

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1053 Department of Highway Safety and Motor Vehicles

SPONSOR(S): Transportation & Tourism Appropriations Subcommittee, Transportation & Infrastructure Subcommittee, Brannan

TIED BILLS: HB 1055 **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	15 Y, 0 N, As CS	Roth	Vickers
2) Transportation & Tourism Appropriations Subcommittee	11 Y, 0 N, As CS	Hicks	Davis
3) State Affairs Committee			

SUMMARY ANALYSIS

This is a comprehensive bill relating to the Department of Highway Safety and Motor Vehicles (DHSMV). The bill:

- Creates a definition for the term “crash” and substitutes for the term “accident” throughout Florida Statutes;
- Extends certain protections to all personal identifying information contained in crash reports;
- Updates various commercial vehicle regulations to address compatibility concerns with federal law;
- Requires charter buses operating interstate to register as apportionable vehicles;
- Provides a time period by which a vehicle that has an apportioned registration will be issued a license plate, cab card, and validation sticker;
- 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;
- Updates statutes to reflect that DHSMV is the state agency responsible for establishing safety standards for nonpublic sector buses;
- Provides DHSMV with subpoena authority to investigate fraud involving motor vehicle registrations, titles and driver licenses;
- Authorizes DHSMV to collect and utilize e-mail addresses to contact customers for specified business-related purposes;
- Provides DHSMV additional authority to enforce regulations relating to motor vehicle dealers;
- Removes obsolete language related to the manual reporting of truancy;
- Authorizes identification cards to be replaced for free when stolen;
- Strengthens the penalties for providing fraudulent information on an application for a driver license;
- Incorporates violations for texting or using a handheld phone device while operating a commercial motor vehicle (CMV) as a serious disqualifying offense;
- Creates uniform requirements for mobile home permitting and repair;
- Repeals provisions relating to special license plates for former federal and state legislators; and
- Provides DHSMV with rulemaking authority.

The bill appears to have an insignificant negative fiscal impact on state and local revenues and an indeterminate negative impact on state expenditures. DHSMV has indicated that costs related to this bill can be absorbed within its existing resources. See Fiscal Analysis for details.

The bill is effective on July 1, 2019.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1053c.TTA

DATE: 4/3/2019

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Definitions – Crash and Serious Bodily Injury

Current Situation

Chapter 316, F.S., related to State Uniform Traffic Control, contains the term “crash” over 150 times, but does not contain a definition for the term. The absence of a standard definition leads to inconsistent policies and procedures across law enforcement agencies that investigate crashes and among courts that adjudicate cases involving crashes.

Chapter 316, F.S., defines “serious bodily injury” in ss. 316.192, 316.027, and 316.1933, F.S. However, the term is not defined in the definitions section of s. 316.003, F.S.

Proposed Changes

The bill amends s. 316.003, F.S., by establishing a definition for the term “crash.” “Crash” is defined as:

The operation of a motor vehicle, motorized scooter, or moped which results in property damage or death, bodily injury, or complaint of bodily injury to any person. The term "crash" includes separation of the operator or an occupant from a motor vehicle, motorized scooter, or moped, or trailer being drawn by a motor vehicle, while in motion, which results in property damage or death, bodily injury, or complaint of bodily injury to any person. The term "crash" does not include such operation:

(a) On private property, if such operation does not result in death or serious bodily injury, unless the operator is suspected of violating s. 316.193;

(b) On a closed course used for commercial or recreational purposes, such as a commercial driving school or racetrack, unless the operator is suspected of violating s. 316.193; or

(c) If such property damage or death, bodily injury, or complaint of bodily injury to any person results from an intentional act of a law enforcement officer to force a motor vehicle or moped to stop or reduce speed, such as use of a pursuit termination device or the precision immobilization technique, except that the term "crash" includes such operation that results in death, bodily injury, or complaint of bodily injury to, or damage to property of, anyone other than the operator or an occupant being forced to stop or reduce speed or the law enforcement officer.

The term "crash" also does not include the death or suffering of a medical episode by the operator or an occupant of a motor vehicle or moped if operation of the motor vehicle or moped did not result in such death or medical episode and does not result in property damage or death, bodily injury, or complaint of bodily injury to any other person.

The bill also amends s. 316.003, F.S., by creating a definition for the term “serious bodily injury.” “Serious bodily injury” is defined as: “An injury to any person which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.”

