

Tab 1	SB 88 by Stewart (CO-INTRODUCERS) Book, Torres; (Compare to H 00111) Child Care Facilities					
Tab 2	SB 158 by Perry (CO-INTRODUCERS) Hooper, Harrell, Book, Stewart, Cruz, Rouson; (Identical to H 00533) Child Restraint Requirements					
Tab 3	SB 290 by Hooper; (Identical to H 00037) School Bus Safety					
Tab 4	SB 378 by Lee (CO-INTRODUCERS) Rouson; (Similar to H 00771) Motor Vehicle Insurance					
Tab 5	SB 538 by Diaz (CO-INTRODUCERS) Book, Pizzo, Perry; (Identical to H 00865) Emergency Reporting					
639450	D	S	WD	IS, Diaz	Delete everything after	01/22 03:34 PM
784498	D	S	RCS	IS, Diaz	Delete everything after	01/22 03:34 PM
Tab 6	SB 636 by Stargel; (Similar to H 00435) Department of Highway Safety and Motor Vehicles					
725100	A	S	RCS	IS, Stargel	Delete L.50 - 121:	01/22 03:25 PM
Tab 7	SB 676 by Mayfield; (Identical to H 00465) High-speed Passenger Rail Safety					
950826	D	S	RCS	IS, Mayfield	Delete everything after	01/22 03:25 PM
Tab 8	SB 966 by Gainer; (Similar to H 01035) Public Records/Disaster Recovery Assistance					
Tab 9	SB 1030 by Stargel; (Similar to H 01007) Public Records/Vessel Title or Registration/Department of Highway Safety and Motor Vehicles					
740764	A	S	RCS	IS, Stargel	Delete L.45 - 125:	01/22 03:25 PM
Tab 10	SB 1086 by Diaz; (Similar to CS/H 00571) Vehicle and Vessel Registration Data and Functionality					
541098	A	S	RCS	IS, Diaz	Delete L.34 - 60:	01/22 03:25 PM
Tab 11	SB 1500 by Broxson; (Compare to H 01135) Specialty License Plate Fees					
204018	D	S	RCS	IS, Broxson	Delete everything after	01/22 03:34 PM
188528	AA	S	RCS	IS, Broxson	btw L.117 - 118:	01/22 03:34 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

INFRASTRUCTURE AND SECURITY

Senator Lee, Chair
Senator Perry, Vice Chair

MEETING DATE: Tuesday, January 21, 2020

TIME: 4:30—6:00 p.m.

PLACE: *Toni Jennings Committee Room, 110 Senate Building*

MEMBERS: Senator Lee, Chair; Senator Perry, Vice Chair; Senators Bean, Cruz, Hooper, Hutson, Stewart, and Taddeo

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 88 Stewart (Compare H 111, H 679, S 1548)	Child Care Facilities; Citing this act at the "Child Safety Alarm Act"; requiring that, by a specified date, vehicles used by child care facilities and large family child care homes to transport children be equipped with a reliable alarm system that prompts the driver to inspect the vehicle for children before exiting the vehicle; requiring the Department of Children and Families to adopt by rule minimum safety standards for such systems and to maintain a list of approved alarm manufacturers and alarm systems, etc. CF 11/05/2019 Favorable IS 01/21/2020 Favorable RC	Favorable Yeas 7 Nays 0
2	SB 158 Perry (Identical H 533)	Child Restraint Requirements; Increasing the age of children for whom operators of motor vehicles must provide protection by using a crash-tested, federally approved child restraint device; increasing the age of children for whom a separate carrier, an integrated child seat, or a child booster seat may be used, etc. CF 10/15/2019 Favorable IS 01/21/2020 Favorable RC	Favorable Yeas 7 Nays 0
3	SB 290 Hooper (Identical H 37)	School Bus Safety; Revising civil penalties for certain violations relating to stopping for a school bus, etc. IS 01/21/2020 Favorable JU RC	Favorable Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Infrastructure and Security

Tuesday, January 21, 2020, 4:30—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 378 Lee (Similar H 771, Compare H 731)	Motor Vehicle Insurance; Repealing provisions which comprise the Florida Motor Vehicle No-Fault Law; revising the motor vehicle insurance coverages that an applicant must show to register certain vehicles with the Department of Highway Safety and Motor Vehicles; revising garage liability insurance requirements for motor vehicle dealer applicants; revising minimum liability coverage requirements for motor vehicle owners or operators, etc. IS 01/21/2020 Favorable BI AP	Favorable Yeas 6 Nays 1
5	SB 538 Diaz (Identical H 865)	Emergency Reporting; Requiring a county or municipality to report certain incidents to the State Watch Office within the Division of Emergency Management; authorizing the division to establish guidelines to specify additional information that must be provided by a reporting county or municipality, etc. IS 01/21/2020 Fav/CS CA RC	Fav/CS Yeas 7 Nays 0
6	SB 636 Stargel (Similar H 435, Compare H 1007)	Department of Highway Safety and Motor Vehicles; Authorizing the Department of Highway Safety and Motor Vehicles or its authorized agents to collect electronic mail addresses and use electronic mail for certain purposes; limiting the applications the department may accept by electronic or telephonic means; requiring that certain records made or kept by the department be subject to inspection and copying; authorizing the department, instead of the Fish and Wildlife Conservation Commission, to accept certain applications by electronic or telephonic means, etc. IS 01/21/2020 Fav/CS ATD AP	Fav/CS Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Infrastructure and Security

Tuesday, January 21, 2020, 4:30—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	SB 676 Mayfield (Identical H 465)	High-speed Passenger Rail Safety; Designating the "Florida High-Speed Passenger Rail Safety Act"; requiring the Department of Transportation to regulate railroads when that authority is not federally preempted; requiring railroad companies to be responsible for ensuring that impacted roadbed meets specified transition requirements under certain circumstances; requiring the department's railroad inspectors, in accordance with a specified program, to meet certain certification requirements and to coordinate their activities with those of federal inspectors in the state in compliance with certain federal regulations, etc. IS 01/21/2020 Fav/CS ATD AP	Fav/CS Yeas 7 Nays 0
8	SB 966 Gainer (Similar H 1035)	Public Records/Disaster Recovery Assistance; Providing an exemption from public records requirements for certain records and information provided to the Department of Economic Opportunity, the Florida Housing Finance Corporation, a county, a municipality, or a local housing finance agency by or on behalf of an applicant for or a participant in a federal, state, or local housing assistance program for the purpose of disaster recovery assistance; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. IS 01/21/2020 Favorable GO RC	Favorable Yeas 7 Nays 0
9	SB 1030 Stargel (Similar H 1007, Compare H 7001, S 7022)	Public Records/Vessel Title or Registration/Department of Highway Safety and Motor Vehicles; Creating public records exemptions for certain information contained in any record that pertains to a vessel title or vessel registration issued by the Department of Highway Safety and Motor Vehicles; providing exemptions from public records requirements for e-mail addresses and cellular telephone numbers collected by the department; providing for future legislative review and repeal of the exemptions; providing statements of public necessity, etc. IS 01/21/2020 Fav/CS GO RC	Fav/CS Yeas 6 Nays 1

COMMITTEE MEETING EXPANDED AGENDA

Infrastructure and Security

Tuesday, January 21, 2020, 4:30—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
10	SB 1086 Díaz (Identical H 571)	Vehicle and Vessel Registration Data and Functionality; Requiring the Department of Highway Safety and Motor Vehicles to provide tax collectors and their approved agents and vendors with real-time access to certain vehicle and vessel registration data and functionality in the same manner as provided to other third parties; authorizing the department to require a memorandum of understanding, etc. IS 01/21/2020 Fav/CS ATD AP	Fav/CS Yeas 7 Nays 0
11	SB 1500 Broxson (Compare H 1135, S 412, S 414, S 862)	Specialty License Plate Fees; Creating a uniform annual use fee collected for a specialty license plate, etc. IS 01/21/2020 Fav/CS ATD AP	Fav/CS Yeas 7 Nays 0
Other Related Meeting Documents			

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 Children, Families, and Elder Affairs

BILL: SB 88

INTRODUCER: Senators Stewart and Book

SUBJECT: Child Care Facilities

DATE: January 22, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Hendon</u>	<u>CF</u>	Favorable
2.	<u>Proctor</u>	<u>Miller</u>	<u>IS</u>	Favorable
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

I. Summary:

SB 88 creates the “Child Safety Alarm Act” and requires that after January 1, 2021, vehicles used by child care facilities and large child care homes to transport children must be equipped with an approved alarm system that prompts the driver to inspect the vehicle for the presence of children before leaving the area.

The bill requires the Department of Children and Families (DCF) to adopt by rule minimum safety standards for reliable alarm systems and maintain a list of alarm manufacturers and alarm systems that are approved to be installed in vehicles.

The bill is expected to have a significant fiscal impact on private entities and has an effective date of October 1, 2020.

II. Present Situation:

Death by hyperthermia or vehicular heat stroke deaths have become more prevalent since federal law required that children ride in the backseat due to the danger of front passenger seat airbags.¹ The national average number of these deaths is 38 per year.² Fifty-four percent of hyperthermia deaths involve children under the age of one.³ Between 1998 and 2019, Florida has the second highest number of child deaths from vehicular heat stroke.⁴ To date, 50 children have fallen

¹ See Gene Weingarten, *Fatal Distraction: Forgetting a Child in the Backseat of a Car is a Horrifying Mistake. Is it a Crime?*, THE WASHINGTON POST, Mar. 8, 2009, available at: <http://www.washingtonpost.com/wp-dyn/content/article/2009/02/27/AR2009022701549.html> (last visited January 15, 2020).

² See Kids and Cars.org, Children Vehicular Heatstroke Deaths by Year, available at: <https://www.kidsandcars.org/how-kids-get-hurt/heat-stroke/> (last visited January 15, 2020).

³ See Kids and Cars.org, Fact Sheet, available at: <http://www.kidsandcars.org/wp-content/uploads/2018/10/Heatstroke-fact-sheet-2018-1.pdf> (last visited January 15, 2020).

⁴ National Safety Council, Hot Car Deaths, available at: <https://injuryfacts.nsc.org/motor-vehicle/motor-vehicle-safety-issues/hotcars/> (last visited January 15, 2020).

victim to vehicular heat stroke deaths nationwide in 2019 alone.⁵ 5 of the 50 deaths in 2019 have occurred in Florida.⁶

Technology Based Prevention

Automobile Manufacturers

The auto industry has been aware of the problem for years. General Motors (GM) tried over ten years ago to find a solution, but found the results were unreliable. At the 2002 New York Auto Show, GM unveiled a system that would be able to detect the heartbeat of a child left in a car and then measure the vehicle's temperature. If it was becoming dangerously hot, it would sound the horn to alert a parent or passersby. GM later reported that the system was abandoned after it was found "not reliable enough to put into production."⁷

Ford was among the other automakers who also expressed interest in developing such a system, but a decade later, the technology isn't available on any automobile as a factory standard feature or option. Auto safety groups have called for manufacturers to do more, but for several reasons including cost, technology, liability and privacy issues, there is still no foolproof way of preventing overheating deaths or warning of the possibility before they happen.⁸

In 2016, GM announced it would introduce a new safety system to remind drivers to check for children in the rear seats, and that it could eventually develop features to detect forgotten children.⁹ The National Highway Traffic Safety Administration (NHTSA) said it has no plans to require automakers to add in-vehicle technology that would alert those who leave young children behind in hot cars.¹⁰

Aftermarket Systems

There are numerous aftermarket warning systems that alert a parent to a child left in a safety seat, shopping cart, or elsewhere, but federal regulators have questioned their efficacy.

A preliminary assessment performed on technology devices aimed at helping to prevent a child from being unintentionally left in a hot car concluded that they are not reliable and limited in their effectiveness, according to a study by NHTSA and the Children's Hospital of Philadelphia.¹¹

⁵See Kids and Cars, 2019 Child Hot Car Deaths, available at: <https://www.kidsandcars.org/2019-child-hot-car-deaths/> (last visited January 15, 2020).

⁶ *Id.*

⁷ Paul Eisenstein, *Death in Hot Cars: Why Can't the Automakers Prevent the Danger?* July 11, 2014, available at: <http://www.nbcnews.com/storyline/hot-cars-and-kids/death-hot-cars-why-cant-automakers-prevent-danger-n152911> (last visited January 15, 2020).

⁸ *Id.*

⁹ David Shepardson, *GM has a way to help prevent drivers from forgetting children in the back seat*, Business Insider, January 12, 2016, available at: <https://www.businessinsider.com/r-gm-unveils-technology-to-help-avoid-child-heatstroke-deaths-2016-1> (last visited January 15, 2020).

¹⁰ *Id.*

¹¹ Consumer Reports, *Heatstroke Death a Risk to Children in Hot Cars* (July 24, 2019), available at <https://www.consumerreports.org/cro/news/2012/08/warning-systems-to-detect-children-left-in-hot-cars-found-unreliable-study-finds/index.htm>. (last visited January 15, 2020).

