concepts*, p. 2, available at https://www.flhsmv.gov/pdf/cabinetreports/legislative_concepts_2017.pdf (last visited January 11, 2018).

⁴⁰ Email from Department of Highway Safety and Motor Vehicles, February 16, 2017 (copy on file with Transportation & Infrastructure Subcommittee).

⁴¹ Recreational vehicles displaying restricted plates, city pickup and delivery vehicles, buses used in transportation of chartered parties, and government-owned vehicles are not apportionable vehicles.

Vehicles, or a combination of vehicles, with a gross vehicle weight of 26,000 pounds or less and two-axle vehicles may be proportionally registered.

Proposed Changes

The bill amends s. 320.01(24), F.S., removing the exception for charter buses from the definition of “apportionable vehicle.” This will require charter buses operating interstate to register as apportionable vehicles. Pursuant to the revised IRP, all charter buses operating interstate are now required to obtain an IRP registration or purchase trip permits.

International Registration Plan

Current Situation

Florida law requires all apportionable vehicles domiciled in Florida to be registered in accordance with the IRP and to display required license plates.⁴²

Section 320.06, F.S., provides for motor vehicle registration certificates, license plates, and validation stickers. Upon receiving an initial application for registration and payment of the appropriate license tax⁴³ and other fees, DHSMV assigns the motor vehicle a registration license number and issues to the owner or lessee a certificate of registration and one license plate, unless two plates are required,⁴⁴ for each vehicle registered.⁴⁵

Most license plates are issued for a 10-year period. Upon renewal, the license plate is replaced. However, a vehicle with an apportioned⁴⁶ registration is issued an annual license plate and a cab card denoting the declared gross vehicle weight for each apportioned jurisdiction in which the vehicle is authorized to operate.⁴⁷

Section 320.0607, F.S., provides for replacement license plates, validation decals, or mobile home stickers. It requires that upon the issuance of an original license plate, the applicant pay a fee of \$28 to be deposited into the Highway Safety Operating Trust Fund.

Proposed Changes

The bill amends s. 320.06(1)(b), F.S., providing that before October 1, 2019, a vehicle that has an apportioned registration will be issued a license plate and a cab card denoting the declared gross vehicle weight for each apportioned jurisdiction in which the vehicle is authorized to operate.

Additionally, it provides that beginning October 1, 2019, a vehicle registered in accordance with the IRP, will be issued a license plate for a five-year period, an annual cab card denoting the declared gross vehicle weight, and an annual validation sticker showing the month and year of expiration. The license plate and validation sticker will be issued based on the applicant’s appropriate renewal period. The registration period for an apportionable vehicle is for 12 months and the validation sticker is good for 12 months. The annual fee for an original and renewed validation sticker is \$28, which is deposited into the Highway Safety Operating Trust Fund. If the license plate is damaged or worn it may be replaced at no charge by applying to DHSMV and surrendering the current license plate.

The bill amends s. 320.0607(5), F.S., providing that beginning October 1, 2019, the \$28 fee for a replacement license plate does not apply to vehicles registered under the IRP and issued an apportionable license plate.

⁴² Section 320.0715(1), F.S.

⁴³ License taxes are provided for in s. 320.08, F.S.

⁴⁴ Section 320.0706, F.S., requires the display of license plates on the front and the rear of some trucks.

⁴⁵ Section 320.06(1)(a), F.S.

⁴⁶ Section 320.06(3)(a), F.S., requires apportioned licenses plate to have the word “apportioned” at the bottom of the license plate.

⁴⁷ Section 320.06(1)(b)1., F.S.

Fleet Vehicle Temporary Tag Pilot Program

Current Situation

Section 320.131, F.S., provides that DHSMV is authorized and empowered 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.⁴⁸ 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.⁴⁹ These issuers include motor vehicle dealers and tax collectors who frequently issue temporary tags on behalf of DHSMV.

Proposed Changes

The bill creates a Fleet Vehicle Temporary Tag Pilot Program. The bill provides that beginning October 1, 2018, 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. DHSMV must establish a memorandum of understanding (MOU) that allows a maximum of three companies to participate in the pilot program.

The bill provides that:

- The temporary tags are for exclusive use on the company's fleet vehicles, and may not be used on any other vehicle;
- Each temporary tag be used on only one vehicle and each vehicle may only use one temporary tag;
- 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 DHSMV that a temporary tag has been misused under this program, DHSMV may terminate the MOU with the company, invalidate all temporary tags issued to the company, and require such company to return any unused temporary tags.

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

Cargo Theft

Current Situation

Section 812.014(2)(a), F.S., provides penalties associated with commercial vehicle theft of cargo. An offender commits grand theft in the first degree⁵⁰ if:

- The property stolen is valued at \$100,000 or more or is a semitrailer that was deployed by a law enforcement officer; or
- Is cargo valued at \$50,000 or more that has entered the stream of interstate or intrastate commerce from the shipper's loading platform to the consignee's receiving dock; or
- If the offender commits any grand theft and:
 - In the course of committing the offense the offender uses a motor vehicle as an instrumentality, other than merely as a getaway vehicle, to assist in committing the offense and thereby damages the real property of another; or
 - In the course of committing the offense the offender causes damage to the real or personal property of another in excess of \$1,000.

⁴⁸ Section 320.08058, F.S.

⁴⁹ Section 320.131(9), F.S.