The bill amends ss. 117.10, 316.027, 316.0271, 316.061, 316.194, 316.622, 316.640, 316.655, 321.05, 321.065, 321.23, 322.0602, 322.36, 323.001, 323.002, 324.011, 324.022, 324.023, 324.051, 324.242, and 784.07, F.S., changing the word “accident” to “crash.”

The bill amends ss. 316.027, 316.192, and 316.1933, F.S., deleting the definition of “serious bodily injury.”

The bill amends ss. 316.193, 318.19, and 856.015, F.S., deleting the definition of “serious bodily injury as defined in s. 316.1933,” and replacing it with “serious bodily injury as defined in s. 316.003.”

Crash Reports

Current Situation

Crash reports include personal identifying information, such as identity, home or employment telephone and home or employment address, of parties involved in the crash. These reports are considered confidential and exempt for a period of 60 days after the report is filed. During the 60-day exempt period, reports can only be released to parties with a special exemption outlined in statute. After the 60-day exempt period, unredacted reports may be released without an exemption, enabling anyone to access an individual’s personal identifying information.¹

Proposed Changes

The bill amends s. 316.066, F.S., eliminating the 60-day confidential and exempt period, which would prohibit the release of personal identifying information included on crash reports (regardless of when the report is filed), unless a specific exemption exists in statute. This would extend protections to all personal identifying information on crash reports no matter how long ago the crash occurred, but would not impact current exempt parties from accessing the information.

The bill includes information outlined in the federal Driver’s Privacy Protection Act of 1994, as information that is confidential and exempt from public record.

The bill includes the Department of Health and municipal traffic operations to the list of entities eligible to immediately receive a crash report.

The bill provides that DHSMV is not prohibited from providing extracts of bulk crash data.

The bill also amends the word “accident” to “crash.”

Compatibility with Federal Motor Carrier Safety Regulations

Current Situation

The primary mission of the Federal Motor Carrier Safety Administration (FMCSA), an agency within the United States Department of Transportation, is to prevent commercial motor vehicle-related fatalities and injuries.² In 2007, FMCSA presented to Florida a Motor Carrier Safety Assistance Program (MCSAP) review, which concluded that Florida Statutes have multiple compatibility concerns with federal CMV safety regulations.³ In August 2018, FMCSA sent a letter to the DHSMV reminding the department of its failure to comply with the 2016 amended Federal Motor Carrier Safety Regulations on minimum performance and design standards for hours-of-service electronic logging devices.⁴ The letter stated that effective February 16, 2019, failure to adopt compatible electronic logging device regulations may jeopardize Florida’s eligibility for Fiscal Year 2019 MCSAP funding.⁵ The MCSAP grant funding for the 2017-18 fiscal year was \$14,718,042 and the funding for the 2018-19 fiscal year was \$15,033,312.⁶

¹ Section 316.066, F.S.

² Federal Motor Carrier Safety Administration, available at <https://www.fmcsa.dot.gov/mission/about-us> (last visited February 28, 2019).

³ 2007 Florida State MCSAP Review (Copy on file with Transportation & Infrastructure Subcommittee).

⁴ Letter from Federal Motor Carrier Safety Administration (August 10, 2018) (Copy on file with Transportation & Infrastructure Subcommittee).

⁵ *Id.*

⁶ E-mail from Jennifer Langston, Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, RE: DHSMV Package, (February 21, 2019).

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,⁷ as amended.⁸

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 316.302(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
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.”⁹ 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.”¹⁰

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,¹¹ which does not contain a similar exemption and that federal regulations expressly prohibit lamps and reflectors from being obscured.¹²

⁷ 49 U.S.C. ss. 1801 et seq.

⁸ Section 316.003(13), F.S.

⁹ 49 C.F.R. 390.5.

¹⁰ MCSAP Review, *supra* FN 3 at FL/FI-1.

¹¹ 49 C.F.R. 393 Subpart B.

¹² MCSAP Review, *supra* FN 3 at FL/FI-7.

Federal regulations provide that with some exceptions, CMV drivers are required to be at least 21 years of age.¹³ Federal regulations also provide maximum drive time requirements for property carrying vehicles.¹⁴ 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 placarding¹⁵ are not required to comply with the above-referenced federal regulations.

Federal regulations provide hours of service rules for CMV drivers.¹⁶ 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.¹⁷

These provisions do not apply to drivers of utility service vehicles.¹⁸

Section 316.302(2)(c), F.S., provides that, except as provided in the federal hours of service rules,¹⁹ 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. 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 status²⁰ if the requirements of certain federal rules regarding short-haul operations²¹ 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 products²² 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.

¹³ 49 C.F.R. s. 391.11(b)(1).