The study found several limitations in these products after conducting tests, including inconsistencies in arming sensitivity, variations in warning signal distance, potential interference from other electronic devices, children inadvertently disarming the device by slumping over or sleeping out of position, and limitations in the products' susceptibility to misuse or other common scenarios, such as a beverage spill. Many of the products tested require extensive setup work by caregivers and parents, potentially giving them a false sense of security. Moreover, since the devices are restraint-based, they wouldn't address the 20 to 40 percent of children who are killed in hot cars when they enter a vehicle without adult permission.¹²

Licensing Standards for Child Care Facilities and Large Family Child Care Homes

The DCF establishes licensing standards that each licensed child care facility in the state must meet.¹³ A child care facility is defined in Florida law as “any child care center or child care arrangement which provides child care for more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit.”¹⁴

A large family child care home is defined as an occupied residence in which child care is regularly provided for children from at least two unrelated families, which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit, and which has at least two full-time child care personnel on the premises during the hours of operation.¹⁵

The DCF currently oversees 6,016 licensed child care entities including child care facilities, large family child care homes and family day care homes.¹⁶ In addition, there are homes that are only registered by the agency, facilities that are exempt from licensure due to a religious affiliation,¹⁷ and homes currently licensed by five counties in the state.¹⁸ Of these homes, 1,979 child care facilities and large family child care homes regulated by the DCF reported that they transport children as of August 2019.¹⁹

Statutory licensing standards for child care facilities are extensive and reference transportation and vehicles, including the requirement that minimum standards include accountability for children being transported.²⁰ The Florida Administrative Code provides requirements for licensed child care facilities and large family child care homes to follow in relation to vehicles

¹² Ryan Jaslow, *Gov't study: Devices that alert parents they left a child in a car deemed unreliable*, CBS News, July 31, 2012, available at <https://www.cbsnews.com/news/govt-study-devices-that-alert-parents-they-left-a-child-in-car-deemed-unreliable/> (last visited January 15, 2020).

¹³ Section 402.305, F.S.

¹⁴ Section 402.302(2), F.S.

¹⁵ Section 402.302(11), F.S.

¹⁶ Florida Department of Children and Families, *DCF Quick Facts*, (Quarter 2, Fiscal Year 2018-2019), available at: <http://www.dcf.state.fl.us/general-information/quick-facts/cc> (last visited January 15, 2020).

¹⁷ Section 402.316, F.S.

¹⁸ Section 402.306, F.S. Those five counties are Broward, Hillsborough, Palm Beach, Pinellas and Sarasota.

¹⁹ Florida Department of Children and Families, *Agency Analysis of 2020 Senate Bill 88* (August 16, 2019). On file with the Senate Committee on Children, Families, and Elder Affairs

²⁰ Section 402.305, F.S.

that are owned, operated, or regularly used by the facility or home, as well as vehicles that provide transportation through a contract or agreement with an outside entity.²¹

Providers are required to maintain a driver's log for all children being transported. This log must include the child's name, date, time of departure, time of arrival, signature of driver, and signature of second staff member to verify the driver's log and that all children have left the vehicle. Upon arrival at the destination, the driver of the vehicle must mark each child off the log as the child departs the vehicle, conduct a physical inspection and visual sweep of the vehicle, and sign, date, and record the driver's log immediately to verify all children were accounted for and that the sweep was conducted. Upon arrival at the destination, a second staff member must also conduct a physical inspection and visual sweep of the vehicle and sign, date, and record the driver's log to verify all children were accounted for and that the driver's log is complete.²²

Current standards for child care facilities and large family child care homes do not address alarm systems in vehicles, however, Palm Beach County and Broward County have requirements similar to the one proposed in the bill.²³

III. Effect of Proposed Changes:

Section 1 provides a short title for the bill — the “Child Safety Alarm Act.”

Section 2 amends s. 402.305, F.S., relating to licensing standards for child care facilities, to require that on or after January 1, 2020, vehicles used by child care facilities and large family child care homes to transport children must have an approved alarm system that prompts the driver to inspect the vehicle for the presence of children before leaving the area.

The bill requires the DCF to adopt by rule minimum safety standards for reliable alarm systems and maintain a list of alarm manufacturers and alarm systems that are approved to be installed in vehicles. The bill also modifies existing minimum safety standards in statute pertaining to transportation for child care facilities. Under the bill, these standards must include:

- The required use of seat belts in all vehicles used by child care facilities and large family child care homes to transport children;
- Annual inspections for all such vehicles;
- Limitations on the number of children that may be transported within each vehicle;
- Procedures to ensure that children are not inadvertently left in vehicles when transported by the facility; and
- Relevant accountability measures for each facility.

The bill also clarifies that child care facilities and large family child care homes are not responsible for the safe transport of children when they are being transported by a parent or guardian.

Section 3 provides an effective date of October 1, 2020.

²¹ See 65C-22.001(6) and 65C-20.13(8), F.A.C.

²² *Id.*

²³ Florida Department of Children and Families, Agency Analysis of 2020 Senate Bill 88 (August 16, 2019). On file with the Senate Committee on Children, Families, and Elder Affairs.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The DCF reported approximately 1,979 child care providers currently offer a transportation service. These programs would be required to purchase, at a minimum, one of the alarm systems required by this bill.²⁴

The fiscal impact on individual providers will vary based on unit cost, installation costs, and possible future warranty fees. As of 2019, the DCF anticipates the unit costs to vary from \$130 to \$156. Installation costs may range from \$100 to \$450 depending on the unit and installer.²⁵

C. Government Sector Impact:

The DCF advised there is a workload increase in establishing and maintaining a list of approved alarm manufacturers. In addition, there is a cost of approximately \$6,500 for rule promulgation to adopt minimum safety standards for the alarm systems. However,

²⁴ Florida Department of Children and Families, Agency Analysis of 2020 Senate Bill 88 (August 16, 2019). On file with the Senate Committee on Children, Families, and Elder Affairs.

²⁵ *Id.*

according to the DCF this minimal fiscal impact can be absorbed through existing resources.²⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

The DCF notes that the language “safe transport” at line 44 regarding child care facilities not bearing responsibility for children being transported by parents or guardians may require further clarification, as it is unclear what specific duties are imposed on providers and when they would apply to a particular child care facility or large family home.²⁷

VIII. Statutes Affected:

This bill substantially amends section 402.305 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.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

²⁶ *Id.*

²⁷ *Id.*

By Senator Stewart

13-00035-20

202088__

A bill to be entitled

An act relating to child care facilities; providing a short title; amending s. 402.305, F.S.; requiring that, by a specified date, vehicles used by child care facilities and large family child care homes to transport children be equipped with a reliable alarm system that prompts the driver to inspect the vehicle for children before exiting the vehicle; requiring the Department of Children and Families to adopt by rule minimum safety standards for such systems and to maintain a list of approved alarm manufacturers and alarm systems; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as the "Child Safety Alarm Act."

Section 2. Subsection (10) of section 402.305, Florida Statutes, is amended to read:

402.305 Licensing standards; child care facilities.—

(10) TRANSPORTATION SAFETY.—

(a) Minimum standards shall include all of the following:

1. Requirements for child restraints or seat belts in vehicles used by child care facilities and large family child care homes to transport children.

2. Requirements for annual inspections of ~~such~~ the vehicles.

3. Limitations on the number of children ~~that may be~~ transported in ~~such~~ the vehicles.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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4. Procedures to ensure that ~~avoid leaving~~ children ~~are~~ not inadvertently left in vehicles when transported by the facility or home, and that systems are in place to ensure accountability for children transported by such facilities and homes ~~the child care facility~~.

(b) By January 1, 2021, all vehicles used by child care facilities and large family child care homes to transport children must be equipped with a reliable alarm system approved by the department which prompts the driver to inspect the vehicle for children before exiting the vehicle. The department shall adopt by rule minimum safety standards for such systems and shall maintain a list of approved alarm manufacturers and alarm systems that meet or exceed those standards.

(c) A child care facility or large family child care home is not responsible for the safe transport of children when they are being transported by a parent or guardian.

Section 3. This act shall take effect October 1, 2020.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

01/21/20

Meeting Date

SB 88

Bill Number (if applicable)

Topic

Child Safety Alarm Act

Amendment Barcode (if applicable)

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For

☐

Against

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Information

Waive Speaking:

☒

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

Office of Criminal Conflict and Civil Regional Counsel, 5th region

Appearing at request of Chair:

☐

Yes

☐

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

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 Infrastructure and Security

BILL: SB 158

INTRODUCER: Senator Perry and others

SUBJECT: Child Restraint Requirements

DATE: January 22, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Hendon	CF	Favorable
2.	Price	Miller	IS	Favorable
3.			RC	

I. Summary:

SB 158 amends current law relating to child restraint requirements while transporting a child in a motor vehicle. The bill increases from age five years or younger, to age six years or younger, the age of children which must use a crash-tested, federally-approved child restraint device. The bill also increases from age four through five years, to age four through six years, the age of a child for which use of a separate carrier, an integrated child seat, or a child booster seat is authorized.

The fiscal impact on private sector sales of child restraint devices is indeterminate. See the “Fiscal Impact Statement” for additional information. The bill will likely not have a fiscal impact on the public sector.

The bill takes effect July 1, 2020.

II. Present Situation:

Child Passenger Safety

According to the Center for Disease Control and Prevention (CDC), “Child Passenger Safety: Fact Sheet,” motor vehicle injuries are a leading cause of death among children in the U.S.

- Use of a car seat reduces the risk for death to infants (aged less than 1 year) by 71 to 84 percent in passenger vehicles.
- Use of a booster seat reduces the risk for serious injury by 45 percent for children aged 4-8 years when compared with seat belt use alone).
- For older children and adults, use of a seat belt reduces the risk for death and serious injury by approximately one-half.

A study of five states that increased the age requirement to 7 or 8 years for car seat/booster seat use found that the rate of children using car seats and booster seats increased nearly three times and the rate of children who sustained fatal or incapacitating injuries decreased by 17 percent.¹

The CDC has produced the following guidelines for parents and caregivers:

Child Seat Stages:

- *Birth up to age 2*—Rear-facing car seat.
- *Age 2 up to at least age 5*—Forward-facing car seat. When a child outgrows a rear-facing seat, he or she should be buckled in a forward-facing car seat, in the back seat, until at least age 5 or when they reach the upper weight or height limit of seat.
- *Age 5 up until seat belts fit properly*—booster seat. Once a child outgrows a forward-facing seat, (by reaching the upper height or weight limit of their seat) he or she should be buckled in a belt positioning booster seat until seat belts fit properly.
- *Once seat belts fit properly without a booster seat*—Child no longer needs to use a booster seat once seat belts fit them properly. The seat belt fits properly when the lap belt lays across the upper thighs (not the stomach) and the shoulder belt lays across the chest (not the neck). The recommended height for proper seat belt fit is 57 inches tall.²

Child Restraint Devices or “Car Seats” and U.S.D.O.T. Recommendations

Car seats available on the market offer a variety of choices. The best choice, according to NHTSA, is a selection based on a given child’s age and size, which complies with the specific car seat manufacturer’s instructions for height and weight limits, and is properly installed in accordance with the vehicle’s owner’s manual. Further, for maximum safety, NHTSA recommends keeping a child in a car seat for as long as possible, provided the child does not exceed the manufacturer’s height and weight limitations. NHTSA also recommends keeping a child in the back seat at least through the age of 12.³

Car seats are generally available in four types, with variations in each type:

- Rear-facing car seats have a harness and, in a crash, cradles and moves with a child to reduce the stress to the child’s neck and spinal cord,
- Forward-facing car seats have a harness and tether that limits a child’s forward movement during a crash,
- Booster seats position the seat belt so that it fits properly over the stronger parts of a child’s body, and
- Seat belts.⁴

NHTSA recommends that a child from birth through 12 months should always ride in a rear-facing car seat, noting that convertible and all-in-one versions of these seats usually have higher

¹ http://www.cdc.gov/motorvehiclesafety/child_passenger_safety/cps-factsheet.html (last visited October 2, 2019).

² *Id.*

³ NHTSA, *Car Seats and Booster Seats*, available at <https://www.nhtsa.gov/equipment/car-seats-and-booster-seats#age-size-rec> (last viewed October 2, 2019).

⁴ *Id.*

height and weight limits for the rear-facing position, which facilitates keeping a child in a rear-facing position for a longer period of time.⁵

For children one through three years old, NHTSA suggests keeping a child in a rear-facing seat until the child reaches the top height or weight limit indicated by the car seat's manufacturer. Once either limit is exceeded, NHTSA recommends a forward-facing seat with a harness and tether.⁶

For children four through seven years, NHTSA advises a child should be kept in a forward-facing car seat with a harness and tether until the child reaches the top height or weight limit set by the car seat's manufacturer. Again, once either limit is exceeded, the child should be transported in a booster seat, but NHTSA recommends the booster seat still be installed properly in the back seat of the vehicle.⁷

For children eight through 12 years, NHTSA recommends keeping a child in a booster seat until the child is big enough to fit in a seat belt properly. Proper fit in a seat belt means that the lap belt lies snugly across the upper thighs, not the stomach, and the shoulder belt lies snugly across the shoulder and chest, not across the neck or face. NHTSA notes the child should still ride in the back seat of the vehicle "because it's safer there."⁸

Florida Law

Safety Belt Use Under 18

Section 316.614(4)(a), F.S., prohibits a person from operating a motor vehicle or autocycle in this state unless each passenger and the operator of the vehicle or autocycle under the age of 18 years are restrained by a safety belt or by a child restraint device, if applicable.

Child Restraint Requirements

Section 316.613, F.S., requires every operator of a motor vehicle⁹ operated on the roadways, streets, or highways of this state to provide for protection of a child who is five years of age or younger by properly using a crash-tested, federally approved child restraint device:

- For children through three years of age, the device must be a separate carrier or a vehicle manufacturer's integrated child seat.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ Section 316.003(42), F.S., defines "motor vehicle," except for purposes of the payment of tolls, as "a self-propelled vehicle not operated upon rails or guideway, but not including any bicycle, motorized scooter, electric personal assistive mobility device, mobile carrier, personal delivery device, swamp buggy, or moped." As used in s. 316.613, F.S., the term "motor vehicle" does not include:

- A school bus as defined in s. 316.003, F.S.
- A bus used for the transportation of persons for compensation, other than a bus regularly used to transport children to or from school, as defined in s. 316.615(1)(b), F.S., or in conjunction with school activities.
- A farm tractor or implement of husbandry.
- A truck having a gross vehicle weight rating of more than 26,000 pounds.
- A motorcycle, moped, or bicycle.

