

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Transportation

BILL: SB 1252
 INTRODUCER: Senator DiCeglie
 SUBJECT: Motor Vehicles
 DATE: March 24, 2023 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Vickers	TR	Pre-meeting
2.			ATD	
3.			FP	

I. Summary:

SB 1252 makes numerous changes relating to motor vehicles and the Department of Highway Safety and Motor Vehicles (DHSMV). Specifically, the bill:

- Allows “authorized agents” of the DHSMV to conduct International Fuel Tax Agreement transactions;
- Requires all law enforcement agencies to submit crash reports to the DHSMV solely by electronic means by July 1, 2025;
- Exempts motor vehicle dealers from air pollution control equipment certification requirements if the motor vehicle purchaser is the current lessee of the motor vehicle that is not in the possession of the dealer at the time of sale;
- Updates the date of adoption of federal regulations and rules for commercial motor vehicles (CMVs) from December 31, 2020 to December 31, 2022, updates federal references, and removes an expired exemption for CMV operators;
- Expressly states that the DHSMV is charged with the administration and enforcement of specified federal laws relating to CMVs;
- Requires the DHSMV to brand certificates of title of flood vehicles with the words “Salt Water,” “Fresh Water,” or “Other or Unknown Water Type” based on the water type that flooded the vehicle;
- Defines “major component parts” of electric and plug-in hybrid motor vehicles for the purpose of verifying the sources of these parts during the rebuilt inspection process;
- Amends the process for an insurance company to receive a salvage certificate of title or certificate of destruction for a total loss vehicle when the company is unable to obtain a release of all liens;
- Allows rental trucks with a gross vehicle weight up to 15,000 pounds to elect to have a permanent registration period with annual payment of appropriate license taxes and fees; and
- Makes numerous clarifying, technical, and conforming changes.

The bill also creates a new section of statute and amends various sections of law to adopt requirements related to the federal Drug and Alcohol Clearinghouse program. States must be compliant with this program by November 18, 2024, or risk losing federal grant funding.

The bill may have an indeterminate fiscal impact on state and local government and the private sector. See Section V. Fiscal Impact Statement.

Except as otherwise provided, the bill takes effect July 1, 2023.

II. Present Situation:

Due to the disparate issues in the bill, for ease of organization and readability, the Present Situation for each issue is discussed below in conjunction with the Effect of Proposed Changes.

III. Effect of Proposed Changes:

International Fuel Tax Agreement (IFTA) Registration (Section 1)

Present Situation

The IFTA is a reciprocal tax collection agreement by and among the 48 contiguous states and the ten Canadian provinces bordering the United States. IFTA qualified commercial motor vehicles (CMVs) registered in Florida report and pay all motor fuel taxes to the state (its base jurisdiction), which distributes such taxes to other member jurisdictions in which the vehicle travelled and incurred motor fuel use tax liability.¹ CMVs are IFTA qualified if they are used, designed, or maintained for the interstate transportation of persons or property and:

- Have two axles and a gross vehicle weight (GVW) or registered GVW exceeding 26,000 pounds;
- Have three or more axles, regardless of weight; or
- Are used in combination with a trailer, for a combined GVW or registered GVW in excess of 26,000 pounds.

CMVs that fall under IFTA must obtain an IFTA license and a set of two IFTA decals per qualified vehicle annually. The IFTA license and decals are valid from January 1 through December 31.² According to the DHSMV, a licensee can only obtain a new IFTA license and accompanying decals by mail from the DHSMV or in person at the Neil Kirkman Building in Tallahassee.³

Current law allows county tax collectors, as authorized agents of DHSMV, to provide motor vehicle and driver license services, including the issuance of registration certificates, license plates, and validation stickers.⁴ However, Florida law does not expressly allow “authorized agents” of the DHSMV to conduct IFTA transactions.

¹ Chapter 207, F.S. and DHSMV, *International Fuel Tax Agreement*, <https://www.flhsmv.gov/driver-licenses-id-cards/commercial-motor-vehicle-drivers/international-fuel-tax-agreement/> (last visited March 6, 2023).

² *Id.*

³ DHSMV, *2023 Agency Legislative Bill Analysis - SB 1252* (March 1, 2023) at p. 2.

⁴ See ss. 320.02(1) and 320.03, F.S.

Effect of Proposed Changes

The bill amends s. 207.004, F.S., to specify that the DHSMV or its authorized agent shall issue licenses and fuel tax decals for CMVs requiring IFTA registration.

This change may provide CMV operators more options for conducting IFTA registration transactions and may reduce in-person traffic and wait times at the Neil Kirkman Building in Tallahassee for IFTA transactions.