¹⁴ 49 C.F.R. s. 395.3(a) and (b).

¹⁵ 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.

¹⁶ 49 C.F.R. s. 395.

¹⁷ Section 316.302(2)(b), F.S.

¹⁸ 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.

¹⁹ 49 C.F.R. s. 395.1.

²⁰ 49 C.F.R. 395.8.

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

²² 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."

In its 2007 review 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.²³

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.²⁴ 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, 2018, 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 amends s. 316.302(2)(a), F.S., to no longer require 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.²⁵

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.

Regulation of Nonpublic Sector Buses

Current Situation

The Department of Transportation (DOT) must establish and revise standards contained in federal law²⁶ to ensure the safe operation of nonpublic sector buses. The standards should be directed toward ensuring that:

- Nonpublic sector buses are safely maintained, equipped, and operated.
- Nonpublic sector buses are carrying the insurance required by law and carrying liability insurance on the checked baggage of passengers not to exceed the standard adopted by the United States Department of Transportation.

²³ MCSAP Review, *supra* FN 3 at FL/FI-3.

²⁴ Section 316.003(15), 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.

²⁵ Section 316.3025(3)(b)1., F.S.

²⁶ 49 C.F.R. parts 382, 385, and 390-397.

- Florida license tags are purchased for nonpublic sector buses pursuant to state law.
- The driving records of drivers of nonpublic sector buses are checked by their employers at least once each year to ascertain whether the driver has a suspended or revoked driver license.

DOT personnel may conduct compliance reviews for the purpose of determining compliance with these requirements. A civil penalty not to exceed \$5,000 in the aggregate may be assessed against any person who violates any provision of this section or who violates any rule or order of DOT. A civil penalty not to exceed \$25,000 in the aggregate may be assessed for violations found in a follow-up compliance review conducted within a 24-month period. A civil penalty not to exceed \$25,000 in the aggregate may be assessed and the motor carrier may be enjoined pursuant to s. 316.3026, F.S., if violations are found after a second follow-up compliance review within 12 months after the first follow-up compliance review.

Proposed Changes

The bill amends s. 316.70, F.S., changing the name of the agency who has statutory authority to adopt rules for the safe operations of CMVs and conduct compliance reviews from the “Department of Transportation” to the “Department of Highway Safety and Motor Vehicles.” This change acknowledges that DHSMV is the agency responsible for the safe operations of nonpublic sector buses.

The bill cross-references the applicable Code of Federal Regulations, removes duplicative standards for nonpublic sector buses, and removes the time periods for follow-up compliance investigations.

The bill also authorizes law enforcement officers with a current safety inspector certification from the Commercial Vehicle Safety Alliance to inspect nonpublic sector buses and remove them from service if continued operation would present an unduly hazardous operating condition.

Rulemaking Authority – Certificates of Title

Proposed Changes

The bill creates language providing that DHSMV may adopt rules to implement the provisions of Chapter 319, F.S.

Subpoena and Investigative Authority

Current Situation

DHSMV has jurisdiction over multiple chapters of Florida Statutes, but does not have subpoena authority to investigate fraud involving motor vehicle registrations, titles, driver licenses, motor vehicle dealers and other areas of jurisdictional responsibility. Therefore, documents and testimony from third-party entities (banks, tow companies, etc.) cannot be obtained or used for necessary investigative functions.

Proposed Changes

The bill creates s. 322.71, F.S., and amends ss. 319.25, and 320.861, F.S., authorizing DHSMV to exercise the power of subpoena and to administer oaths or affirmations, examine witnesses, require affidavits, take depositions, and compel the attendance of witnesses and the production of books, papers, documents, records, and other evidence. The subpoena is to be used for investigations or examinations conducted by DHSMV, and may be served by an authorized representative of DHSMV.

If a person refuses to obey the subpoena, DHSMV may petition a court in the county in which the person or business is located. The court may direct the person to obey the subpoena, and any court costs incurred by DHSMV in the process, must be paid by the subpoenaed person.

For the purpose of any investigation, examination, or proceeding initiated by DHSMV under chapters 319, 320, and 322, F.S., DHSMV may designate agents to serve subpoenas and other processes and

administer oaths or affirmations. A witness subpoenaed under this section is entitled to witness fees as established in statute for a witness in a civil case.