- For children aged four through five years, a separate carrier, an integrated child seat, or a child booster seat may be used. However, the requirement does not apply when a safety belt is used as required in s. 316.614(4)(a), F.S., and the child:
 - Is being transported gratuitously by an operator who is not a member of the child's immediate family;
 - Is being transported in a medical emergency situation involving the child; or
 - Has a medical condition that necessitates an exception as evidenced by appropriate documentation from a health care professional.

A person who violates the provisions of s. 316.613, F.S., commits a moving violation punishable by a penalty of \$60 plus any applicable local court costs.¹⁰ In addition, the violator will have three points assessed against his or her driver license. In lieu of the monetary penalty and the assessment of points, a violator may elect to participate in a child restraint safety program, with the approval of the court with jurisdiction over the violation. After completing the program, the court may waive the monetary penalty, and must waive the assessment of points.

Current law also addresses use of safety belts or other restraint systems on school buses and on child-care facility vehicles.

School Buses

Section 316.6145, F.S., requires each school bus¹¹ purchased new after December 31, 2000, and used to transport students in grades pre-K through 12 be equipped with safety belts or with any other federally approved restraint system in a number sufficient to allow each student being transported to use a separate safety belt or restraint system. Enacted in 1999, the statute requires each school district to prioritize the allocation of buses equipped with safety belts or restraint systems to children in elementary schools.¹² However, the provisions of s. 316.613, F.S., relating to child safety restraints, do not apply to school buses, as they are excluded from the definition of “motor vehicle” for purposes of that section.¹³

Child Care Facility Vehicles

Section 402.305(1), F.S., requires the Florida Department of Children and Families (DCF) to establish licensing standards that each licensed child care facility must meet regardless of the origin or source of the fees used to operate the facility or the type of children served. Section 402.305(10), F.S., requires the minimum standards, among other items, to include requirements

¹⁰ Section 318.18(3)(a), F.S.

¹¹ As used in that section, “school bus” means one that is owned, leased, operated, or contracted by a school district.

¹² Section 1006.25(2), F.S., requires each school bus regularly used for the transportation of prekindergarten disability program and K-12 public school students to and from school or to and from school activities, and owned, operated, rented, contracted, or leased by any district school board to comply with the applicable federal motor vehicle safety standards. Subsection (4) of that section requires students be transported only in designated seating positions, except in specified emergency situations, and use the occupant crash protection system provided by the manufacturer. The Department of Education posts on its website guidelines providing “clarification and interpretation of the NHTSA Guidelines, and additional background and Department of Education recommendations regarding technical and operational issues associated with transporting pre-school age students.” See Florida Department of Education, *Florida Guidelines for Seating of Pre-school Age Children in School Buses*, available at <http://www.fldoe.org/schools/healthy-schools/transportation/> (last viewed October 2, 2019).

¹³ Section 316.613(2)(a), F.S.

for child restraints or seat belts in vehicles used by child care facilities¹⁴ and large family child care homes¹⁵ to transport children.

Pursuant to that direction, DCF's Florida Administrative Code Rule 65C-22.001(6)(e)¹⁶ requires each child transported in a child care facility vehicle or a large family child care home vehicle to be in an individual, factory-installed seat belt or a federally approved child restraint.

III. Effect of Proposed Changes:

Section 1 amends s. 316.613, F.S., by increasing from five years of age or younger, to six years of age or younger, the requirement to provide for protection of a child by properly using a crash-tested, federally approved child restraint device. The bill also increases from age four through five years, to age four through six years, the authorization to use a separate carrier, an integrated child seat, or a child booster seat. Children being transported in a child restraint device in compliance with the current provisions of s. 316.613(1)(a) and (1)(a)2., F.S., must be kept in that (or another) compliant device for one additional year. Because Florida's child restraint requirements are based solely on the child's age, the result may or may not always be consistent with NHTSA's recommendations, which instead focus on the actual weight and height of the child being transported.

The requirement to protect children aged through three years with a separate carrier or a vehicle manufacturer's integrated child seat remains unchanged.

Section 2 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹⁴ Section 402.302(1), F.S., defines "child care" to mean "the care, protection, and supervision of a child, for a period of less than 24 hours a day on a regular basis, which supplements parental care, enrichment, and health supervision for the child, in accordance with his or her individual needs, and for which a payment, fee, or grant is made for care." Subsection (2) of that section defines "child care facility" to include "any child care center or child care arrangement which provides child care for more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit."

¹⁵ Section 402.302, F.S., defines "large family child care home" to mean "an occupied resident in which child care is regularly provided for children from at least two unrelated families, which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit, and which has at least two full-time child care personnel on the premises during the hours of operation, with one of the two personnel being the owner or occupant of the residence."

¹⁶ See Florida Department of Children and Families, *Chapter 65C-22 Florida Administrative Code Child Care Standards*, available online at <http://ccrain.fl-dcf.org/documents/2/470.pdf> (last viewed October 2, 2019).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Currently compliant child restraint devices may have to be replaced due to a defect occurring within the additional year of use required by the bill, or new devices may be purchased, for example, to replace a worn restraint device. However, the fiscal impact on private sector sales of child restraint devices is indeterminate.

C. Government Sector Impact:

The bill is not expected to have a fiscal impact on the government sector.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 316.613 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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Perry

8-00229-20

2020158__

A bill to be entitled

An act relating to child restraint requirements; amending s. 316.613, F.S.; increasing the age of children for whom operators of motor vehicles must provide protection by using a crash-tested, federally approved child restraint device; increasing the age of children for whom a separate carrier, an integrated child seat, or a child booster seat may be used; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (a) of subsection (1) of section 316.613, Florida Statutes, is amended to read:

316.613 Child restraint requirements.—

(1)(a) Every operator of a motor vehicle as defined in this section, while transporting a child in a motor vehicle operated on the roadways, streets, or highways of this state, shall, if the child is 6 ~~5~~ years of age or younger, provide for protection of the child by properly using a crash-tested, federally approved child restraint device.

1. For children aged through 3 years, such restraint device must be a separate carrier or a vehicle manufacturer's integrated child seat.

2. For children aged 4 through 6 ~~5~~ years, a separate carrier, an integrated child seat, or a child booster seat may be used. However, the requirement to use a child restraint device under this subparagraph does not apply when a safety belt is used as required in s. 316.614(4)(a) and the child:

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

8-00229-20

2020158__

a. Is being transported gratuitously by an operator who is not a member of the child's immediate family;

b. Is being transported in a medical emergency situation involving the child; or

c. Has a medical condition that necessitates an exception as evidenced by appropriate documentation from a health care professional.

Section 2. This act shall take effect July 1, 2020.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/20
Meeting Date

SB 158
Bill Number (if applicable)

Topic Booster Seats Child Restraint Requirements Amendment Barcode (if applicable)

Name Theresa Bulger

Job Title Lobbyist

Address 1700 N Monroe St #182
Street

Phone 912 601 0262

Tallahassee FL 32303
City State Zip

Email bulger12@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing SELF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/20

Meeting Date

SB 158

Bill Number (if applicable)

Topic Child Restraint Requirements

Amendment Barcode (if applicable)

Name Mary-Lynn Culley

Job Title Legislative Liaison

Address 1674 University Pkwy.

Street

Sarasota

City

FL

State

34243

Zip

Phone 941-928-0278

Email aichildren@aol.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Advocacy Institute For Children

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-21-2020

Meeting Date

SB 0158

Bill Number (if applicable)

Topic Child Restraint Requirements

Amendment Barcode (if applicable)

Name Amy Datz

Job Title Activist Environmental Caucus of Florida (Post Partisan)

Address _____
Street

Phone (850) 322-7599

City

State

Zip

Email amalie.datz@mac.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Environmental Caucus of FL (Post Partisan)

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/20

Meeting Date

SB 158

Bill Number (if applicable)

Topic SB 158 - BOOSTER SEAT

Amendment Barcode (if applicable)

Name Hannah Parker McCabe

Job Title Insurance Agent - Commercial

Address 4346 Wallace Circle

Phone 251-533-2845

Street

Tampa

FL

33611

City

State

Zip

Email Hannah.Parker@USF.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing The Junior League of Tampa

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/2020

Meeting Date

SB 158

Bill Number (if applicable)

Topic Child Restraint Requirements

Amendment Barcode (if applicable)

Name April Tisher

Job Title Sustainer Adviser

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Gainesville

City

FL

State

32653

Zip

Phone 352-478-9190

Email april.noshoes@yahoo.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing The Junior League of Gainesville

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/2020

Meeting Date

SB158

Bill Number (if applicable)

Topic Child Restraint Requirements

Amendment Barcode (if applicable)

Name Becker Holland

Job Title Member State Public Affairs Committee from the Junior Leagues of Florida

Address 13141 NW 19th place

Phone 352-359-2859

Street

Gainesville

FL

32606

City

State

Zip

Email Beckerh@cox.net

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing The Junior League of Gainesville State Public Affairs

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/21/20

Meeting Date

158
SB 112

Bill Number (if applicable)

Topic SB 112 Booster Sect Bill

Amendment Barcode (if applicable)

Name Sara Johnson

Job Title Recreation Leader Marion County Parks & Rec.

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Ocala

FL

34471

City

State

Zip

Email sara.johnson@marioncountyfl.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing The Junior League of Ocala

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/00

Meeting Date

158

Bill Number (if applicable)

Topic Booster Seats / Child Restraints

Amendment Barcode (if applicable)

Name Doug Bell

Job Title _____

Address 119 S. Monroe St.
Street

Phone 205 9000

TLH
City State Zip

Email doug.bell@whdfirm.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Chapter of the American Academy of Pediatrics

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/20
Meeting Date

SB 158
Bill Number (if applicable)

Topic Child Restaurant Requirements Amendment Barcode (if applicable)
Name Nancy Lawther
Job Title _____

Address 1747 Orlando Central Parkway Phone 407 855-7604
Street
City Orlando State FL Zip 32803 Email legislation@floridapta.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida PTA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

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 Infrastructure and Security

BILL: SB 290

INTRODUCER: Senator Hooper

SUBJECT: School Bus Safety

DATE: January 22, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Miller	IS	Favorable
2.			JU	
3.			RC	

I. Summary:

SB 290 increases the minimum civil penalty for failure to stop for a school bus from \$100 to \$200. For a subsequent offense within five years, the Department of Highway Safety and Motor Vehicles (DHSMV) must suspend the driver license of the driver for not less than 180 days and not more than one year instead of the current suspension of 90 days to 6 months.

The bill also increases the minimum civil penalty for passing a school bus on the side that children enter and exit, from \$200 to \$400. For a subsequent offense within five years, the DHSMV must suspend the driver license of the driver for not less than 360 days and not more than two years, instead of the current suspension of 180 days to 1 year.

The bill may have an indeterminate, positive fiscal impact on state and local government revenues as a result of increasing the civil penalties for failing to stop for a school bus and passing a stopped school bus. The DHSMV estimates an insignificant negative fiscal impact due to required programming and implementation costs. See Fiscal Comments.

The bill has an effective date of July 1, 2020.

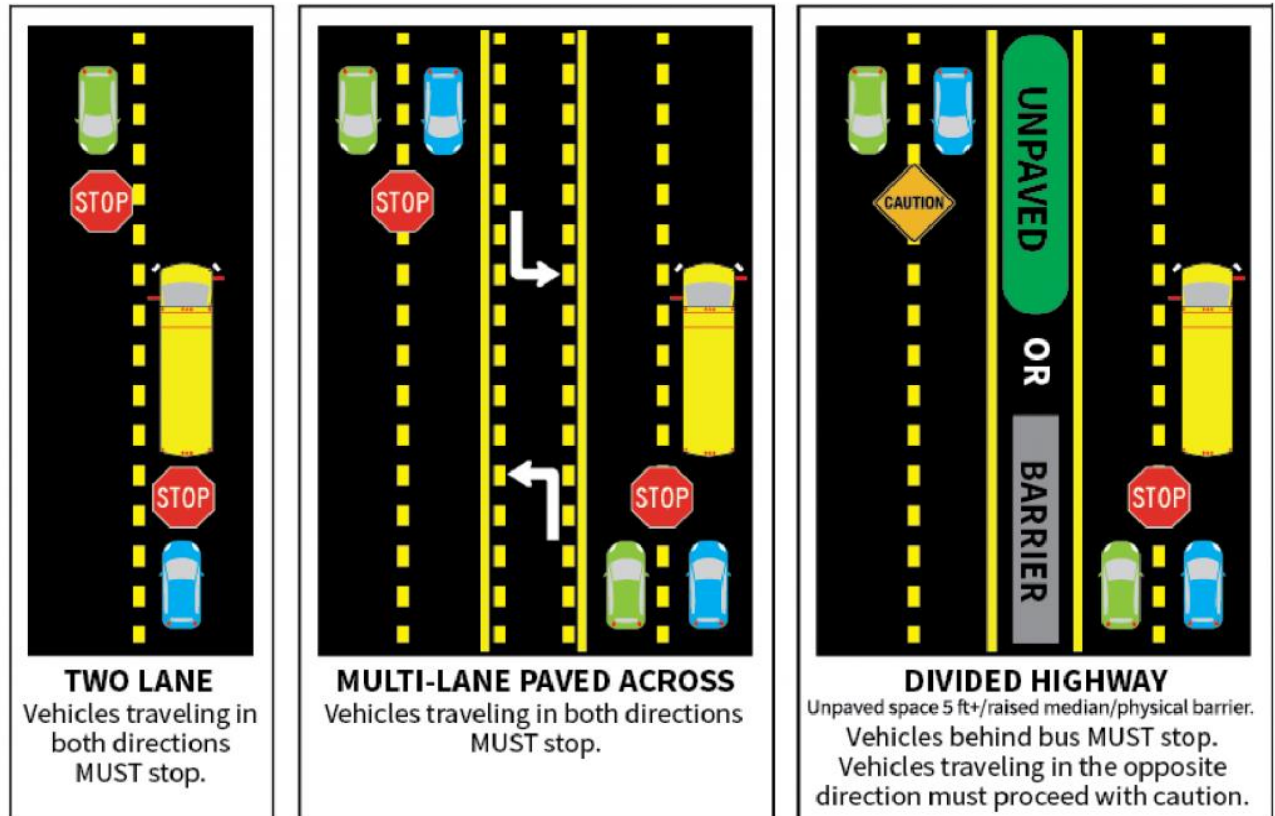
II. Present Situation:

School buses are required to stop as far to the right of the street as possible and display warning lights and stop signals before discharging or loading passengers.¹ When possible, school buses should not stop where visibility is obscured for a distance of 200 feet either way from the bus.²

¹ Section 316.172(3), F.S.