Electronic Crash Reporting (Sections 2 and 3)

Present Situation

DHSMV is the official custodian of Florida's crash data. DHSMV is responsible for preparing and supplying Florida's crash report forms to law enforcement agencies in the state,⁵ and crash reports prepared by law enforcement agencies must be submitted to the DHSMV.⁶ DHSMV aggregates this data submitted by law enforcement agencies, and uses such data to develop reports and distribute data to safety stakeholders and other interested parties.⁷

Florida law does not mandate how crash report forms are to be submitted to the DHSMV. DHSMV receives approximately 750,000 crash report forms annually. Currently, less than two percent of crash reports received by the DHSMV are paper crash reports.⁸ Paper crash reports are received by the DHSMV via regular postal services and are then delivered to a third-party, PRIDE Enterprises, to be manually key punched and submitted electronically to the DHSMV database where the data is validated prior to acceptance.⁹

Effect of Proposed Changes

The bill amends s. 316.066, F.S., effective July 1, 2025, to require all Florida law enforcement agencies to submit crash reports to the DHSMV solely by electronic means instead of mailing paper crash reports.

The bill contains a legislative finding that this requirement fulfills an important state interest by expediting the availability of crash reports and crash data as well as the availability of information derived from such reports to improve highway safety.

Air Pollution Certificate Exemption for Leased Vehicles (Sections 4)

Present Situation

Section 316.2935, F.S., prohibits a person or motor vehicle dealer from offering for sale or lease, selling or leasing, or transferring title to, a motor vehicle in Florida that has had its air pollution control equipment tampered with.¹⁰ The motor vehicle seller, lessor, or transferor must certify in

⁵ Section 316.068, F.S.

⁶ Section 316.066(1)(f), F.S.

⁷ Section 316.069, F.S., and DHSMV, *supra* note 3.

⁸ DHSMV, *supra* note 3.

⁹ DHSMV, *supra* note 3.

¹⁰ Section 316.2935(1)(a), F.S., defines "tampering" as "the dismantling, removal, or rendering ineffective of any air pollution control device or system which has been installed on a motor vehicle by the vehicle manufacturer except to replace

writing that the air pollution control equipment has not been tampered with by the certifier or with his or her permission, or by the certifier's agent, employee, or other representative.

Additionally, a licensed motor vehicle dealer also must certify that he, she, or persons under his or her supervision visually observed the air pollution control equipment of the motor vehicle and determined such equipment is in place and appears properly connected and undamaged.¹¹

The following transactions are exempt from this requirement:¹²

- Motor vehicles from the manufacturer or distributor provided to a franchise motor vehicle dealer;
- First time lease or sale of new motor vehicles subject to certification under s. 207, Clean Air Act, 42 U.S.C. s. 7541;
- Motor vehicles provided to a licensed motor vehicle dealer who elects to not receive the certification form;
- Motor vehicles transferred between licensed motor vehicle dealers;
- Lease agreements for 30 days or less; and
- Sales of motor vehicles for salvage purposes only.

Any person or motor vehicle dealer who knowingly and willingly violates this requirement:¹³

- For a first violation, a person is guilty of second degree misdemeanor and a motor vehicle dealer is guilty of a first degree misdemeanor.
- For a second or subsequent violation, any violator is guilty of a first degree misdemeanor, and the DHSMV may temporarily or permanently revoke or suspend the motor vehicle dealer license of the violator.

All other violators shall be charged with a noncriminal traffic infraction, punishable as a moving violation. However, the penalty may be reduced if the violation is corrected.¹⁴

Effect of Proposed Changes

The bill amends s. 316.2935, F.S., to exempt licensed motor vehicle dealers from being required to visually inspect and certify a vehicle's air pollution control equipment has not been tampered with by the dealer or his or her agents when the vehicle is being purchased by the current lessee and is not in the possession of the dealer at the time of sale.

such device or system with a device or system equivalent in design and function to the part that was originally installed on the motor vehicle.”

¹¹ Rule 62-243.500, F.A.C., specifies the “air pollution equipment” to be visually observed includes the catalytic converter, fuel inlet instructor, unvented fuel cap, exhaust gas recirculation system, air pump and/or air injection system, and fuel evaporative system, if applicable based on vehicle age.

¹² Section 316.2935(1), F.S. and Rule 62-243.500(2), F.A.C.

¹³ Section 316.2935(5), F.S.

¹⁴ Sections 316.2935(6) and 316.6105, F.S.

Federal CMV Regulations (Sections 5, 11, and 12)

Present Situation

The primary mission of the Federal Motor Carrier Safety Administration (FMCSA), an agency within the U.S. Department of Transportation, is to prevent CMV-related fatalities and injuries.¹⁵

Section 316.003(14), F.S., 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,¹⁶ as amended.