⁵⁰ Sections 775.082, 775.083, and 775.084, F.S., state that grand theft in the first degree is punishable as a felony of the first degree, which is a term of imprisonment not to exceed 30 years or a fine not to exceed \$10,000. Additionally, the person may be subject to enhanced penalties for certain habitual felony offenders

The Florida Highway Patrol's (FHP) Bureau of Criminal Investigations and Intelligence within DHSMV investigates commercial vehicle and cargo theft and other forms of criminal activity related to DHSMV and FHP. The Bureau works with local, state, and federal partners in an effort to combat such activity.⁵¹

Global positioning system (GPS) jammers are devices using radio frequency transmitters in order to intentionally block, jam, or interfere with a GPS. It is illegal to market, sell, or use GPS jammers in the United States.⁵² Such devices have been linked to cargo thefts throughout the country.⁵³

Proposed Changes

The bill provides that if in the course of committing an offense of theft an offender uses any type of device to defeat, block, disable, jam, or interfere with a GPS or similar system designed to identify the location of the cargo of the vehicle or trailer carrying the cargo, he or she commits grand theft in the first degree.

B. SECTION DIRECTORY:

Section 1: Amends s. 316.003, F.S., relating to definitions.

Section 2: Repeals s. 316.0896, F.S., relating to assistive truck platooning technology pilot project.

Section 3: Creates s. 316.0897, F.S., relating to platoons.

Section 4: Amends s. 316.302, F.S., relating to commercial motor vehicles; safety regulations; transporters and shippers of hazardous materials; enforcement.

Section 5: Amends s. 316.303, F.S., relating to television receivers.

Section 6: Amends s. 320.01, F.S., relating to definitions.

Section 7: Amends s. 320.06, F.S., relating to registration certificates, license plates, and validation stickers generally.

Section 8: Amends s. 320.0607, F.S., relating to replacement license plates, validation decal, or mobile home sticker.

Section 9: Amends s. 320.131, F.S., relating to temporary tags.

Section 10: Amends s. 812.014, F.S., relating to theft.

Section 11: Provides an effective date of October 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Classifying charter buses as apportionable vehicles may change the registration fees for these vehicles; however, the actual impact for any specific vehicle will be based on motor vehicle details,

⁵¹ Department of Highway Safety and Motor Vehicles, *Bureau of Criminal Investigation and Intelligence (BCII)*, available at <https://www.flhsmv.gov/florida-highway-patrol/specialized-areas/bureau-of-criminal-investigations-and-intelligence-bcii/> (last visited January 11, 2018).

⁵² GPS.gov, *Information About GPS Jamming*, available at <http://www.gps.gov/spectrum/jamming/> (last visited January 11, 2018).

⁵³ Federal Bureau of Investigation, Private Industry Notification 141002-001, *Cargo Thieves use GPS Jammers to Mask GPS Trackers* (Oct. 2, 2014), available at <https://info.publicintelligence.net/FBI-CargoThievesGPS.pdf> (last visited January 11, 2018).

jurisdictions where the vehicle travels, and the mileage percentages in each of the jurisdictions. Because the details of these transactions cannot be quantified at this time, the revenue impact to the Highway Safety Operating Trust Fund is indeterminate.⁵⁴

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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

Classifying charter buses as apportionable vehicles may change the registration fees for these vehicles; however, the actual impact for any specific vehicle will be based on motor vehicle details, jurisdictions where the vehicle travels, and the mileage percentages in each of the jurisdictions.⁵⁵

Persons who use any type of device to defeat, block, disable, jam, or interfere with a GPS device in the course of committing an offense of theft will be subject to enhanced penalties. This same provision may serve to deter theft and enhance productivity for the CMV industry. There may be a positive fiscal impact on operators of motor vehicle platoons and manufacturers of platooning technology that will be authorized to operate on Florida roadways.

Additionally, there may be a positive fiscal impact on fleet companies who qualify to be part of the Fleet Vehicle Temporary Tag pilot program because such companies 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.

D. FISCAL COMMENTS:

According to DHSMV, failure to comply with FMCSA compatibility requirements could lead to a reduction of up to 4 percent of the state's Federal-aid highway funds for the first year of noncompliance and up to 8 percent of loss of Federal-aid highway funds for second or subsequent years of noncompliance. Additionally, noncompliance could lead to the loss in the awarding of potential future highway grants.⁵⁶ The bill updates these requirements to address these concerns.

⁵⁴ Email from Department of Highway Safety and Motor Vehicles, February 16, 2017 (copy on file with Transportation & Infrastructure Subcommittee).

⁵⁵ Email from Department of Highway Safety and Motor Vehicles, February 16, 2017 (copy on file with Transportation & Infrastructure Subcommittee).

⁵⁶ Email from Department of Highway Safety and Motor Vehicles, February 17, 2017 (copy on file with Transportation & Infrastructure Subcommittee).

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 8, 2018, the Government Accountability Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Repealed s. 316.0896, F.S., creating the Assistive Truck Platooning Technology Pilot Program;
- Removed the definition of “driver-assistive truck platooning technology” and reference to the term in the Florida Statutes;
- Defined 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;
- Authorized a motor vehicle platoon to be operated on Florida roadways after an operator provides notification to DOT and DHSMV;
- Updated the effective date for electronic logging devices and hours of service support documents from December 31, 2019 to December 31, 2018 to stay in compliance with federal requirements; and
- Created a Fleet Vehicle Temporary Tag pilot program.

This analysis is written to the committee substitute as reported favorably by the Government Accountability Committee.