² *Id.*

Other drivers are required to bring their vehicles to a full stop when approaching a stopped school bus displaying a stop signal, until the signal has been withdrawn.³ However, a driver is not required to stop if the vehicle is traveling in the opposite direction of a stopped school bus upon a divided highway with an unpaved space of at least 5 feet, a raised median, or a physical barrier.⁴



5

A person cited for failing to stop for a school bus displaying the stop signal commits a moving violation and can pay the civil penalty, or can request a hearing to contest the citation.⁶ A driver who passes a school bus on the side that children enter and exit while the school bus displays a stop signal also commits a moving violation.⁷ However, the driver must attend a mandatory hearing at a specified time and location.⁸

The minimum civil penalty for failing to stop for a school bus displaying the stop signal is \$100. For a second or subsequent offense within a period of five years, the DHSMV must suspend the driver license of the driver for not less than 90 days and not more than six months.⁹ Including

³ Section 316.172(1)(a), F.S.

⁴ Section 316.172(2), F.S.

⁵ Florida Department of Highway Safety and Motor Vehicles, *Child Safety: School Bus Safety*, available at <https://www.flhsmv.gov/safety-center/child-safety/school-bus-safety/> (last visited January 15, 2020).

⁶ Section 318.14, F.S.

⁷ Section 316.172(1)(b), F.S.

⁸ Sections 316.172(1)(b) and 318.19(3), F.S.

⁹ Section 318.18(5)(a), F.S.

various fees and service charges, the total fine for this violation is up to \$263, which is distributed to various funds.¹⁰

The minimum civil penalty for passing a school bus on the side that children enter and exit when the school bus displays a stop signal is \$200. For a second or subsequent offense within a period of five years, the DHSMV must suspend the driver license of the driver for not less than 180 days and not more than one year.¹¹ Including various fees and service charges, the total fine for this violation is up to \$363, which is distributed to various funds.¹²

In addition to the above penalties, a driver who illegally passes a stopped school bus, but does not cause serious bodily injury to or death of another, will receive four points on his or her driver license record.¹³ A driver who illegally passes a stopped school bus and causes serious bodily injury to or death of another will receive six points on his or her driver license record.¹⁴ A driver who illegally passes a school bus on either side and causes serious bodily injury to or death of another person must serve 120 community service hours in a trauma center or hospital that regularly receives victims of vehicle accidents, and must participate in a victim's impact panel session.¹⁵ If such panel does not exist, the driver must attend a DHSMV-approved driver improvement course.¹⁶ In addition, the driver must pay a fine of \$1,500 and will have his or her driver license suspended by the DHSMV for not less than one year.¹⁷

If the driver receives a traffic citation for illegally passing a stopped school bus and the court withholds adjudication, the DHSMV will require him or her to complete a driver improvement course. If the course is not completed within 90 days of receiving a notice of the requirement to attend, the driver's license will be canceled until the improvement course is successfully completed.¹⁸

According to the DHSMV data, in Fiscal Year 2018-2019, 3,760 traffic citations were issued for failing to stop for a school bus or passing a stopped school bus and 38 citations were issued for passing a school bus on the side children enter and exit.¹⁹

The Department of Education created a statewide survey for bus drivers to complete one day each year regarding the illegal passing of their school buses. The survey results from 2018 show that on a single day 10,937 illegal passes were made based on 9,009 school bus drivers completing the survey. Of these illegal passes, 447 were made on the right side of the bus where

¹⁰ Florida Court Clerks and Comptrollers, *Distribution Schedule of Court-Related Filing Fees, Service Charges, Costs, and Fines, Including a Fee Schedule for Recording*, effective July 1, 2019, available at: https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/PublicationsAndDocuments/2016_Distribution_Schedule_w.pdf (last visited January 15, 2020).

¹¹ Section 318.18(5)(b), F.S.

¹² Florida Court Clerks, *supra*, at FN 10, p. 35.

¹³ Section 322.27(3)(d)4.a., F.S.

¹⁴ Section 322.27(3)(d)4.b., F.S.

¹⁵ Section 316.027(4)(b), F.S.

¹⁶ *Id.*

¹⁷ Section 318.18(5)(d), F.S.

¹⁸ Section 322.0261(4)(c), F.S.

¹⁹ Highway Safety and Motor Vehicles, *Senate Bill 290 Bill Analysis* (October 22, 2019) (on file with the Senate Committee on Infrastructure and Security).

children generally enter and exit the vehicle, 10,018 were made on the left side, and for 472 of the passes the side was unknown.²⁰

The National Highway Traffic Safety Administration indicates that from 2007 to 2016, 98 school-age pedestrians (18 and younger) died in school-transportation-related crashes. Sixty percent were struck by school buses, 2 percent by vehicles functioning as school buses, and 38 percent by other vehicles involved in the crashes.²¹

III. Effect of Proposed Changes:

The bill amends s. 318.18(5)(a), F.S., increasing the minimum civil penalty for failure to stop for a school bus from \$100 to \$200; and for a subsequent offense within five years, the DHSMV must suspend the driver license of the driver for not less than 180 days and not more than one year.

The bill amends s. 318.18(5)(b), F.S., increasing the minimum civil penalty for passing a school bus on the side that children enter and exit, from \$200 to \$400; and for a subsequent offense within five years, the DHSMV must suspend the driver license of the driver for not less than 360 days and not more than two years.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

²⁰ Florida Department of Education, *School Transportation, Illegal Passing of School Buses – Survey Results for 2018*, available at: <http://www.fl DOE.org/core/fileparse.php/7585/urlt/fsr18.pdf> (last visited January 15, 2020).

²¹ National Highway Traffic Safety Administration, *Traffic Safety Facts, 2007-2016 Data, School-Transportation-Related Crashes*, DOT HS 812 476, revised January 2018, available at: <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/812476> (last visited January 15, 2020).

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill increases penalties for persons failing to stop for a school bus.

C. Government Sector Impact:

Funds collected as civil penalties for traffic violations are distributed to various state and local funds:

- The bill may likely have an insignificant positive fiscal impact on the General Revenue Fund²² due to the increase in penalties for failing to stop for a school bus or passing a stopped school bus. The number of drivers who may be subjected to the additional \$100 or \$200 penalty is unknown; therefore the impact is indeterminate.
- The bill may have an insignificant positive fiscal impact to local government revenues. The number of drivers who may be subjected to the additional \$100 or \$200 fine is unknown; therefore the impact is indeterminate.²³

The DHSMV estimates that approximately 72 hours of technology programming will be required as a result of this bill. These hours are estimated to have a fiscal impact to the Highway Safety Operating Trust Fund of \$3,120 in FTE and contracted resources.²⁴ All costs related to programming and implementation can be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following section of the Florida Statutes: 318.18

²² *Supra*, note 19.

²³ *Id.*

²⁴ *Id.*

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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Hooper

16-00443-20

2020290__

1 A bill to be entitled
 2 An act relating to school bus safety; amending s.
 3 318.18, F.S.; revising civil penalties for certain
 4 violations relating to stopping for a school bus;
 5 providing an effective date.
 6
 7 Be It Enacted by the Legislature of the State of Florida:
 8
 9 Section 1. Paragraphs (a) and (b) of subsection (5) of
 10 section 318.18, Florida Statutes, are amended to read:
 11 318.18 Amount of penalties.—The penalties required for a
 12 noncriminal disposition pursuant to s. 318.14 or a criminal
 13 offense listed in s. 318.17 are as follows:
 14 (5) (a) Two ~~One~~ hundred dollars for a violation of s.
 15 316.172(1)(a), failure to stop for a school bus. If, at a
 16 hearing, the alleged offender is found to have committed this
 17 offense, the court shall impose a minimum civil penalty of \$200
 18 ~~\$100~~. In addition to this penalty, for a second or subsequent
 19 offense within a period of 5 years, the department shall suspend
 20 the driver license of the person for not less than 180 ~~90~~ days
 21 and not more than 1 year ~~6 months~~.
 22 (b) Four ~~Two~~ hundred dollars for a violation of s.
 23 316.172(1)(b), passing a school bus on the side that children
 24 enter and exit when the school bus displays a stop signal. If,
 25 at a hearing, the alleged offender is found to have committed
 26 this offense, the court shall impose a minimum civil penalty of
 27 \$400 ~~\$200~~. In addition to this penalty, for a second or
 28 subsequent offense within a period of 5 years, the department
 29 shall suspend the driver license of the person for not less than

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

16-00443-20

2020290__

30 360 ~~180~~ days and not more than 2 years ~~1 year~~.
 31 Section 2. This act shall take effect July 1, 2020.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE
APPEARANCE RECORD

01/21/2020

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

290

Bill Number (if applicable)

Topic School Bus Safety - 2020

Amendment Barcode (if applicable)

Name Gary W. Hester

Job Title Government Affairs

Address P.O. Box 14038

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Street

Tallahassee

FL

32317

Email garywhester@gmail.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Police Chiefs Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/20
Meeting Date

SB 290
Bill Number (if applicable)

Topic School Bus Safety

Amendment Barcode (if applicable)

Name Mary-Lynn Cullen

Job Title Legislative Liason

Address 1674 University Pkwy.

Phone 941-928-0278

Sarasota Fl. 34243
City State Zip

Email aichildren@aol.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Advocacy Institute For Children

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

APPEARANCE RECORD

1/21/2020

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

290

Meeting DateBill Number (if applicable)Topic School Bus SafetyAmendment Barcode (if applicable)Name Chase DanielsJob Title Assistant Executive Director, Pasco Sheriff's OfficeAddress 8700 Citizen DrPhone 727-277-6226StreetNew Port RicheyFL34654CityStateZipEmail cdaniels@pascosheriff.orgSpeaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing Pasco Sheriff's OfficeAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

1/21/2020

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 290

Bill Number (if applicable)

Topic School Bus Safety

Amendment Barcode (if applicable)

Name Wayne Bertsch (Birch)

Job Title Gov Relations

Address 7227 Land O Lakes Blvd

Phone 850 251 1835

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FL

Zip

34638

Email wbertsch@pasco.k12.fl.us

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/20/20
Meeting Date

SB 220
Bill Number (if applicable)

Topic School Bus Safety

Amendment Barcode (if applicable)

Name Nancy Lawther

Job Title _____

Address 1747 Orlando Central Pkwy Phone 407 855-7604

Street Orlando State FL Zip 32809 Email legislative@floridapha.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

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 Infrastructure and Security

BILL: SB 378

INTRODUCER: Senator Lee

SUBJECT: Motor Vehicle Insurance

DATE: January 22, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Price	Miller	IS	Favorable

I. Summary:

SB 378 repeals the Florida Motor Vehicle No-Fault Law (No-Fault Law), which requires every owner and registrant of a motor vehicle in this state to maintain Personal Injury Protection (PIP) coverage. Beginning January 1, 2020, the bill enacts financial responsibility requirements for liability for damages that result from accidents arising out of the ownership, maintenance, or use of a motor vehicle that is not a commercial motor vehicle, nonpublic sector bus, or for-hire passenger transportation vehicle, as follows:

- For bodily injury (BI) or death of one person in any one crash, \$25,000, and
- Subject to that limit for one person, \$50,000 for BI or death of two or more people in any one crash.

The bill retains the existing \$10,000 financial responsibility requirement for property damage (PD).

The bill also revises required coverage amounts for garage liability and commercial motor vehicle insurance, and increases the cash deposit amount required for a certificate of self-insurance establishing financial responsibility for owners and operators of motor vehicles that are not for-hire vehicles.

The bill replaces the PIP coverage mandate with optional medical payments coverage which must provide coverage of at least \$5,000 for medical expenses incurred due to bodily injury, sickness, or disease arising out of the ownership, maintenance, or use of a motor vehicle. The coverage also includes a death benefit of at least \$5,000. Medical payments coverage protects the named insured, resident relatives, all passengers and operators of the insured vehicle, and all persons struck by the motor vehicle while not occupying a self-propelled motor vehicle.

The insurer must offer medical payments coverage at limits of \$5,000 and \$10,000, with an option for no deductible or a \$500 deductible. Insurers may also offer other limits greater than \$5,000, and other deductibles not exceeding \$500. Policies are presumed to include medical payments coverage with a limit of \$10,000 with no deductible unless the insured declines medical payments coverage or selects coverage at a different limit or with a deductible.

The bill also requires the insurer to reserve \$5,000 of benefits for payment to specified physicians or dentists who provide emergency services and care or who provide hospital inpatient care for 30 days after the date the insurer receives notice of the accident.