Section 316.302(1)(a), F.S., provides that all owners and drivers of a CMV operating on the state’s public highways while engaged in *interstate* commerce are subject to rules and regulations contained in the following parts of the Federal Motor Carrier Safety Regulations¹⁷:

Part	Heading
382	Controlled Substances and Alcohol Use and Testing
383	Commercial Driver’s License Standards; Requirements and Penalties
385	Safety Fitness Procedures
386	Rules of Practice for FMCSA Proceedings
390	Federal Motor Carrier Safety Regulations; General
391	Qualifications of Drivers and Longer Combination Vehicle (LCV) Driver Instructors
392	Driving of Commercial Motor Vehicles
393	Parts and Accessories Necessary for Safe Operation
395	Hours of Service Drivers
396	Inspection, Repair, and Maintenance
397	Transportation of Hazardous Materials; Driving and Parking Rules

Section 316.302(1)(b), F.S., provides that owners or drivers of CMVs engaged in *intrastate* commerce are subject to the same federal regulations, unless otherwise provided in s. 316.302, F.S., as such regulations existed on December 31, 2020.

States generally have three years to adopt such rules to remain compatible with federal regulations. States that remain incompatible after the compliance date risk losing federal grant funding.

During the most recent Annual Program Review of the DHSMV’s compliance with these regulations, the FMCSA noted that Florida law does not expressly subject DHSMV to comply with the provisions of 49 CFR part 384.¹⁸

¹⁵ FMCSA, *About Us*, available at <https://www.fmcsa.dot.gov/mission/about-us> (last visited March 6, 2023).

¹⁶ 49 U.S.C. ss. 1801 et seq.

¹⁷ 49 C.F.R. ch III, subchapter B.

¹⁸ DHSMV, *supra* note 3, at p. 3.

Effect of Proposed Changes

The bill amends s. 316.302, F.S., to provide that all owners and drivers of CMVs engaged in *intrastate* commerce be subject to CMV rules and regulations, unless otherwise specified, as they existed on December 31, 2022. According to the DHSMV, FMCSA has adopted or amended six rules between December 31, 2020 and December 31, 2022 that impact the DHSMV.

This update results in the following changes:

- Removes a duplicative requirement that drivers prepare and submit a list of traffic violations annually to their employer¹⁹;
- Increases the area on the interior of a CMV windshield where vehicle safety technology devices may be mounted²⁰;
- Expands the definition of “vehicle safety technology” to include, “systems and items of equipment to promote driver, occupant, and roadway safety,” including “systems and devices that contain cameras, lidar, radar, and/or video”²¹;
- Permits individuals who do not satisfy certain vision standards to be physically qualified by an ophthalmologist or optometrist annually to operate a CMV²²;
- Requires rear impact guards be examined as part of the required CMV annual inspection and updates certification and labeling requirements for rear impact protection guards²³; and
- Requires compliance with regulations related to the Drug and Alcohol Clearinghouse (this issue is described in detail in this analysis under the “Commercial Driver Licenses and the Drug and Alcohol Clearinghouse” subheading).

The bill also makes changes in the following sections related to CMVs:

- Amends s. 316.302(1)(a) and (b), F.S., to include that all owners and drivers of CMVs are subject to the rules and regulations contained in 49 C.F.R. part 384, which requires state compliance with the federal CDL program.
- Removes s. 316.302(1)(c), F.S., which is now obsolete. The paragraph allowed a delay in compliance with the requirements of electronic logging devices and hours of service supporting documents until December 31, 2019.
- Amends s. 316.302(2)(d), F.S., to update to the appropriate federal references.
- Amends s. 322.02, F.S., to provide that the DHSMV is charged with the enforcement and administration of 49 C.F.R. parts 382-386 and 390-397.
- Clarifies in s. 322.05(4), F.S., that the DHSMV is prohibited from issuing a commercial license to any person who is ineligible to operate a CMV pursuant to 49 C.F.R. part 383.

Branding of a Certificate of Title as a “Flood Vehicle” (Section 6)

Present Situation

Florida law prohibits a person knowingly offering for sale, selling, or exchanging a flood vehicle until the DHSMV has stamped in a conspicuous place on the certificate of title that the vehicle is

¹⁹ 87 FR 13192 (March 9, 2022).

²⁰ 49 C.F.R. s. 393.60(e)(1).

²¹ 49 C.F.R. s. 393.5.

²² 49 C.F.R. s. 391.44.

²³ 86 FR 62105 (November 9, 2021).

a flood vehicle.²⁴ A “flood vehicle” is defined as a motor vehicle or mobile home declared as a total loss²⁵ resulting from damage caused by water.²⁶

Current law does not differentiate between the types of water that impacted a flood vehicle. In September 2022, Hurricane Ian made landfall in Florida and numerous electric vehicles caught fire from what is believed to be exposure to or submersion in salt water.²⁷ Lithium-ion batteries power most electric vehicles. Damage to such batteries by salt water, heat, or force can cause a chemical reaction called thermal runaway, which causes batteries to heat up uncontrollably and be prone to fires and off-gassing, which can lead to explosions.²⁸ According to the National Highway Traffic Safety Administration (NHTSA):

Lithium-ion vehicle battery fires have been observed both rapidly igniting and igniting several weeks after battery damage occurred. The timing of the fire initiation is specific to the battery design, chemistry, and damage to the battery pack. Test results specific to saltwater submersion show that salt bridges can form within the battery pack and provide a path for short circuit and self-heating. This can lead to fire ignition. As with other forms of battery degradation, the time period for this transition from self-heating to fire ignition can vary greatly.²⁹

Even for electric vehicles that did not combust in fire following submersion in salt water during Hurricane Ian, a concern may exist that the vehicles’ batteries may be considered a hazardous material.