Use of E-Mail Addresses for Business Purposes

Current Situation

DHSMV is authorized to collect e-mail addresses and use e-mail, in lieu of the United States Postal Service, to provide certain renewal notices, including registration renewal notices, driver license renewal notices, and vessel registration renewal notices. However, current law does not allow the e-mail addresses to be used for other business purposes.^{27,28,29,30,31}

Proposed Changes

The bill amends ss. 319.40, 320.95, 322.08, 328.30, and 328.80, F.S., authorizing DHSMV to collect and use e-mail addresses to contact customers for business reasons other than vehicle registration, vessel registration, and driver license renewal notices.

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.³² The IRP allows a carrier to register once for all the jurisdictions, rather than dealing with each jurisdiction separately.³³ 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.³⁴

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.³⁵

Section 320.01(24), F.S., defines “apportionable vehicle” as any vehicle³⁶ 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.

²⁷ Section 319.40, F.S.

²⁸ Section 320.95, F.S.

²⁹ Section 322.08(10), F.S.

³⁰ Section 328.30, F.S.

³¹ Section 328.80, F.S.

³² International Registration Plan, Inc., *About IRP*, available at <http://www.irponline.org/?page=AboutIRP> (last visited February 28, 2019).

³³ International Registration Plan, Inc., *IRP Registration*, available at <http://www.irponline.org/?page=Registration> (last visited February 28, 2019).

³⁴ 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 February 28, 2019).

³⁵ E-mail from Department of Highway Safety and Motor Vehicles, February 16, 2017 (copy on file with Transportation & Infrastructure Subcommittee).

³⁶ 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 and Apportionable Vehicles

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.³⁷

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 tax³⁸ 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,³⁹ for each vehicle registered.⁴⁰

Most license plates are issued for a 10-year period. Upon renewal, the license plate is replaced. However, a vehicle with an apportioned⁴¹ 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.⁴²

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 (whether every 10 years or annually for apportioned vehicles), the applicant pay a fee of \$28 to be deposited into the Highway Safety Operating Trust Fund.

Proposed Changes

The bill repeals s. 320.06(1)(b)2., F.S., on October 1, 2019, which provides that an apportioned vehicle must be issued an annual license plate and cab card denoting the declared gross vehicle weight.

Additionally, the bill amends s. 320.06, F.S., providing that upon implementation of a new operating system for apportioned vehicle registration, 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 valid for 12 months. The annual fee for an original and renewed validation sticker (rather than license plate) 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 upon implementation of a new operating system for apportioned vehicle registration, the \$28 fee for a replacement license plate does not apply to vehicles

³⁷ Section 320.0715(1), F.S.

³⁸ License taxes are provided for in s. 320.08, F.S.

³⁹ Section 320.0706, F.S., requires the display of license plates on the front and the rear of some trucks.

⁴⁰ Section 320.06(1)(a), F.S.

⁴¹ Section 320.06(3)(a), F.S., requires apportioned license plate to have the word “apportioned” at the bottom of the license plate.

⁴² Section 320.06(1)(b)1., F.S.

registered under the IRP and issued an apportionable license plate. Instead, vehicles registered under the IRP will be issued an annual cab card and validation sticker for the same \$28 fee.

Special License Plates for Federal and State Legislators

Current Situation

Section 320.0807, F.S., provides for special license plates for the Governor and federal and state legislators. Section 320.0807(5), F.S., provides that upon application by any current or former President of the Senate or current or former Speaker of the House of Representatives, and payment of the appropriate fees,⁴³ DHSMV may issue a license plate stamped “Senate President” or “House Speaker” followed by the number assigned by DHSMV or chosen by the applicant if it is not already in use.

Section 320.0807(6), F.S., provides that upon application by any former Member of Congress or former member of the state Legislature, payment of the appropriate registration fees plus a one-time fee of \$500, DHSMV may issue a former Member of Congress, State Senator, or State Representative a license plate stamped “Retired Congress,” “Retired Senate,” or “Retired House,” as appropriate, for a vehicle owned by the former member. To qualify for a Retired Congress, Retired Senate, or Retired House prestige license plate, a former member must have served at least four years as a Member of Congress, State Senator, or State Representative. Four hundred fifty dollars of the one-time \$500 fee collected is distributed to the Florida Historic Capitol’s direct-support organization⁴⁴ to benefit the Florida Historic Capitol Museum, and the remaining \$50 is deposited into the Highway Safety Operating Trust Fund.

Proposed Changes

The bill repeals ss. 320.0807(5) and (6), F.S., repealing the authorization for “Senate President” or “House Speaker” special license plate and special license plates for former Members of Congress, former State Senators, and former State Representatives.