Medical payments coverage insurers are authorized to include provisions in their policies allowing for subrogation for payment of medical payments benefits to an insured if the payments resulted from the wrongful act of another. However, the bill makes this subrogation right inferior to the rights of the injured insured and available only after all of the insured's damages are recovered. Once fully recovered, if the insured delivers a release or satisfaction that impairs an insurer's subrogation right, the insured is made liable to the insurer for repayment of the benefits, less certain costs and expenses.

The repeal of the No-Fault Law eliminates the limitations on recovering pain and suffering damages from PIP insureds, which currently require bodily injury that causes death or significant and permanent injury. Under the bill, the legal liability of an uninsured motorist insurer includes damages in tort for pain, suffering, disability or physical impairment, disfigurement, mental anguish, inconvenience, and the loss of past and future capacity for the enjoyment of life.

Additionally, the bill authorizes the exclusion of a specifically named individual from specified insurance coverages under a private passenger motor vehicle policy, with the written consent of the policyholder.

The bill appropriates \$83,651 in nonrecurring funds from the Insurance Regulatory Trust Fund to the Office of Insurance Regulation to implement the act.

The bill takes effect January 1, 2021, except as otherwise provided, and except that provisions relating to application of the laws during the transition from PIP coverage to the new financial responsibility requirements, and the effective date section, take effect upon becoming a law.

II. Present Situation:

Under the Florida Motor Vehicle No-Fault Law (No-Fault Law),¹ owners or registrants of motor vehicles are required to purchase personal injury protection (PIP) insurance which compensates persons injured in accidents regardless of fault.² Policyholders are indemnified by their own insurer. The intent of no-fault insurance is to provide prompt medical treatment without regard to fault.³ This coverage also provides policyholders with immunity from liability for economic damages up to the policy limits and limits tort suits for non-economic damages (pain and

¹ Sections 627.730-627.7405, F.S.

² Section 627.733, F.S.

³ See s. 627.731, F.S.

suffering) below a specified injury threshold.⁴ In contrast, under a tort liability system, the negligent party is responsible for damages caused and an accident victim can sue the at-fault driver to recover economic and non-economic damages.

Florida drivers are required to purchase both PIP and property damage liability (PD) insurance.⁵ The personal injury protection must provide a minimum benefit of \$10,000 for bodily injury to any one person who sustains an emergency medical condition, which is reduced to a \$2,500 limit for medical benefits if a treating medical provider does not determine an emergency medical condition existed.⁶ PIP coverage provides reimbursement for 80 percent of reasonable medical expenses,⁷ 60 percent of loss of income,⁸ and 100 percent of replacement services,⁹ for bodily injury sustained in a motor vehicle accident, without regard to fault. The property damage liability coverage must provide a \$10,000 minimum benefit. A \$5,000 death benefit is also provided.¹⁰

PIP Medical Benefits

The 2012 Legislature revised the provision of PIP medical benefits under the No-Fault Law, effective January 1, 2013.¹¹ To receive PIP medical benefits, insureds must receive initial services and care within 14 days after the motor vehicle accident.¹² Initial services and care are only reimbursable if lawfully provided, supervised, ordered or prescribed by a licensed physician, licensed osteopathic physician, licensed chiropractic physician, licensed dentist, or must be rendered in a hospital, a facility that owns or is owned by a hospital, or a licensed emergency transportation and treatment provider.¹³ Follow-up services and care require a referral from such providers and must be consistent with the underlying medical diagnosis rendered when the individual received initial services and care.¹⁴

PIP medical benefits have two different coverage limits, based upon the severity of the medical condition of the individual. An insured may receive up to \$10,000 in medical benefits for services and care if a physician, osteopathic physician, dentist, physician's assistant or advanced registered nurse practitioner has determined that the injured person had an emergency medical condition.¹⁵ An emergency medical condition is defined as a medical condition manifesting itself by acute symptoms of sufficient severity that the absence of immediate medical attention could reasonably be expected to result in serious jeopardy to patient health, serious impairment to bodily functions, or serious dysfunction of a body organ or part.¹⁶ If a provider who rendered treatment or services does not determine that the insured had an emergency medical condition,

⁴ Section 627.737, F.S.

⁵ See ss. 324.022, F.S. and 627.733, F.S.

⁶ Section 627.736(1), F.S.

⁷ Section 627.736(1)(a), F.S.

⁸ Section 627.736(1)(b), F.S.

⁹ *Id.*

¹⁰ Section 627.736(1)(c), F.S.

¹¹ Chapter 2012-197, L.O.F. (CS/CS/HB 119)

¹² Section 627.736(1)(a), F.S.

¹³ Section 627.736(1)(a)1., F.S.

¹⁴ Section 627.736(1)(a)2., F.S.

¹⁵ Section 627.736(1)(a)3., F.S.

¹⁶ Section 627.732(16), F.S.

the PIP medical benefit limit is \$2,500.¹⁷ Massage and acupuncture are not reimbursable, regardless of the type of provider rendering such services.¹⁸

The \$5,000 PIP death benefit is provided in addition to medical and disability benefits, effective January 1, 2013. Previously, the death benefit was the lesser of the unused PIP benefits, up to a limit of \$5,000.

Medical Fee Limits for PIP Reimbursement

Section 627.736(5), F.S., authorizes insurers to limit reimbursement for benefits payable from PIP coverage to 80 percent of the following schedule of maximum charges:

- For emergency transport and treatment (ambulance and emergency medical technicians), 200 percent of Medicare;
- For emergency services and care provided by a hospital, 75 percent of the hospital's usual and customary charges;
- For emergency services and care and related hospital inpatient services rendered by a physician or dentist, the usual and customary charges in the community;
- For hospital inpatient services, 200 percent of Medicare Part A;
- For hospital outpatient services, 200 percent of Medicare Part A;
- For services supplies and care provided by ambulatory surgical centers and clinical laboratories, 200 percent of Medicare Part B;
- For durable medical equipment, 200 percent of the Durable Medical Equipment Prosthetics/Orthotics and Supplies fee schedule of Medicare Part B;
- For all other medical services, supplies, and care, 200 percent of the participating physicians fee schedule of Medicare Part B; and
- For medical care not reimbursable under Medicare, 80 percent of the workers' compensation fee schedule. If the medical care is not reimbursable under either Medicare or workers' compensation then the insurer is not required to provide reimbursement.

The insurer may not apply any utilization limits that apply under Medicare or workers' compensation.¹⁹ In addition, the insurer must reimburse a health care provider rendering services under the scope of his or her license, regardless of any restriction under Medicare that restricts payments to certain types of health care providers for specified procedures. Medical providers are not allowed to bill the insured for any excess amount when an insurer limits payment as authorized in the fee schedule, except for amounts that are not covered due to the PIP coinsurance amount (the 20 percent copayment) or for amounts that exceed maximum policy limits.²⁰

In 2012, the Legislature enacted chapter 2012-197, Laws of Florida, to revise the PIP medical fee schedule in an effort to resolve alleged ambiguities that led to conflicts and litigation between claimants and insurers. The law clarified the reimbursement levels for care provided by ambulatory surgical centers and clinical laboratories and for durable medical equipment. The law also provided that Medicare fee schedule in effect on March 1, is applicable for the remainder of

¹⁷ Section 627.736(1)(a)4., F.S.

¹⁸ Section 627.736(1)(a)5., F.S.

¹⁹ Section 627.736(5)(a)3., F.S.

²⁰ Section 627.736(5)(a)4., F.S.

that year.²¹ Insurers were authorized to use Medicare coding policies and payment methodologies of the Centers for Medicare and Medicare Services, including applicable modifiers, when applying the fee schedule if they do not constitute a utilization limit.²² The law also required insurers to include notice of the fee schedule in their policies.²³

Attorney Fees

Section 627.428, F.S., requires an insurer to pay the insured's or beneficiary's reasonable attorney fees upon a judgment against the insurer and in favor of the insured or named beneficiary under an insurance policy, and applies to disputes under the No-Fault Law.²⁴ Chapter 2012-197, L.O.F., amended provisions related to attorney fee awards in No-Fault disputes. The law prohibited the application of attorney fee multipliers.²⁵ The law also required that the attorney fees awarded must comply with prevailing professional standards, not overstate or inflate the number of hours reasonably necessary for a case of comparable skill or complexity, and represent legal services that are reasonable to achieve the result obtained.²⁶ The offer of judgment statute, s. 768.79, F.S., is applied to No-Fault cases, providing statutory authority for insurers to recover fees if the plaintiff's recovery does not exceed the insurer's settlement offer by a statutorily specified percentage.²⁷

Mandatory Rate Filings and Data Call

Chapter 2012-197, L.O.F., required the Office of Insurance Regulation to contract with a consulting firm to calculate the expected savings from the act.²⁸ The OIR retained Pinnacle Actuarial Resources, Inc., which released an August 20, 2012, report estimating an indicated statewide average savings in PIP premiums of 14 percent to 24.6 percent and an average overall motor vehicle insurance premium reduction ranging from 2.8 percent to 4.9 percent.²⁹ The report noted that if insurers' current PIP rates were inadequate they would likely offset the savings from Chapter 2012-197, L.O.F., against their indicated PIP rates. By October 1, 2012, each insurer writing private passenger automobile PIP insurance was required to submit a rate filing providing at least a 10 percent reduction of its PIP rate or explain in detail its reasons for failing to achieve those savings. The Legislature required a second mandatory rate filing due January 1, 2014, that provided at least a 25 percent reduction of the insurer's July 1, 2012, PIP rate or explained in detail its reasons for failing to achieve those savings.

The Office of Insurance Regulation performed a comprehensive PIP data call on January 1, 2015, that analyzed the impact of the 2012 act's reforms on the PIP insurance market. The top 25 personal lines automobile insurers³⁰ generally failed to achieve a 25 percent rate reduction

²¹ Section 627.736(5)(a)2., F.S.

²² Section 627.736(5)(a)3., F.S.

²³ Section 627.736(5)(a)5., F.S.

²⁴ Section 627.736(8), F.S.

²⁵ See *id.*

²⁶ See *id.*

²⁷ See *id.*

²⁸ Section 15, Ch. 2012-197, L.O.F.

²⁹ Pinnacle Actuarial Resources, Inc., *Impact Analysis of HB 119*, (Aug. 20, 2012) available at <https://www.floir.com/siteDocuments/HB119ImpactAnalystFINAL08202012.pdf> (last viewed January 16, 2020).

³⁰ On an earned premium basis.

and instead reduced PIP rates an average of 13.6 percent.³¹ Rates were only reduced an average of 0.1 percent for a full auto insurance premium consisting of PIP, property damage, bodily injury, uninsured motorists, collision and comprehensive coverages.³² The OIR noted that though the required rate filings were on the low end of 2012 Pinnacle report, prior to the 2012 act, the statewide average approved rate changes were a 46.3 percent increase in PIP rates, and a 12.9 percent rate increase for full auto insurance.³³

Rate filings by top 25 auto insurers from January 1, 2015, to January 18, 2017, reversed the entirety of the rate reductions achieved post the 2012 act, resulting in average premiums higher than those charged before that act became law.³⁴ Generally, motor vehicle insurance rates increased nationally.³⁵ Recent data from the United States Department of Labor indicates that the consumer price index for motor vehicle insurance (U.S. city average for urban consumers) remained unchanged from December of 2018 to December of 2019.³⁶ The number of crashes and crashes involving injuries reported to the Florida Department of Highway Safety and Motor Vehicles in the most recent 4 years is shown in the table below.

Florida Motor Vehicle Crashes ³⁷			
Calendar Year	Total Crashes	Injury Crashes	Fatalities
2016	395,785	165,940	3,176
2017	402,385	166,612	3,116
2018	403,626	167,219	3,135
2019	399,087	158,999	3,137

Motor Vehicle Insurance Fraud

Motor vehicle insurance fraud is a long-standing problem in Florida. In November 2005, the Senate Banking and Insurance Committee issued a report entitled “Florida’s Motor Vehicle No-Fault Law”, which was a comprehensive review of Florida’s No-Fault system.³⁸ The report indicated that fraud was at an “all-time” high at the time, noting:

³¹ Office of Insurance Regulation, *Report on Review of the Data Call Pursuant to HB 119 – Motor Vehicle Personal Injury Protection (PIP) Insurance*, Pg. 43 (January 1, 2015) available at

<https://www.floir.com/siteDocuments/HB119DataCallReport.pdf> (last viewed January 16, 2020).

³² *Id.*

³³ *Id.* at pg. 41.

³⁴ See Office of Insurance Regulation, *Florida Personal Auto Market Presented to The Florida Senate Committee on Banking and Insurance*, pg. 3 (January 24, 2017) available at

<https://www.floir.com/siteDocuments/SenateBIFLPersonalAutoMarketPresentation01242017.pdf> (last viewed January 16, 2020).

³⁵ See National Association of Insurance Commissioners, *Auto Insurance Database Report 2015/2016*, pg. 26 (2018) https://naic.org/prod_serv/AUT-PB-15.pdf (last viewed January 16, 2020).

³⁶ United States Department of Labor, *Economic News Release Consumer Price Index Summary* (December 2019) available at <https://www.bls.gov/news.release/cpi.t02.htm> (last viewed January 16, 2020).

³⁷ See email from the DHSMV to committee staff, January 17, 2020 (on file in the Senate Infrastructure and Security Committee).

³⁸ See Florida’s Motor Vehicle No-Fault Law, *Report Number 2006-102*, available at http://archive.flsenate.gov/data/Publications/2006/Senate/reports/interim_reports/pdf/2006-102bilong.pdf (last viewed January 16, 2020).