Effect of Proposed Changes

The bill amends s. 319.14, F.S., to require the DHSMV to brand the certificate of title of a flood vehicle with reference to the water type that flooded the vehicle. The certificate of title of a flood vehicle will be branded as either:

- “Flood Vehicle - Salt Water”;
- “Flood Vehicle - Fresh Water”: or
- “Flood Vehicle - Other or Unknown Water Type.”

Including this additional information may provide increased consumer protections. By knowing what type of water a flood vehicle has been exposed to, vehicle purchasers and owners may be more aware of any potential risks associated with fire and hazardous materials.

²⁴ Section 319.14(1)(b), F.S.

²⁵ Pursuant to 319.30(3)(a), F.S., which defines “total loss” as when an insurance company pays to replace the damaged vehicle or mobile home, or when an uninsured motor vehicle or mobile home is damaged and the cost to repair or rebuild the vehicle is 80 percent or more of the replacement cost.

²⁶ Section 319.14 (1)(c)8., F.S.

²⁷ DHSMV, *supra* note 3, at p. 3-4.

²⁸ Verzoni, Angelo, *Experts Warn of Electric Fires After Hurricane Ian Damages Lithium-Ion Batteries*, National Fire Protection Association (October 9, 2022), <https://www.nfpa.org/News-and-Research/Publications-and-media/Blogs-Landing-Page/NFPA-Today/Blog-Posts/2022/10/19/Experts-Warn-of-Electric-Vehicle-Fires-After-Hurricane-Ian-Damages-Lithium-Ion-Batteries> (last visited February 21, 2023).

²⁹ Letter to Florida Chief Financial Officer Jimmy Patronis from NHTSA (October 14, 2022) on p. 2.

Salvage Certificates of Title or Certificates of Destruction (Section 8)

Present Situation

Under Florida law³⁰, the owner of a motor vehicle or mobile home that is considered salvage³¹ must, within 72 hours after the motor vehicle or mobile home becomes salvage, forward its title to the DHSMV for processing. However, an insurance company that pays money as compensation for the total loss of a motor vehicle or mobile home must obtain the certificate of title for the motor vehicle or mobile home, make the required notification to the National Motor Vehicle Title Information System,³² and, within 72 hours after receiving such certificate of title, forward the title to DHSMV for processing. The owner or insurance company may not dispose of a vehicle or mobile home that is a total loss before it obtains a salvage certificate of title or certificate of destruction from DHSMV.

To facilitate the issuance of salvage certificates of title and certificates of destruction when the insurer has been unable to obtain the title from the owner or lienholder to surrender to DHSMV:³³

- Thirty days after payment of a claim for compensation, the insurance company may receive a salvage certificate of title or certificate of destruction from DHSMV if the insurance company is unable to obtain a properly assigned certificate of title from the owner or lienholder of the motor vehicle or mobile home, if the motor vehicle or mobile home does not carry an electronic lien on the title *and* the insurance company:
 - Has obtained the release of all liens on the motor vehicle or mobile home;
 - Has attested on a form provided by DHSMV that payment of the total loss claim has been distributed; and
 - Has attested on a form provided by DHSMV and signed by the insurance company or its authorized agent stating the attempts that have been made to obtain the title from the owner or lienholder and further stating that all attempts are to no avail.³⁴

This process does not address a situation where an insurer pays out a total loss claim for a motor vehicle or mobile home that has a lien on it that is not being released.

Effect of Proposed Changes

The bill amends s. 319.30(3), F.S., to provide a process for an insurance company to obtain a salvage certificate of title or certificate of destruction following payment of a total loss claim when the insurer has been unable to obtain a properly assigned title from the owner or lienholder of the motor vehicle or mobile home *and* there remains a lien on the title.

³⁰ Section 319.30, F.S.

³¹ Section 319.30(1)(t), F.S., defines the term “salvage” as a motor vehicle or mobile home which is a total loss as defined in s. 319.30(3)(a), F.S.

³² The National Motor Vehicle Title Information System (NMVTIS) is overseen by the United States Department of Justice and is designed to prevent the introduction of stolen motor vehicles into interstate commerce, protect states and consumers from fraud, reduce the use of stolen vehicles for illicit purposes and provide consumers protection from unsafe vehicles. NMVTIS, <https://vehiclehistory.bja.ojp.gov/> (last visited March 7, 2023).

³³ This process provided in s. 319.30(3)(b)1., F.S., had an effective date of January 1, 2020.

³⁴ Attempts to contact the owner may be delivered in-person or by first-class mail with a certificate of mailing to the owner’s or lienholder’s last known address. Section 319.30(3)(b)1.c., F.S.