Motor Vehicle Dealer Licensing and Enforcement

Current Situation

Pursuant to s. 320.27, F.S., DHSMV has the authority to revoke a motor vehicle dealership license for failure to comply with certain statutory requirements. However, dealers who have previously had their dealer license revoked are able to re-establish themselves in other dealerships. DHSMV lacks the authority to act against individuals who operate in this capacity. Current law allows DHSMV to file for an injunction against an individual who fails to comply with the law. Yet, DHSMV does not have the authority to petition the court to prohibit the individual who operated the dealership from operating in a similar capacity in the future.

Proposed Changes

The bill amends s. 320.27, F.S., and creates a definition of “control person.” “Control person” means, “a person who has significant power, directly or indirectly, to direct the management or policies of a company, whether through ownership, by contract, or otherwise. The term includes a person who is an owner, director, general partner, officer, manager, or employee exercising decision-making responsibility or exercising similar executive status or functions but does not include an employee whose function is only clerical or ministerial or in sales under the supervision of an owner or manager or other person exercising decision-making responsibility.”

The bill authorizes DHSMV to deny an initial or renewal application for dealer license. The bill also allows DHSMV to deny an application or suspend or revoke a license upon proof that the applicant or licensee has:

⁴³ The fees are prescribed in s. 320.0805, F.S.,

⁴⁴ The Florida Historic Capitol direct support organization is established pursuant to s. 272.136, F.S.

- Been convicted of a felony and has either not completed the resulting felony sentence or completed the felony sentence less than 10 years after the date of licensure application.
- Previously owned a majority interest in, or acted as a control person of, a motor vehicle dealer that within the past 10 years has been the subject of any decision, finding, injunction, suspension, revocation, denial, judgment, or administrative order by any court of competent jurisdiction, administrative law judge, or state agency that resulted in a finding of violation of any federal or state law relating to unlicensed activity, or fraud in connection with the sale of a motor vehicle, or knowingly employs or contracts such a person as a control person, or knowingly employs or contracts as a control person a person who has been convicted of a felony and has either not completed the resulting felony sentence or completed the felony sentence less than 10 years from the date of licensure application.

Lastly, the bill provides that if the court grants an injunction, the court may bar, permanently or for a specific time period, any person found to have violated any federal or state law relating to unlicensed activity or fraud in connection with the sale of a motor vehicle. If a person is barred, the person may not continue in any capacity within the industry. The person will have no management, sales, or other role in the operation of a dealership. Further, if permanently barred, the person may not derive income from the dealership beyond reasonable compensation for the sale of his or her ownership interest in the business.

Establishment of Uniform Standards for Mobile Homes

Current Situation

Section 320.8232(2), F.S., provides that the provisions of the repair and remodeling code must ensure safe and livable housing and must not be more stringent than those standards required to be met in the manufacture of mobile homes. The provisions of the code must include, but are not limited to, standards for structural adequacy, plumbing, heating, electrical systems, and fire and life safety.

Rule 15C-2.0081, F.A.C, provides more specificity by providing the guidelines that must be used to assure safe and livable housing. The rule provides that additions must be free standing and self-supporting with only the flashing attached to the main unit unless the added unit has been designed to be married to the existing unit. Anchoring of additions must be in compliance with requirements for similar type construction. Repair or remodeling of a mobile home must require the use of material and design equivalent to the original construction. The structure must include, but not be limited to, roof system, walls, floor system, windows, and exterior doors of the mobile home.

Additionally, the rule provides that electrical and plumbing repairs and replacements must require the use of material and design equivalent to the original construction.

Proposed Changes

The bill amends subsection (2) of s. 320.8232, F.S., by removing the repair and remodel code and creating the Uniform Repair and Remodeling Code for Mobile Homes. The bill also provides that all permitting and regulation of repair and remodel of mobile homes must be done in accordance with subsection (2), current department rules, or subsequent rules developed in accordance with Chapter 120, F.S.

Truancy Reporting

Current Situation

A minor is not eligible for driving privileges unless that minor:

- Is enrolled in a public school, nonpublic school, or home education program and satisfies relevant attendance requirements;
- Has received a high school diploma, a high school equivalency diploma, a special diploma, or a certificate of high school completion;

- Is enrolled in a study course in preparation for the high school equivalency examination and satisfies relevant attendance requirements;
- Is enrolled in other educational activities approved by the district school board and satisfies relevant attendance requirements;
- Has been issued a certificate of exemption; or
- Has received a hardship waiver.