“Florida’s no-fault laws are being exploited by sophisticated criminal organizations in schemes that involve health care clinic fraud, staging (faking) car crashes, manufacturing false crash reports, adding occupants to existing crash reports, filing PIP claims using contrived injuries, colluding with dishonest medical treatment providers to fraudulently bill insurance companies for medically unnecessary or non-existent treatments, and patient-brokering...”

Fraudulent claims are a major cost-driver and result in higher motor vehicle insurance premium costs for Florida policyholders. The 2012 act contained numerous provisions designed to curtail PIP fraud. A health care practitioner found guilty of insurance fraud under s. 817.234, F.S., loses his or her license for 5 years and may not receive PIP reimbursement for 10 years. Insurers are provided an additional 60 days (90 total) to investigate suspected fraudulent claims, however, an insurer that ultimately pays the claim must also pay an interest penalty.³⁹ All entities seeking reimbursement under the No-Fault Law must obtain health care clinic licensure except for hospitals, ambulatory surgical centers, entities owned or wholly owned by a hospital, clinical facilities affiliated with an accredited medical school and practices wholly owned by a physician, dentist, or chiropractic physician or by such physicians and specified family members.⁴⁰ The act also defined failure to pay PIP claims within the time limits of s. 627.736(4)(b), F.S., as an unfair and deceptive practice.

Financial Responsibility Law

Florida’s financial responsibility law requires proof of ability to pay monetary damages for bodily injury and property damage liability arising out of a motor vehicle accident or serious traffic violation.⁴¹ The owner and operator of a motor vehicle need not demonstrate financial responsibility, i.e., obtain BI and PD coverages, until *after the accident*.⁴² At that time, a driver’s financial responsibility is proved by the furnishing of an active motor vehicle liability policy. The minimum amounts of liability coverages required are \$10,000 in the event of bodily injury to, or death of, one person, \$20,000 in the event of injury to, or death of, two or more persons, and \$10,000 in the event of damage to property of others, or \$30,000 combined BI/PD policy.⁴³ The driver’s license and registration of the driver who fails to comply with the security requirement to maintain PIP and PD insurance coverage is subject to suspension.⁴⁴ A driver’s license and registration may be reinstated by obtaining a liability policy and by paying a fee to the Department of Highway Safety and Motor Vehicles.⁴⁵

Review of Auto Insurance Systems

Two auto insurance systems are utilized throughout the country: the tort system and the no-fault system, with certain variations. Thirty-eight states utilize the tort system in which the at-fault party is liable for damages (medical, economic, property damage and pain and suffering) to other

³⁹ Section 627.736(4)(i), F.S.

⁴⁰ Section 627.736(5)(h), F.S.

⁴¹ See ch. 324, F.S.

⁴² Section 324.011, F.S.

⁴³ Section 324.022, F.S.

⁴⁴ Section 324.0221(2), F.S.

⁴⁵ Section 324.0221(3), F.S.

parties in an accident.⁴⁶ Parties seeking redress for their injuries do so from the at-fault driver, and must prove negligence on the part of that individual. Nine of the 38 tort states, known as “add-on” states, require auto insurers to offer PIP coverage, but unlike no-fault states, do not restrict the right to pursue a liability claim or lawsuit.⁴⁷ Benefits are generally either offered in a PIP coverage form similar to that in no-fault states or as additional wage replacement benefits to medical payments coverage. Three tort add-on states require the purchase of PIP coverage; six do not, but require insurers to offer PIP coverage.

Twelve states (including Florida) have a no-fault system and mandate first-party PIP coverage for medical benefits, wage loss, and death benefits, with a limitation on pain and suffering lawsuits.⁴⁸ All 12 jurisdictions take different approaches to no-fault legislation in that coverage amounts, deductibles, mandated coverages, tort thresholds for pain and suffering claims, and the use of fee schedules or treatment protocols vary widely among these entities. Each state has either a “verbal” or “monetary” threshold regarding the seriousness of a person’s injuries that must be met prior to the filing of a tort suit for noneconomic damages against an at-fault driver. Florida and the four most populous no-fault states use a verbal threshold, which is a statutory description of the severity of an injury. The seven remaining no-fault states have monetary thresholds ranging from \$1,000 to \$5,000. Three of the 12 no-fault states (Kentucky, New Jersey and Pennsylvania) are known as “choice” states and offer consumers a choice between purchasing PIP coverage and traditional tort liability coverage, which does not include PIP benefits.

Tort-Based Motor Vehicle Insurance Jurisdictions

In a tort-based liability system, auto injury claimants seek payment from the at-fault driver for both economic and non-economic damages from dollar one. A tort-based system represents a more traditional legal philosophy of holding persons responsible for injuries caused by their negligent operation of a vehicle. In theory, this encourages safer operation of automobiles and is generally viewed by the public as consistent with the concept of personal responsibility.

If Florida repeals PIP and mandates BI coverage, it will be important for drivers to appreciate coverage applications under the tort system. For the most common type of accident (with one party at-fault), the at-fault party’s BI coverage would pay for injuries to the not at-fault driver, unless the at-fault party was uninsured. If the at-fault party is uninsured (or underinsured), the not at-fault party would utilize his/her Uninsured Motorist (UM) coverage, if purchased, to pay for injuries sustained in an accident. The at-fault party’s PD coverage would compensate for physical damages to the not at-fault driver’s vehicle. If the not-at-fault party has Med Pay coverage, it can be used to cover his or her own medical expenses, which could then be subrogated into the BI claim by the not at-fault driver’s insurer.

⁴⁶ Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Idaho, Illinois, Indiana, Iowa, Louisiana, Maine, Maryland, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

⁴⁷ Arkansas, Delaware, Maryland, Oregon, South Dakota, Texas, Virginia, Washington, and Wisconsin.

⁴⁸ Hawaii, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, New Jersey, New York, North Dakota, Pennsylvania, and Utah are the other No-Fault states.

With respect to the at-fault party, that driver's own health insurance, if available, would cover his or her own expenses. Med Pay coverage, if purchased, would pay for his/her medical expenses up to the Med Pay limits, at which point health insurance would apply. In the event the at-fault party did not have health insurance, then the medical costs would not be reimbursed and the individual would be responsible for these costs or such costs would be assumed by the health care provider.

For single car accidents, the driver of the vehicle is presumed to be the at-fault party and therefore will be essentially in the same situation as the at-fault party described above. Occupants in the vehicle can sue the driver of the vehicle for their injuries and are in a similar circumstance to the not at-fault party's situation, previously described. Family members are precluded from suing the driver because of the intra-family exclusion resulting in the fact that only non-family occupants can pursue a tort claim. Pedestrians who are injured in an accident are in a similar situation as the not at-fault party.

III. Effect of Proposed Changes:

Repeal of the Florida Motor Vehicle No-Fault Law

Section 1 repeals ss. 627.730-627.7405, F.S., which constitute the Florida Motor Vehicle No-Fault Law.

Two of the most significant provisions repealed are the requirement to maintain PIP coverage under s. 627.736, F.S., and the tort exemption in s. 627.737, F.S., which prohibits tort actions to recover pain and suffering damages from PIP insureds unless death or significant and permanent injury causes such damages, and coverage for disability and death benefits under PIP.

Section 2 repeals s. 627.7407, F.S., which explained how the Florida Motor Vehicle No-Fault Law was to be applied after being reinstated by ch. 2007-324, Laws of Florida.

Mandatory Bodily Injury Liability Coverage Requirements

Chapter 324, F.S., requires the owners and operators of motor vehicles to demonstrate the ability to respond to damages for liability because of crashes arising out of the use of a motor vehicle.⁴⁹ This requirement is usually met through the purchase of motor vehicle insurance.

Sections 12 and 13 amend ss. 324.021 and 324.022, F.S., respectively, to require beginning January 1, 2021, every owner or operator of a motor vehicle registered in this state to maintain the ability to respond to damages for liability that results from accidents arising out of the ownership, maintenance, or use of a motor vehicle that is not a commercial motor vehicle, nonpublic sector bus, or for-hire passenger transportation vehicle as follows:

- For BI or death of one person in any one crash, \$25,000.
- Subject to that limit for one person, \$50,000 for BI or death of two or more people in any one crash.

⁴⁹ Owners and operators of motor vehicles may satisfy financial responsibility requirements by alternate means, such as depositing security with the Department of Highway Safety and Motor Vehicles pursuant to s. 324.161, F.S., or qualifying as a self-insurer pursuant to s. 324.171, F.S.

The bill retains current law that requires drivers to maintain the ability to respond to damages of \$10,000 for damage to, or the destruction of, other's property in a crash.

Financial responsibility may be met through motor vehicle insurance that provides BI and PD coverage in at least the minimum amounts required to meet responsibility or through insurance that provides BI and PD with a combined single coverage limit that equals the BI requirement for more than one person plus the PD requirement. Beginning January 1, 2021, the minimum combined single limit will be \$60,000.

Section 36 amends s. 627.0651, F.S., providing that initial rate filings for motor vehicle liability policies submitted to the OIR on or after January 1, 2021, must reflect the financial responsibility requirements of the amended s. 324.022, F.S., and may be approved only through the file and use process for making rates for motor vehicle insurance set out in that section of law.

Required Provisions in Motor Vehicle Liability Policies

Section 22 amends s. 324.151, F.S., which requires motor vehicle liability insurance policies that serve as proof of financial responsibility to contain certain provisions. The bill requires policies issued to the owner of a motor vehicle that is required to be registered in this state to insure all named insureds, except for a named driver excluded pursuant to new section 627.747, F.S., discussed below; and to also insure:

- Any resident relative⁵⁰ of a named insured, and
- Any operator using the vehicle with the permission of the owner of the vehicle insured by the policy from liability resulting from the use of the motor vehicle referenced in the policy.

The bill authorizes an insurer to include provisions in its policy excluding coverage for a motor vehicle not designated as an insured vehicle on the policy if such motor vehicle does not qualify as a newly acquired vehicle,⁵¹ does not qualify as a temporary substitute vehicle,⁵² and was owned by the insured or furnished for an insured's regular use for more than 30 consecutive days before an event giving rise to a claim.

A motor vehicle liability insurance policy issued to a person who does not own a motor vehicle must insure the named insureds against liability for damages arising out of the use of any motor vehicle not owned by the named insureds.

All motor vehicle liability policies providing coverage for accidents occurring within the United States or Canada must provide liability coverage with the minimum limits of \$25,000 for BI or death of one person in any one crash; \$50,000 for BI or death of two or more people in any one crash; and \$10,000 for PD.

⁵⁰ Defined by the bill to mean "a person related to a named insured by any degree by blood, marriage, or adoption, including a ward or foster child, who usually makes his or her home in the same family unit or residence as the named insured, whether or not he or she temporarily live elsewhere."

⁵¹ Defined by the bill to mean "a vehicle owned by a named insured or resident relative of the named insured which was acquired within 30 days before an accident."

⁵² Defined by the bill to mean "any motor vehicle, as defined in s. 320.01(1) which is not owned by the named insured and which is temporarily used with the permission of the owner as a substitute for the owned motor vehicle designated on the policy when the owned vehicle is withdrawn from normal use because of breakdown, repair, servicing, loss, or destruction."

Section 43 amends s. 627.7275, F.S., to require all motor vehicle insurance policies delivered or issued in Florida for a motor vehicle registered or principally garaged in this state to include the minimum limits of BI liability coverage and PD liability coverage as required by s. 324.022, F.S.

Motor vehicle insurance under policies made available to applicants seeking reinstatement of the applicant's driving privileges after such privileges were revoked or suspended for driving under the influence must provide coverage of at least the minimum limits of BI and PD liability coverage under s. 324.021(7),⁵³ or s. 324.023,⁵⁴ F.S., which requires drivers who plead guilty or nolo contendere to a charge of driving under the influence to meet additional liability insurance requirements.

Meeting Financial Responsibility through a Certificate of Self-Insurance

Section 17 amends s. 324.031, F.S., which allows owners and operators of motor vehicles that are not for-hire vehicles to prove financial responsibility by providing evidence of holding a motor vehicle liability policy covering the motor vehicle being operated. Two alternatives are also available under the statute. A person may prove financial responsibility by furnishing a certificate of self-insurance that shows a deposit of cash with a financial institution, or furnishing a certificate of self-insurance issued by the DHSMV based on demonstrating sufficient net unencumbered worth.

A person furnishing a certificate of self-insurance showing a deposit of cash must, beginning January 1, 2021, furnish a certificate of deposit equal to the number of vehicles owned times \$60,000, to a maximum of \$240,000. Current law requires a deposit equal to the number of vehicles times \$30,000, to a maximum of \$120,000. The bill retains current law that all persons using this method shall maintain excess coverage of the amount deposited with limits of at least \$125,000/\$250,000/\$50,000 BI/PD or a \$300,000 BI/PD combined single limit.

Under **Section 23** of the bill amending s. 324.161, F.S., the proof of a certificate of deposit must be provided annually, and must be from a financial institution insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

The second alternative method is obtaining a certificate of self-insurance issued by the DHSMV. **Section 24** amends s. 324.171, F.S., effective January 1, 2021, to provide that a certificate of self-insurance from the DHSMV pursuant to this section may be obtained by a private individual with private passenger vehicles by demonstrating sufficient net unencumbered worth of at least \$100,000. Current law requires a net unencumbered worth of at least \$40,000. A person other than a natural person may obtain a certificate of self-insurance from the DHSMV by possessing a net unencumbered worth of at least \$100,000 for the first motor vehicle and \$50,000 for each additional vehicle. Current law requires a net unencumbered worth of \$40,000 for the first motor vehicle and \$20,000 for each additional motor vehicle. The bill retains current law that authorizes the DHSMV to promulgate by rule an alternative net worth requirement for persons other than natural persons.