Specifically, the bill provides that 30 days after payment of a claim for compensation of a total loss motor vehicle or mobile home, the insurer may receive a salvage certificate of title or certificate of destruction from DHSMV if the insurance company is unable to receive a properly assigned title from the owner or lienholder and, if the insurance company has not obtained the release of all liens on the motor vehicle or mobile home:

- Has fully paid the amounts due to the owner and lienholder;
- Has attested on a form provided by DHSMV that amounts due to the owner and lienholder have been fully paid; and
- Has attested on a form provided by DHSMV and signed by the insurance company or its authorized agent stating the attempts that have been made to obtain the title from the owner or lienholder and further stating that all attempts are to no avail.

The bill adds that DHSMV is not liable to, and may not be held liable by, an owner, a lienholder, or any other person as a result of the issuance of a salvage title or a certificate of destruction pursuant to this process.

Electric and Plug-in Hybrid Vehicle Component Parts (Section 8)

Present Situation

Salvage motor vehicle dealers who purchase a major component part of a vehicle must record the date of purchase and the name, address, and personal identification card number of the seller, as well as the vehicle identification number, if available.³⁵ Before a salvage motor vehicle dealer can resell a salvage motor vehicle or its parts, the motor vehicle's title must indicate it is rebuilt, which requires a rebuilt inspection to assure the identity of the vehicle and all major component parts repaired or replaced.³⁶

The definition of "major component parts" provided in s. 319.30(1)(j), F.S., is specific to combustion engines and does not include parts of electric and plug-in hybrid motor vehicles that may be considered major component parts of the vehicle.

Effect of Proposed Changes

The bill amends s. 319.30(1)(j), F.S., to define "major component parts" of electric and plug-in hybrid vehicles as all the major component parts of a combustible engine vehicle as well as the following parts: electronic transmission, charge port, DC power converter, onboard charger, power electronics controller, thermal system, and traction battery pack.

Permanent Registration for Rental Trucks (Section 9)

Present Situation

Generally, registration license plates for vehicles are issued for a ten-year period. At the end of the ten-year period, upon renewal, the plate must be replaced. With each license plate, a validation sticker must be issued showing the owner's birth month, license plate number, and the year of expiration or the appropriate renewal period if the owner is not a natural person. The

³⁵ Section 319.30(6)(a), F.S.

³⁶ Sections 319.141 and 319.14, F.S.

license plate and validation sticker are issued based on the applicant's appropriate renewal period. Registration periods are for 12 months, or 24 months for an extended registration period³⁷, and expire at midnight on the last day of the registration period.³⁸

Validation stickers issued to for-hire vehicles holding less than nine passengers³⁹ for any company that owns 250 vehicles or more may be placed on any vehicle in its fleet so long as the vehicle receiving the validation sticker has the same owner's name and address as the vehicle to which the validation sticker was originally assigned.⁴⁰

As of July 1, 2021, Florida law allows rental vehicles taxed as for-hire vehicles that carry under nine passengers to voluntarily elect a permanent motor vehicle registration period, provided that the appropriate license taxes and fees are paid annually. Validation stickers are voided if the appropriate license taxes and fees are not paid annually.

For rental cars issued a permanent registration, the license plate will continue to expire at the end of the 10-year period, but the validation sticker will not need to be replaced annually. License plates with a permanent registration have a validation sticker with "PM" printed on it (for "permanent") in place of the expiration date, and the paper registration displays "Permanent Decal Issued" printed on it.⁴¹

Effect of Proposed Changes

The bill amends s. 320.06, to authorize rental trucks less than 15,000 pounds to elect a permanent registration period, provided that the appropriate license taxes and fees are paid annually.

Permanent registration may provide convenience for businesses operating rental trucks as the vehicle does not have to be physically tracked down to affix an annual decal.⁴²

Commercial Driver Licenses and the Drug and Alcohol Clearinghouse (Sections 10, 13, 15, and 16)

Present Situation

Owners and drivers of a CMV operating on the state's public highways are subject to rules and regulations contained in the Federal Motor Carrier Safety Regulations, which includes specific regulations on controlled substances and alcohol use, testing, and reporting.⁴³

Drug and Alcohol Clearinghouse

The Drug and Alcohol Clearinghouse is an online database that provides employers of CMV drivers, the Federal Motor Carrier Safety Administration (FMCSA), State Driver Licensing

³⁷ Section 320.01(19)(b), F.S., defines the term "extended registration period" as a period of 24 months during which a motor vehicle or mobile home registration is valid.

³⁸ Section 320.06(1)(c), F.S.

³⁹ These vehicles are taxed pursuant to s. 320.08(6)(a), F.S.

⁴⁰ Section 320.06(1)(c), F.S.