DHSMV may not issue a driver license or learner's permit to, or will suspend the driver license or learner's permit of, any minor concerning whom DHSMV receives notification of noncompliance with the above requirements.⁴⁵

DHSMV must report quarterly to each school district the legal name, sex, date of birth, and social security number of each student whose driving privileges have been suspended for one of the reasons above.⁴⁶ According to DHSMV, the reporting function is now automated for all school districts to access in real time.⁴⁷

Proposed Changes

The bill amends s. 322.091(5), F.S., removing obsolete language related to the manual reporting of students whose driving privileges have been suspended for truancy.

Stolen Identification Cards

Current Situation

If a learner's permit or driver license is stolen, the owner of the card may, at no charge, obtain a replacement upon furnishing satisfactory proof to DHSMV that the card was stolen.⁴⁸ There is no statutory authority to issue a free replacement identification cards when stolen.

Proposed Changes

The bill amends s. 322.17, F.S., by adding identification card to the list of cards that can be replaced for free when stolen.

Penalties for False Information on Application for Driver License

Current Situation

A person may not have or display a blank, stolen, fictitious, counterfeit, or unlawfully issued driver license or identification card.⁴⁹ Likewise, a person may not sell, manufacture, or deliver a blank, forged, stolen, fictitious, counterfeit, or unlawfully issued driver license or identification card.⁵⁰

It is unlawful for a person to use a false or fictitious name in any application for a driver license or identification card or knowingly to make a false statement, knowingly conceal a material fact, or otherwise commit a fraud in any such application.⁵¹

A person who violates any of the above provisions is guilty of a felony of the third degree, except that a person who gives a false age in any application for a driver license or identification card or who possesses a driver license, identification card, or any instrument in the likeness thereof, on which the date of birth has been altered is guilty of a misdemeanor of the second degree.⁵²

⁴⁵ Section 322.091(1), F.S.

⁴⁶ Section 322.091(5), F.S.

⁴⁷ Department of Highway Safety and Motor Vehicles, *2019 Legislative Concepts* (on file with Transportation & Infrastructure Subcommittee).

⁴⁸ Section 322.17(1)(b), F.S.

⁴⁹ Section 322.212(1)(a), F.S.

⁵⁰ Section 322.212(1)(d), F.S.

⁵¹ Section 322.212(5)(a), F.S.

⁵² Section 322.212(6), F.S.

In addition to any other penalties provided above, a person who provides false information when applying for a commercial driver license or commercial learner's permit or is convicted of fraud in connection with testing for a commercial driver license or commercial learner's permit shall be disqualified from operating a CMV vehicle for a period of 1 year.⁵³

Proposed Changes

The bill amends s. 322.212, F.S., strengthening the penalties currently in statute. The bill provides that in addition to any other penalties provided, if a person provides false information when applying for a driver license, identification card, commercial driver license, or commercial learner's permit or is convicted of fraud in connection with testing for a driver license, commercial driver license, or commercial learner's permit, such person's driving privilege shall be suspended for 1 year.

Disqualification from Operating a Commercial Motor Vehicle

Current Situation

In 2013, the Legislature amended s. 316.3025, F.S., codifying a federal prohibition on CMV drivers using handheld devices while operating a CMV.⁵⁴ However, s. 322.61, F.S., relating to offenses disqualifying someone from driving a CMV was not amended to list using a handheld device while operating a CMV as a serious disqualifying offense regarding a commercial driver license.

Section 316.3025(6)(a), F.S., provides penalties associated with texting and using a handheld mobile telephone while driving a CMV. A driver violating the federal prohibitions against texting⁵⁵ or using a handheld mobile telephone⁵⁶ while operating a CMV, may be assessed a civil penalty and commercial driver license disqualification⁵⁷ as follows:

- First violation: \$500;
- Second violation: \$1,000 and a 60-day commercial driver license disqualification;⁵⁸
- Third and subsequent violations: \$2,750 and a 120-day commercial driver license disqualification.

Section 322.61, F.S., provides a list of serious disqualifying offenses regarding the operation of a CMV. If while operating a CMV, a person is convicted of two or more of the following offenses within a three-year period, that person is disqualified from operating a CMV for a period of 60 days for:

- A violation of any state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with a crash resulting in death;
- Reckless driving;⁵⁹
- Unlawful speed of 15 miles per hour or more above the posted speed limit;
- Improper lane change;⁶⁰
- Following too closely;⁶¹
- Driving a commercial vehicle without obtaining a commercial driver license;
- Driving a commercial vehicle without the proper class of commercial driver license or commercial learner's permit or without the proper endorsement; or
- Driving a commercial vehicle without a commercial driver license or commercial learner's permit in possession.⁶²

⁵³ Section 322.212(7), F.S.