⁵³ \$10,000/\$20,000 for BI or death and \$10,000 for PD.

⁵⁴ \$100,000/\$300,000 for BI or death and \$50,000 for PD.

Garage Liability Insurance Requirement

Section 7 amends s. 320.27, F.S., which requires the licensure of motor vehicle dealers. The bill defines “garage liability insurance” to mean, beginning January 1, 2021, combined single-limit liability coverage, including PD and BI liability coverage, of at least \$60,000.

Current law only requires at least \$25,000 in such coverage and requires \$10,000 of PIP coverage.

Section 8 amends s. 320.771, F.S., and applies the same garage liability insurance requirement to recreational vehicle dealers.

Financial Responsibility Requirement for For-Hire Vehicles

Section 18 amends s. 324.032, F.S., which provides the financial responsibility requirements for for-hire passenger vehicles. The bill retains current law requiring the owner or lessee to meet the financial responsibility requirement and retains the minimum limits of coverage, which are \$125,000/\$250,000 of BI and \$50,000 of PD. The bill amends current law by specifying the coverage must be purchased by an insurer that is a member of the Florida Insurance Guaranty Association.

Optional Medical Payments Coverage***Medical Payments Coverage Benefits***

Section 41 creates s. 627.7265, F.S., which authorizes the inclusion of medical payments coverage of at least \$5,000 in each motor vehicle liability insurance policy used to meet the financial responsibility requirements of s. 324.031, F.S. Medical payments coverage must provide coverage of at least \$5,000 for medical expense incurred due to bodily injury, sickness, or disease arising out of the ownership, maintenance, or use of a motor vehicle. Medical payments coverage must pay for reasonable expenses for necessary medical, diagnostic, and rehabilitative services lawfully provided, supervised, ordered, or prescribed by specified physicians, dentists, or chiropractic physicians, or that are provided in a hospital or in a facility that owns, or is wholly owned by, a hospital. The coverage also includes a death benefit of at least \$5,000. Medical payments coverage protects the named insured, resident relatives, all passengers and operators of the insured vehicle, and all persons struck by the motor vehicle while not occupying a self-propelled motor vehicle.

Before issuing a motor vehicle liability policy furnished as proof of financial responsibility, an insurer must offer medical payments coverage at limits of \$5,000 and \$10,000, with an option for no deductible or a \$500 deductible. Insurers may also offer such coverage at any limit greater than \$5,000, and deductibles not exceeding \$500.

Each motor vehicle liability policy furnished as proof of financial responsibility is deemed to have:

- Medical payments coverage to a limit of \$10,000, unless the policyholder, in writing on an approved form, refuses the coverage or selects coverage at a limit other than \$10,000.
- No medical payments coverage deductible, unless the policyholder, in writing on an approved form, selects a deductible of up to \$500.⁵⁵

The forms must be approved by the OIR and fully advise the applicant of the nature of the coverage being rejected or the policy limit or deductible being selected. The named insured's signature on such form constitutes a conclusive presumption of an informed, knowing rejection or selection. If the policyholder does not request in writing the specified coverage, the coverage need not be provided in any other policy that renews, insures, extends, changes, supersedes, or replaces an existing policy if the policyholder has rejected the coverage or has selected an alternative coverage limit or deductible. An insurer must provide at least annually a notice of availability of coverage, which must be attached to the notice of premium and provide a means allowing the insured to request medical payments coverage at the limits and deductibles specified. Receipt of the notice does not constitute a waiver of an insured's right to medical payments coverage if the insured has not signed a selection or rejection form.

Upon receiving notice of an accident potentially covered by medical payments coverage benefits, the insurer must reserve \$5,000 for payment to licensed physicians and licensed dentists who provide emergency services and care or who provide hospital indigent care. The reserve amount may be used only to pay claims from such physicians or dentists until 30 days after the date the insurer receives notice of the accident. After the 30-day period, any amount of the reserve for which the insurer has not received notice may be used by the insurer to pay other claims.

An insurer providing medical payments coverage benefits may not have a:

- Lien on any recovery in tort by judgment, settlement, or otherwise for medical payments coverage benefits, whether suit has been filed or settlement has been reached; or
- Cause of action against a person to whom or for whom medical payments coverage benefits were paid, except when benefits are paid by reason of fraud by such person.

The bill authorizes an insurer providing medical payments coverage to include provisions in its policy allowing for subrogation⁵⁶ for payment of medical payments coverage benefits if the payments resulted from the wrongful act or omission of another who is not also insured under the policy paying the benefits. However, the bill makes this subrogation right inferior to the rights of the injured insured and available only after all of the insured's damages are recovered and the insured is made whole.⁵⁷

⁵⁵ These provisions are similar to current law applicable to selection or rejection of uninsured motorist vehicle coverage in s. 627.727, F.S., which provisions are retained.

⁵⁶ Subrogation is the principle establishing that when an insurance company pays an insured's claim of loss caused by a third party's negligence, the insurance company stands in the place of the insured with respect to the insured's right to sue the negligent third party for damages.

⁵⁷ This appears to be a codification of the "made whole" doctrine acknowledged by the Florida Supreme Court in *Insurance Co. of North America v. Lexow*, 602 So.2d 528 (Fla. 1992). See also *Magsipock v. Larsen*, 639 So.2d 1038 (Fla. App. 1994). Generally, the principle is that an insurer does not have a common law right to subrogation, or reimbursement, against a third party causing the damages sustained by the insured unless the insured has been compensated for all of the insured's damages.

Under the bill, if an insured obtains a recovery from a third party of the full amount of the damages sustained and delivers a release or satisfaction that impairs an insurer's subrogation right, the insured is liable to the insurer for repayment of the medical payments benefits, less any expenses of acquiring the recovery, including a prorated share of attorney fees and costs, and the insured is required to hold that net recovery in trust to be delivered to the medical payments insurer. The bill prohibits an insurer from including any provision in its policy allowing for subrogation for any death benefit paid.

Section 26 amends s. 400.9905, F.S., providing that an entity is deemed a "clinic" and must be licensed in order to receive medical payments coverage reimbursement under s. 627.7265, F.S., unless the entity is:

- Wholly owned by a licensed physician, a licensed dentist, or a licensed chiropractic physician; or by the physician, dentist, or chiropractic physician and the spouse, parent, child, or sibling of the physician, dentist, or chiropractic physician;
- A licensed hospital or ambulatory surgical center;
- An entity that wholly owns or is wholly owned, directly or indirectly, by a licensed hospital or hospitals;
- A clinical facility affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows;
- A clinic certified under federal law to provide outpatient physical therapy and speech pathology services; or
- Owned by a publicly traded corporation which has \$250 million or more in total annual sales of health care services provided by licensed health care practitioners, if one or more of the persons responsible for operations of the entity are licensed health care practitioners in this state and are responsible for supervising the business and the entity's compliance with state law.

This section of the bill also revises the definition of a "clinic" contained in s. 400.9905, F.S., of the Health Care Clinic Act, to replace references to PIP coverage and the Florida Motor Vehicle No-Fault Law with references to medical payments coverage.

Uninsured and Underinsured Motor Vehicle Insurance Coverage

Section 42 amends s. 627.727, F.S., which governs uninsured and underinsured motor vehicle insurance coverage. Current law specifies that the legal liability of an uninsured motorist insurer does not include damages in tort for pain, suffering, mental anguish, and inconvenience unless the injury or disease is of sufficient severity under "verbal threshold" provisions in s. 627.737(2), F.S. Under PIP, a person cannot recover "pain and suffering" damages from the at-fault driver's bodily injury coverage unless the person's injuries exceed a certain severity threshold,⁵⁸ commonly referred to as the "verbal threshold." Personal injury protection is considered a no-

and been "made whole." However, the made whole doctrine may be overridden by contractual agreement under current case law. See *Florida Farm Bureau Ins. Co. v. Martin*, 377 So.2d 827 (Fla. 1979) and *Blue Cross & Blue Shield of Fla. V. Matthews*, 498 So.2d 421, 422 (Fla 1986).

⁵⁸ The injury or disease must consist in whole or in part of significant and permanent loss of an important bodily function; permanent injury within a reasonable degree of medical probability, other than scarring or disfigurement; significant and permanent scarring or disfigurement; or death. See s. 627.737(2), F.S.

fault coverage because the injured person trades a limitation on the ability to recover pain and suffering damages for the ability to get PIP benefits even if the injured person is at fault in the accident. Uninsured motorist coverage generally provides the policyholder with benefits if the at-fault driver does not have sufficient bodily injury coverage. The bill repeals the “verbal threshold” provisions contained in the No-Fault Law in s. 627.737, F.S

Under the bill, the legal liability of an uninsured motorist insurer *includes* damages in tort for pain, suffering, disability or physical impairment, disfigurement, mental anguish, inconvenience, and the loss of past and future capacity for the enjoyment of life.

Named Driver Exclusion

Section 48 creates s. 627.747, F.S., authorizing a private passenger motor vehicle policy to exclude an identified individual from coverages. Currently, the OIR requires insurers to provide exceptions to named driver exclusions up to statutorily required minimum limits for PIP coverage, BI liability coverage if the policy is used to meet financial responsibility requirements, UM coverage, and property damage liability coverage.⁵⁹

Under the bill, if an identified individual is specifically excluded by name on the policy declarations page or by endorsement, and a policyholder consents to such exclusion in writing, a private passenger motor vehicle policy may exclude an identified individual from the following coverages:

- Property damage liability coverage.
- Bodily injury liability coverage.
- Uninsured motorist coverage for any damages sustained by the identified excluded individual, if the policyholder has purchased such coverage.
- Any coverage the policyholder is not required by law to purchase.

However, a private passenger motor vehicle policy may not exclude coverage when:

- The identified excluded individual is injured while not operating a motor vehicle;
- The exclusion is unfairly discriminatory under the Florida Insurance Code, as determined by the Office of Insurance Regulation; or
- The exclusion is inconsistent with the underwriting rules filed by the insurer.

An individual would not be covered for damages that occur while operating a motor vehicle that is insured under a policy that excludes the individual, under the conditions specified, from any or all of the specified coverages, unless the individual is injured while not operating a motor vehicle, the exclusion is unfair discrimination, or if the exclusion is inconsistent with the insurer’s underwriting rules.

Commercial Motor Vehicle Coverage Requirements

Section 47 amends s. 627.7415, F.S., to increase the minimum levels of combined BI liability and PD liability coverage that commercial motor vehicles must have.

⁵⁹ See Office of Insurance Regulation, *2018 Agency Bill Analysis SB 518*, pg. 2 (Oct. 30, 2017). On file with the Senate Banking and Insurance Committee.

Beginning January 1, 2021, a commercial motor vehicle that weighs 26,000 pounds or more but less than 35,000 pounds must have coverage of no less than \$60,000. Current law requires \$50,000 of coverage.

A commercial motor vehicle that weighs 35,000 pounds or more but less than 44,000 pounds must have coverage of no less than \$120,000 per occurrence beginning January 1, 2021. Current law requires \$100,000 of coverage.

Technical and Conforming Changes

Section 3 amends s. 316.646, F.S., which requires drivers to maintain and be able to display proof of security demonstrating compliance with financial responsibility requirements. The bill makes conforming changes necessitated by the bill's amendment or repeal of other sections of law and inserts a cross-reference to the revised s. 324.071(7), F.S., containing the minimum insurance requirements for purposes of proof of financial responsibility beginning January 1, 2021.

Section 4 amends s. 318.18(2), F.S., regarding nonmoving traffic violations, to remove a reference to PIP and conform cross references.

Section 5 amends s. 320.02, F.S., which contains the requirements to register a motor vehicle. The bill amends the section to require proof of motor vehicle insurance that meets the minimum limits of BI and PD liability, remove references to PIP, and make other conforming changes.

Section 6 amends s. 320.0609, F.S., regarding transfer and exchange of registration license plates to eliminate a reference to PIP.

Section 9 amends s. 322.251, F.S., regarding notice of cancellation, suspension, or revocation of a driver's license to repeal references to the No-Fault Law.

Section 10 amends s. 322.34, F.S., regarding driving on a suspended, revoked, canceled, or disqualified driver's license, to delete a reference to the No-Fault Law.

Section 11 amends s. 324.011, F.S., which provides the purpose of ch. 324, F.S., to specify that under the chapter all owners or operators of a motor vehicle required to be registered in this state must establish, maintain and show proof of financial responsibility. Currently, financial responsibility requirements only apply after an operator is involved in a crash or convicted of certain traffic offenses.

Section 14 amends s. 324.0221, F.S., which requires insurers to report motor vehicle insurance cancellations to the DHSMV, to remove references to PIP and PD coverage, insert references to BI liability coverage, and conform cross references.

Section 16 corrects cross references in s. 324.023, F.S., which requires drivers who plead guilty or nolo contendere to a charge of driving under the influence to meet additional liability insurance requirements.

Section 19 amends s. 324.051, F.S., regarding crash reports, to refer to motor vehicle liability policies rather than automobile liability policies.

Section 20 amends s. 324.071, F.S., to provide stylistic changes to provisions governing the reinstatement of a suspended license.

Section 21 amends s. 324.091, F.S., which requires owners and operators involved in a crash or conviction case to furnish evidence of liability insurance, by deleting references to an automobile liability policy while retaining references to a motor vehicle liability policy.

Section 25 amends s. 324.251, F.S., to revise the short title of ch. 324, F.S., to the “Financial Responsibility Law of 2020” and state it will be effective at 12:01 a.m., on January 1, 2021. Currently the chapter is the “Financial Responsibility Law of 1955.”