⁴¹ DHSMV, *Technical Advisory - 2020-2021 Legislative Release July 12, 2021* (July 7, 2021), RS/TL21-019, available at <https://www.flhsmv.gov/pdf/bulletins/2021/RSTL21-019.pdf> (last visited March 6, 2023).

⁴² DHSMV, *supra* note 3, at p. 8-9.

⁴³ Section 316.302(1), F.S. and *see* 49 C.F.R. Part 382 - Controlled Substances and Alcohol Use Testing.

Agencies, and State law enforcement personnel real-time information about drug and alcohol program violations of CMV operators.⁴⁴ The Clearinghouse helps to identify CMV drivers who are prohibited from operating a CMV based on federal drug and alcohol program violations, and to ensure such drivers receive required drug or alcohol evaluation and treatment following a violation.⁴⁵

Effective November 18, 2024, the FMCSA requires states use the Clearinghouse to check the status of a commercial driver license (CDL) or commercial learner permit (referred to in Florida as a commercial instructional permit, or CIP) before performing any licensing functions.⁴⁶ This federal regulation prohibits states from issuing, renewing, upgrading, or transferring a CDL or CIP if the individual is restricted from operating a CMV due to any drug and alcohol program violations.

Additionally, the FMCSA requires states to establish procedures for “downgrading” a CDL or CIP, which means removing the privilege to operate a CMV from the driver license.⁴⁷ If the state receives notification⁴⁸ that an individual is prohibited from operating a CMV due to federal alcohol or controlled substances rules, the state must downgrade the CDL or CIP and record such downgrade on the Commercial Driver’s License Information System (CDLIS) driver record.⁴⁹

Federal regulations also provide information on reinstatement of the CDL or CIP following completion of return-to-duty requirements, or reinstatement of the CDL or CIP and expunction of the downgrade from the CDLIS driving record for Clearinghouse error corrections.⁵⁰

States are required to adopt compatible CMV driving prohibitions to remain eligible to receive Motor Carrier Assistance Program (MCSAP) grant funds.⁵¹ According to DHSMV, Florida’s current MCSAP federal grant share is \$19.8 million.⁵²

DHSMV Informal Review Request

Florida law permits an individual to request an informal review when his or her driver license is suspended in certain instances.⁵³ The informal review is conducted by a hearing officer

⁴⁴ FMCSA, *About the Clearinghouse - What is the FMCSA Commercial Driver’s License Drug and Alcohol Clearinghouse?* <https://clearinghouse.fmcsa.dot.gov/About> (last visited March 3, 2023).

⁴⁵ *Id.*

⁴⁶ 49 C.F.R. s. 383.73.

⁴⁷ *Id.* and 49 CFR s. 383.5(4).

⁴⁸ Pursuant to 49 C.F.R. s. 382.501(a).

⁴⁹ CDLIS is “a nationwide computer system that enables state driver licensing agencies...to ensure that each commercial driver has only one driver license and one complete driver record.” States use this system to transmit out-of-state convictions and withdrawals, transfer CDL driver records to another state, or to respond to requests for driver status and history. See AAMVA, *Commercial Driver’s License Information System (CDLIS)*, <https://www.aamva.org/technology/systems/driver-licensing-systems/cdlis> (last visited March 3, 2023).

⁵⁰ 49 C.F.R. s. 383.73.

⁵¹ See 86 FR 55718, *Controlled Substances and Alcohol Testing: State Driver’s Licensing Agency Non-Issuance/Downgrade of Commercial Driver’s License* (October 7, 2021), available at <https://www.federalregister.gov/documents/2021/10/07/2021-21928/controlled-substances-and-alcohol-testing-state-drivers-licensing-agency-non-issuancedowngrade-of> (last visited March 5, 2023).

⁵² Email from Jennifer Langston, Chief of Staff, DHSMV, *RE: SB 1252 - Questions* (March 14, 2023) (on file with the Senate Committee on Transportation).

⁵³ See ss. 322.2615(4) and (5), 322.2616(5) and (6), and 322.64(4) and (5), F.S.

designated by the DHSMV, and does not require the presence of a law enforcement officer or a witness. The review consists solely of an examination by the DHSMV of materials submitted by a law enforcement or correctional officer and the person whose license is suspended. Following the examination, a notice is sent to the individual providing the DHSMV's decision to sustain, amend, or invalidate the license suspension.

Section 322.21(9)(a), F.S., provides that for such reviews, the applicant must pay a \$25 filing fee, which is deposited into the Highway Safety Operating Trust Fund.

Right of Review

Section 322.31, F.S., provides that DHSMV's final orders and rulings wherein any person is denied a license, or where a license has been canceled, suspended, or revoked, shall be reviewable as provided by the Florida Rules of Appellate Procedure only by a writ of certiorari issued by the circuit court in the county where the person resides.

Reinstatement of Licenses

An applicant for reinstatement of his or her CDL following a disqualification to operate a CMV, must pay a \$75 reinstatement fee in addition to the cost of the license.⁵⁴

Effect of Proposed Changes

The bill amends several sections of law and creates s. 322.591, F.S., to adopt requirements of the Drug and Alcohol Clearinghouse program. These requirements begin November 14, 2024.