⁵⁴ Chapter 2013-160, L.O.F.

⁵⁵ 49 C.F.R. 329.80.

⁵⁶ 49 C.F.R. 392.82.

⁵⁷ Section 320.01(15), F.S., defines "disqualification" as "a prohibition, other than an out-of-service order, that precludes a person from driving a commercial motor vehicle."

⁵⁸ Commercial driver license disqualification is pursuant to 49 C.F.R. part 383.

⁵⁹ Reckless driving is defined in s. 316.192, F.S.

⁶⁰ Improper lane change is defined in s. 316.085, F.S.

⁶¹ Following too closely is defined in s. 316.0895, F.S.

⁶² A license or learner permit is required to drive a commercial motor vehicle pursuant to s. 322.03, F.S.

Proposed Changes

The bill amends s. 322.61(1), F.S., incorporating texting while driving and use of hand-held mobile telephones to the list of offenses a person can be disqualified from operating a CMV. The change will align with federal regulations.

Technical and Conforming Language

The bill makes technical and conforming changes to ss. 328.40, 627.7415, and 655.960, F.S.

Effective Date

The bill provides an effective date of July 1, 2019.

B. SECTION DIRECTORY:

Section 1: Amends s. 117.10, F.S., relating to law enforcement and correctional officers; administration of oaths.

Section 2: Amends s. 316.003, F.S., relating to definitions.

Section 3: Amends s. 316.027, F.S., relating to crash involving death or personal injuries.

Section 4: Amends s. 316.0271, F.S., relating to yellow dot critical motorist medical information program; yellow dot decal, folder, and information form.

Section 5: Amends s. 316.061, F.S., relating to crashes involving damage to vehicle or property.

Section 6: Amends s. 316.066, F.S., relating to written reports of crashes.

Section 7: Amends s. 316.192, F.S., relating to reckless driving.

Section 8: Amends s. 316.193, F.S., relating to driving under the influence; penalties.

Section 9: Amends s. 316.1933, F.S., relating to blood test for impairment or intoxication in cases of death or serious bodily injury; right to use reasonable force.

Section 10: Amends s. 316.194, F.S., relating to stopping, standing or parking outside of municipalities.

Section 11: Amends s. 316.302, F.S., relating to commercial motor vehicles; safety regulations; transporters and shippers of hazardous materials; enforcement.

Section 12: Amends s. 316.622, F.S., relating to farm labor vehicles.

Section 13: Amends s. 316.640, F.S., relating to enforcement.

Section 14: Amends s. 316.655, F.S., relating to penalties.

Section 15: Amends s. 316.70, F.S., relating to nonpublic sector buses; safety rules.

Section 16: Amends s. 318.19, F.S., relating to Infractions requiring a mandatory hearing.

Section 17: Creates s. 319.002, F.S., relating to rulemaking authority.

Section 18: Amends s. 319.25, F.S., relating to cancellation of certificates.

Section 19: Amends s. 319.40, F.S., relating to transactions by electronic or telephonic means.

Section 20: Amends s. 320.01, F.S., relating to definitions.

Section 21: Amends s. 320.06, F.S., relating to registration certificates, license plates, and validation stickers generally.

Section 22: Amends s. 320.0607, F.S., relating to replacement license plates, validation decal, or mobile home sticker.

Section 23: Amends s. 320.0807, F.S., relating to special license plates for Governor and federal and state legislators.

Section 24: Amends s. 320.27, F.S., relating to motor vehicle dealers.

Section 25: Amends s. 320.822, F.S., relating to definitions.

Section 26: Amends s. 320.8232, F.S., relating to establishment of uniform standards for used recreational vehicles and repair and remodeling code for mobile homes.

Section 27: Amends s. 320.861, F.S., relating to inspection of records; production of evidence; subpoena power.

Section 28: Amends s. 320.95, F.S., relating to transactions by electronic or telephonic means.

Section 29: Amends s. 321.05, F.S., relating to duties, functions, and powers of patrol officers.

Section 30: Amends s. 321.065, F.S., relating to traffic accident investigation officers; employment; standards.

Section 31: Amends s. 321.23, F.S., relating to public records; fees for copies; destruction of obsolete records; photographing records; effect as evidence.

Section 32: Amends s. 322.0602, F.S., relating to Youthful Drunk Driver Visitation Program.

Section 33: Amends s. 322.08, F.S., relating to application for license; requirements for license and identification card forms.