The bill creates s. 322.591, F.S., which requires the DHSMV to check the Clearinghouse to ensure a driver is not prohibited from operating a motor vehicle any time a person applies for or seeks to renew, transfer, or make any other change to a CDL or CIP. Additionally, the DHSMV may not issue, renew, transfer, or revise the types of authorized vehicles that may be operated or the endorsements applicable to a CDL or CIP for any person for whom DHSMV receives notification pursuant to 49 C.F.R. s. 382.501 that the person is removed from the safety-sensitive function of operating a CMV because of conduct related to federal drug and alcohol prohibitions.

If the DHSMV receives such notification that a CDL or CIP holder is prohibited from operating a CMV, the DHSMV must downgrade the CDL or CIP. Section 322.01, F.S., defines "downgrade" as defined in 49 C.F.R. s. 383.5(4), which means the state removes the CDL or CIP privilege from the driver's license. The DHSMV must complete and record the downgrade in CDLIS within 60 days following receipt of the notification. If the downgraded driver is otherwise qualified to be issued a Class E (non-commercial) driver license, the DHSMV will issue the Class E license valid for the length of the driver's unexpired license period at no cost.

Immediately following receipt of notification that a driver is prohibited from operating a CMV, the DHSMV must:

- Immediately notify the driver that he or she is prohibited from operating a CMV;

⁵⁴ Section 322.21(8), F.S. An original or renewal commercial driver license is \$75, except the fee is \$48 (same as a Class E driver license) for an applicant who has completed training and is applying for employment or is currently employed in a school system that requires the commercial license. Section 322.21(1)(a) and (b), F.S.

- Provide in the notice to the driver that he or she may request an informal hearing within 20 days following receipt of the notice of the downgrade; and
- If a timely hearing request with the required filing fee (\$25) is not received, enter a final order directing the downgrade of the CDL or CIP; or
- If a hearing is requested with the required filing fee, schedule a hearing no later than 30 days after the request is received.

The bill provides that the informal hearing is exempt from the provisions of Chapter 120, F.S., and must be conducted before a DHSMV-designated hearing officer who may conduct such hearing from any location in the state by means of communications technology.

The bill requires the federal notification indicating a driver is prohibited from operating a CMV be in the record for consideration by the hearing officer and in any proceeding pursuant to s. 322.31, F.S., relating to right of review. This notification is considered self-authenticating. The bill also provides that the basis for the federal notification received and the information in the Clearinghouse that resulted in such notification is not subject to challenge in the hearing or proceeding under s. 322.31, F.S.

If, prior to the entry of the final order to downgrade the CDL or CIP, the DHSMV receives notification that the driver is no longer prohibited from operating a CMV, the DHSMV must dismiss the action to downgrade the CDL or CIP.

If, after entry of a final order that results in the downgrade of a CDL or CIP and the recording in the driver's record that the driver is disqualified from operating a CMV, the DHSMV receives notification that the driver is no longer prohibited from operating a CMV, the DHSMV must reinstate the driver's CDL or CIP upon reinstatement application, which requires a \$75 reinstatement fee.

The bill exempts the DHSMV from liability for a downgrade resulting from the discharge of the DHSMV's duties related to newly created s. 322.591, F.S., which is the exclusive procedure for the downgrade of a CDL or CIP following notification that a driver is prohibited from operating a CMV.

The bill clarifies that the downgrade of a driver's CDL or CIP does not preclude the suspension of the driver license or disqualification from operating a CMV for driving under the influence and drug and alcohol testing refusal offenses under Florida law.

Transmission of Driver License Images (Section 14)

Present Situation

Section 322.142, F.S., authorizes DHSMV to allow specified agencies access to digital driver license images. Federal law allows states to make such information available for a government agency to carry out its functions.⁵⁵ These images can be used to verify the identity of individuals and to prevent fraud.

⁵⁵ 18 U.S.C. s. 2721(b)(1)

Criminal Justice Agencies

Section 943.045(11), F.S., defines “criminal justice agency” as:

- A court;
- Florida Department of Law Enforcement;
- Florida Department of Juvenile Justice;
- The protective investigations component of the Florida Department of Children and Families;
- The investigation component of the Department of Financial Services; and
- Any other governmental agency or subunit that performs the administration of criminal justice pursuant to law or rule of court and that allocates a substantial part of its annual budget to criminal justice.

Currently, Florida law authorizes the DHSMV to provide digital driver license images access in response to law enforcement agency requests and specified positions in the State Courts System, as well as to the Department of Financial Services and Department of Children and Families, pursuant to any interagency agreement, for specified use.⁵⁶ However, other criminal justice agencies may require access to such digital driver license images to more effectively carry out agency functions.