Section 34: Amends s. 322.091, F.S., relating to attendance requirements.

Section 35: Amends s. 322.17, F.S., relating to replacement license and permits.

Section 36: Amends s. 322.212, F.S., relating to unauthorized possession of, and other unlawful acts in relation to, driver license or identification card.

Section 37: Amends s. 322.36, F.S., relating to permitting unauthorized operator to drive.

Section 38: Amends s. 322.61, F.S., relating to disqualification from operating a commercial motor vehicle.

Section 39: Creates s. 322.71, F.S., relating to investigations; subpoenas and other process; oaths; rules.

Section 40: Amends s. 323.001, F.S., relating to wrecker operator storage facilities; vehicle holds.

Section 41: Amends s. 323.002, F.S., relating to county and municipal wrecker operator systems; penalties for operation outside of system.

Section 42: Amends s. 324.011, F.S., relating to purpose of chapter.

Section 43: Amends s. 324.022, F.S., relating to financial responsibility for property damage.

Section 44: Amends s. 324.023, F.S., relating to financial responsibility for bodily injury or death.

Section 45: Amends s. 324.051, F.S., relating to reports of crashes; suspensions of licenses and registrations.

Section 46: Amends s. 324.242, F.S., relating to personal injury protection and property damage liability insurance policies; public records exemption.

Section 47: Amends s. 328.30, F.S., relating to transactions by electronic or telephonic means.

Section 48: Amends s. 328.40, F.S., relating to administration of vessel registration and titling laws; records.

Section 49: Amends s. 328.80, F.S., relating to transactions by electronic or telephonic means.

Section 50: Amends s. 627.7415, F.S., relating to commercial motor vehicles; additional liability insurance coverage.

Section 51: Amends s. 655.960, F.S., relating to definitions.

Section 52: Amends s. 784.07, F.S., relating to assault or battery of law enforcement officers, firefighters, emergency medical care providers, public transit employees or agents, or other specified officers; reclassification of offenses; minimum sentences.

Section 53: Amends s. 856.015, F.S., relating to open house parties.

Section 54: Provides an effective date of July 1, 2019.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The repeal of ss. 320.0807 (5) and (6), F.S., eliminates registration fees and a \$500 one-time fee associated with the issuance of special license plates for former Members of Congress, former State Senators, and former State Representatives. DHSMV estimates that this impact on revenue is negligible.

The bill provides for the replacement of a stolen identification card at no charge to the owner of the card. DHSMV estimates a negative, but insignificant impact on the General Revenue Fund and the Highway Safety Operating Trust Fund. The number of transactions is unknown.

2. Expenditures:

The bill grants and authorizes DHSMV to exercise the power of subpoena as it relates to the investigation of fraud involving motor vehicle registrations, titles, driver licenses, motor vehicle

dealers and other areas of jurisdictional responsibility. All costs related to this new function can be absorbed within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Tax Collectors may experience an insignificant decrease in revenue collections due to the replacement of a stolen identification card at no charge to the owner of the card. The number of transactions is unknown.

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.⁶³

Individuals whose identification cards are stolen will see a reduction in costs since they will be able to obtain a replacement card at no cost.

D. FISCAL COMMENTS:

According to DHSMV, failure to comply with the 2016 amended FMCSA regulations on minimum performance and design standards for hours-of-service electronic logging devices may jeopardize Florida's eligibility for Fiscal Year 2019 MCSAP funding. The MCSAP grant funding for the 2017-2018 fiscal year was \$14,718,042 and the funding for the 2018-2019 fiscal year was \$15,033,312.⁶⁴

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:

The bill provides DHSMV with rule-making authority.

⁶³ E-mail from Department of Highway Safety and Motor Vehicles, February 16, 2017 (copy on file with Transportation & Infrastructure Subcommittee).

⁶⁴ E-mail from Jennifer Langston, Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, RE: DHSMV Package, (February 21, 2019).

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 12, 2019, the Transportation and Infrastructure Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all:

- Removed the private rebuilt motor vehicle inspection program;
- Created uniform requirements for mobile home permitting and repair;
- Repealed provisions relating to special license plates for former federal and state legislators;
- Clarified requirements for certain motor vehicle dealer employees; and
- Removed authorization for an expedited shipping service fee.

On April 2, 2019, the Transportation and Tourism Appropriations Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment removed a provision from the bill relating to s. 322.051, F.S., extending the renewal timeframe for Florida identification cards from 90 days to 12 months.

This analysis is written to the committee substitute as passed by the Transportation and Tourism Appropriations Subcommittee.