State-to-State Program

The federal REAL ID Act of 2005 provides minimum security requirements for the issuance and production of state and territory driver licenses and identification cards in order for federal agencies to accept these documents for official purposes⁵⁷, which include entering federal facilities and boarding commercial aircraft.⁵⁸ Additionally, the REAL ID Act mandates minimum standards states must adopt when issuing driver license and identification cards.

The federal State-to-State (S2S) Verification Service is a nationwide initiative to ensure persons are only issued one REAL ID compliant identifying credential.⁵⁹ To fully participate, driver licensing agencies must be able to transmit driver license and identification card photographs to other state driver licensing agencies to validate identity of applicants and detect potential identify theft. Current state law does not expressly authorize DHSMV to issue such information to other state driver licensing agencies.

Effect of Proposed Changes

The bill amends s. 322.142(4), F.S., authorizing the DHSMV to issue access of digital driver license images to:

- Any criminal justice agency, as defined in s. 943.045(11), F.S., pursuant to interagency agreement for use in carrying out the agency’s functions; and
- Other state driver licensing agencies for purposes of validating the identity of an applicant for a driver license or identification card.

⁵⁶ Section 322.142(4), F.S.

⁵⁷ 49 U.S.C. 30301 note; 6 U.S.C. 111, 1112.

⁵⁸ The deadline to be Real ID compliant is currently May 7, 2025. See Department of Homeland Security, *REAL ID*, <https://www.dhs.gov/real-id> (last visited January 17, 2023).

⁵⁹ American Association of Motor Vehicle Administrators (AAMVA), *S2S Frequently Asked Questions*, <https://www.aamva.org/technology/systems/driver-licensing-systems/s2s-frequently-asked-questions> (last visited February 16, 2023).

Technical Changes and Conforming Cross-References (Sections 7, 17, and 18)

The bill amends s. 319.23, F.S., replacing the word “county” with “country” to address a scrivener’s error.

The bill amends ss. 322.34 and 322.61, F.S., to conform cross-references.

Effective Date (Section 19)

The amendment to s. 316.066, F.S., relating to electronic crash reports, takes effect July 1, 2025.

All other sections of the bill take effect July 1, 2023.⁶⁰

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

Article VII, s. 18(a) of the State Constitution provides that:

No county or municipality shall be bound by any general law requiring such county or municipality to spend funds...unless the legislature has determined that such law fulfills an important state interest and unless: ...the law requiring such expenditure is approved by two-thirds of the membership of each house of the legislature...

Law enforcement agencies that are not currently submitting crash reports to the DHSMV electronically will be required to do so by July 1, 2025, which may result in local governments incurring costs associated with such requirement. The bill contains a finding that this requirement fulfills an important state interest. Additionally, mandate requirements do not apply to laws having an insignificant fiscal impact. It is unlikely the fiscal impact associated with this provision will result in a significant fiscal impact to local governments overall.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁶⁰ However, requirements relating to use of the Drug and Alcohol Clearinghouse will begin November 18, 2024, which is the federal compliance date.

D. State Tax or Fee Increases:

Article VII, s. 19 of the Florida Constitution requires that a new state tax or fee, as well as an increased state tax or fee, be approved by two-thirds of the membership of each house of the Legislature and be contained in a separate bill that contains no other subject.

This bill subjects specified individuals to *existing* fees for DHSMV's informal review process and reinstatement of CDL and CIP driving privileges following a required license downgrade.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill requires an individual requesting an informal review of a CDL or CIP downgrade to pay the existing \$25 filing fee. Similarly, an individual requesting the reinstatement of his or her CDL or CIP following a downgrade must pay the existing \$75 fee for license reinstatement.

B. Private Sector Impact:

The bill may have an indeterminate, but likely positive, fiscal impact on the private sector. Several provisions of the bill make changes that will likely result in cost savings to the private sector by eliminating certain regulations or increasing convenience.⁶¹

C. Government Sector Impact:

The bill may have an indeterminate negative fiscal impact on law enforcement agencies currently submitting paper crash reports that will be required to submit crash reports to DHSMV electronically by July 1, 2025.

The bill may have an indeterminate negative fiscal impact on DHSMV for necessary programming, training, or administrative updates related to provisions of the bill.

Additionally, the state may lose federal MCSAP grant funding if provisions of the bill related to federal CMV requirements are not adopted. This decrease can range from just under \$1 million annually for one year of incompatibility up to \$9.9 million annually if the state remained incompatible after four years of required compliance.⁶²

⁶¹ See Sections of the bill relating to: IFTA Registration; Air Pollution Certificate Exemption, Salvage Certificates of Title or Certificates of Destruction, Permanent Registration of Rental Trucks; as well as incorporating several federal law updates for CMV operators.

⁶² Email from DHSMV, *supra* note 54.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 207.004, 316.066, 316.2935, 316.302, 319.14, 319.23, 319.30, 320.06, 322.01, 322.02, 322.05, 322.07, 322.142, 322.21, 322.34, and 322.61.

This bill creates section 322.591 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.