Sections 27 and 28 amend s. 400.991, F.S., and s. 400.9935, F.S., respectively, of the Health Care Clinic Act to remove references to PIP and the No-Fault Law and insert references to medical payments coverage.

Section 29 revises the definition of a “third party benefit” in s. 409.901, F.S., for purposes of Medicaid to refer to medical payments coverage rather than PIP coverage.

Section 30 amends s. 409.910(11), F.S., to specify that the Agency for Health Care Administration may recoup the total amount of medical assistance provided by Medicaid from motor vehicle insurance coverage benefits provided to a Medicaid beneficiary. Current law refers to PIP.

Section 31 amends s. 456.057, F.S., regarding patient records, to correct a cross-reference.

Section 32 amends s. 456.072, F.S., which allows the Department of Health to discipline licensees for submitting claims for PIP reimbursement when treatment was not rendered or that are intentionally upcoded, to relocate from the repealed s. 627.732, F.S., the existing definition of “upcoded” and refer instead to medical payments coverage.

Section 33 amends s. 626.9541(1)(i) and (o), F.S., regarding unfair insurance trade practices related to motor vehicle insurance. The bill deletes the unfair trade practice in paragraph (i) for failing to pay claims within statutory time periods required under the No-Fault Law to conform to the repeal of those time frames by the bill. The section makes a technical amendment to paragraph (o) to reference BI liability coverage, PD liability coverage, and medical payments coverage, rather than PIP, in the prohibitions against the unfair insurance trade practice of increasing premium or cancelling a motor vehicle insurance policy solely because the insured was involved in a motor vehicle accident without having information the insured was substantially at fault.

Section 34 amends s. 626.989, F.S., to revise the “fraudulent insurance acts” detailed in the section to refer to medical payments coverage, rather than the No-Fault Law.

Section 35 amends s. 627.06501, F.S., regarding insurance discounts for completing a driver improvement course, to delete a reference to PIP and insert a reference to medical payments.

Sections 37 and 38 amend s. 627.0652, F.S., and s. 627.0653, F.S., respectively, relating to insurance discounts for motor vehicle coverage, by replacing references to PIP with references to medical payments coverage.

Section 39 amends s. 627.4132, F.S., regarding the general prohibition against stacking of motor vehicle coverages, to refer to BI and PD instead of PIP or other coverage.

Section 40 amends s. 627.7263, F.S., which generally makes the rental and leasing driver's insurance primary, to delete references to PIP and insert references to medical payments coverage.

Section 45 amends s. 627.728, F.S., which governs cancellations of motor vehicle insurance policies, to delete a reference to PIP in the definition of "policy."

Section 46 amends s. 627.7295, F.S., to revise definitions relating to motor vehicle insurance contracts by deleting references to PIP and inserting references to BI liability coverage and make other conforming and editorial changes.

Section 49 amends s. 627.748, F.S., relating to insurance requirements for transportation network companies, to remove references to PIP required under the repealed No-Fault law and insert a cross-reference to the revised financial responsibility requirements for for-hire passenger transportation vehicles in section 17 of the bill.

Section 50 amends s. 627.749, F.S., relating to insurance requirements for autonomous vehicles, to delete a reference to PIP in those insurance requirements.

Section 51 amends s. 627.8405, F.S., regarding prohibited acts of premium finance companies, to replace a reference to a PIP/PD only policy with a reference to a policy that only provides BI/PD.

Section 52 amends s. 627.915, F.S., which requires private passenger automobile insurers to report annually information to the office, to remove references to PIP.

Section 53 amends s. 628.909, F.S., which applies certain provisions of the Insurance Code to captive insurance companies, to delete references to the No-Fault Law.

Section 54 amends s. 705.184, F.S., which governs derelict or abandoned motor vehicles on the premises of public-use airports, to delete references to s. 627.736, F.S., which is repealed by the bill.

Section 55 amends s. 713.78, F.S., regarding liens for recovering, towing, or storing vehicles and vessels, to delete references to s. 627.736, F.S., which is repealed by the bill.

Section 56 amends s. 817.234, F.S., regarding false and fraudulent insurance claims, to delete references to PIP and replace them with references to medical payments coverage.

Application of Bill and Effective Date

Section 44 creates s. 627.7278, F.S., applying financial responsibility requirements and optional medical payments coverage created by the bill as follows:

- Effective January 1, 2021:
 - All motor vehicle insurance policies issued or renewed may not include PIP.
 - All persons must maintain at least minimum security requirements, which is the ability to respond to damages for liability because of motor vehicle crashes in the amounts required in s. 324.021(7), F.S., for private use motor vehicles, for-hire passenger transportation vehicles, commercial motor vehicles, and nonpublic sector buses.
 - Any new or renewal motor vehicle insurance policy delivered or issued in this state must provide coverage that complies with minimum security requirements.
 - An existing motor vehicle insurance policy that provides PIP and property damage liability coverage but does not meet the new bodily injury liability requirements is deemed to meet the bodily injury requirements until the policy is renewed, non-renewed or cancelled on or after January 1, 2021, and the provisions of the No-Fault law and other related statutes remain in full force and effect for motor vehicle accidents covered under a policy issued under the No-Fault law before that date, until the policy is renewed, nonrenewed, or canceled.
- Insurers must allow each insured who has a policy providing PIP which is effective before January 1, 2021, and whose policy does not meet minimum security requirements, to eliminate PIP coverage and obtain coverage providing minimum security requirements effective on or after January 1, 2021. The insurer is also required to offer each insured the optional medical payments coverage required by the bill. Insurers may not impose additional fees solely to change coverage, but may charge an additional premium that is actuarially indicated.
- By September 1, 2020, each motor vehicle insurer shall provide notice that:
 - The Florida Motor Vehicle No-Fault Law is repealed effective January 1, 2021, and that PIP coverage is no longer required or available for purchase.
 - Effective January 1, 2021, a person subject to the financial security requirements of s. 324.022, F.S., must maintain minimum security requirements for BI and PD liability in the following amounts:
 - \$25,000 for BI or death of one person in any one crash and, subject to such limits, \$50,000 for BI or death of two or more persons in any one crash, and
 - \$10,000 for PD in any one crash.
 - BI liability coverage protects the insured, up to the coverage limits, against loss if the insured is legally responsible for the death of or bodily injury to others in a motor vehicle accident.
 - Effective January 1, 2021, each holder of a motor vehicle liability insurance policy purchased as proof of financial responsibility must be offered the optional medical payments coverage benefits at limits of \$5,000 and \$10,000 without a deductible, may be offered such coverage at limits greater than \$5,000, and may be offered coverage with a deductible of up to \$500. Medical payments coverage pays covered medical expenses, up to the limits, for injuries sustained in a motor vehicle crash by the named insured,

- resident relatives, persons operating the insured motor vehicle, passengers in the insured motor vehicle, and persons who are struck by the insured motor vehicle and suffer bodily injury while not an occupant of a self-propelled motor vehicle. Medical payments coverage pays for reasonable expenses for necessary medical, diagnostic, and rehabilitative services that are lawfully provided, supervised, ordered, or prescribed by a licensed physician, a licensed dentist, or a licensed chiropractic physician, or that are provided in a hospital or in a facility that owns, or is wholly owned by, a hospital. Medical payments coverage also provides a death benefit of at least \$5,000.
- A policyholder may obtain uninsured and underinsured motorist coverage, which provides benefits to a policyholder entitled to recover bodily injury damages resulting from a motor vehicle accident with an uninsured or underinsured owner or operator of a motor vehicle.
 - A policy effective before January 1, 2021, is deemed to meet minimum security requirements until it is renewed, non-renewed, or canceled on or after January 1, 2021.
 - A policyholder may change coverages to eliminate PIP protection and obtain coverage providing minimum security requirements.
 - If the policyholder has any questions, he or she should contact the person named at the telephone number provided in the notice.

This section is effective upon the act becoming a law.

Section 15 creates s. 324.0222, F.S., requiring all driver license and motor vehicle registration suspensions for failure to maintain security as required by law in effect before January 1, 2021, to remain in full force and effect after January 1, 2021. A driver may reinstate a suspended driver's license or registration as provided under s. 324.0221, F.S.

Section 57 appropriates for the 2020-2021 fiscal year \$83,651 in nonrecurring funds from the Insurance Regulatory Trust Fund to the Office of Insurance Regulation for the purpose of implementing the act.

Section 58 provides that except as otherwise expressly provided in the act and this section, which take effect upon this act becoming a law, the act is effective January 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Bodily injury coverage is not a required coverage under Florida law unless a person is involved in certain accidents causing bodily injury, convicted of certain offenses, or is otherwise required to maintain BI liability coverage in statute. Failure to maintain BI coverage, when required, can result in the suspension of a license or registration. The reinstatement fee under s. 324.071, F.S., for such suspension under current law is \$15. The bill retains this reinstatement fee for a license suspension based upon a crash report under s. 324.051(2), F.S.; a registration suspension under s. 324.072, F.S., based on a license suspension pursuant to s. 322.26, F.S., or s. 322.27, F.S.; suspension of the operating privileges of a nonresident driver under s. 324.081, F.S.; or suspension of license and registration under s. 324.121, F.S., for failure to satisfy a judgment.

The bill retains the current reinstatement fees under s. 324.0221, F.S., for a suspended license or registration for failure to maintain required insurance based on a report by an insurer. The reinstatement fee for such suspensions under s. 324.0221, F.S., is \$150 for a first reinstatement, while second and subsequent reinstatements within 3 years of the first reinstatement require fees of \$250 and \$500, respectively.

B. Private Sector Impact:

The fiscal impact to policyholders, health insurers, health care providers, and injured claimants is indeterminate. However, in a 2016 report, *Florida Office of Insurance Regulation: Review of Personal Injury Protection Legislation*, provided, among other information, actuarial estimates of the savings expected from repealing the No-Fault Law.⁶⁰ The report concludes, based only on repeal of the No-Fault Law with financial responsibility limits of \$25,000/\$50,000, that a 5.6 percent savings would be realized in the statewide average premium charge.⁶¹ The 2016 PIP Study estimated that health insurers would cover approximately \$469.7 million of current PIP loss if No-Fault were repealed.⁶² Health care providers would cover approximately \$32.8 million of current PIP losses.⁶³ Injured claimants would cover approximately \$82.9 million of current PIP losses.⁶⁴

⁶⁰ Office of Insurance Regulation, *Review of Personal Injury Protection Legislation*, (Sept. 13, 2016), Appendix 3, p. 1. Available at <http://www.floir.com/siteDocuments/FLOIRReviewPIP20160913.pdf> (last viewed January 16, 2020).

⁶¹ That is the average premium savings for a driver purchasing BI, UM, PD, Comprehensive, and Collision coverages.

⁶² See Office of Insurance Regulation fn. 52 at pg. 68.

⁶³ See *id.*

⁶⁴ See *id.*

The actuarial consulting firm Milliman, Inc., estimated the impact of similar, but not identical, legislation in 2018, on behalf of the Property and Casualty Insurers Association of America. The Milliman report, dated January 25, 2018, estimated that repealing PIP and mandating BI coverage of at least \$25,000/\$50,000 would increase premiums on average by \$67 (5.3 percent), increase premiums on average for drivers that currently purchase full coverage by \$105 (7.2 percent), and increase premiums on average \$230 (50.1 percent) for drivers who currently purchase only PIP and PD at the minimum mandatory limits.⁶⁵ The report estimates that *mandating* \$5,000 of MedPay in addition to mandating BI coverage of at least \$25,000/\$50,000 would increase premiums on average by \$115.85 (9.2 percent).⁶⁶ The report identifies as cost-drivers increasing premium the elimination of the No-Fault verbal threshold for noneconomic damages and the elimination of the PIP co-insurance provisions (20 percent for medical expenses and 40 percent for loss of income expenses).⁶⁷

Policyholders who reside in the same household as a high-risk individual who is of driving age could see a decrease in their rates if they exclude such drivers from one or more of the specified coverages.

C. Government Sector Impact:

The bill appropriates for the 2020-2021 fiscal year \$83,651 in nonrecurring funds from the Insurance Regulatory Trust Fund to the Office of Insurance Regulation to implement the act. The fiscal impact to state and local governments is otherwise indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.646, 318.18, 320.02, 320.0609, 320.27, 320.771, 322.251, 322.34, 324.011, 324.021, 324.022, 324.0221, 324.023, 324.031, 324.032, 324.051, 324.071, 324.091, 324.151, 324.161, 324.171, 324.251, 400.9905, 400.991, 400.9935, 409.901, 409.910, 456.057, 456.072, 626.9541, 626.989, 627.06501, 627.0651, 627.0652, 627.0653, 627.4132, 627.7263, 627.727, 627.7275, 627.728, 627.7295, 627.7415, 627.748, 627.8405, 627.915, 628.909, 705.184, 713.78, and 817.234.

⁶⁵ Milliman, Inc., *Florida Personal Auto Insurance Impact of Repealing No-Fault Coverage – Prepared for Property Casualty Insurers Association of America*, pg. 4 (Jan. 25, 2018). Available at http://floridapolitics.com/wp-content/uploads/2018/02/Impact-of-Repealing-No-Fault_Final.pdf (last viewed January 16, 2020).

⁶⁶ See Milliman at pg. 6.

⁶⁷ See Milliman at pgs. 9-10.

This bill creates the following sections of the Florida Statutes: 324.0222, 627.7265, 627.7278, and 627.747.

This bill repeals the following sections of the Florida Statutes: 627.730, 627.731, 627.7311, 627.732, 627.733, 627.734, 627.736, 627.737, 627.739, 627.7401, 627.7403, 627.7405, and 627.7407.

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Lee

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1 A bill to be entitled
 2 An act relating to motor vehicle insurance; repealing
 3 ss. 627.730, 627.731, 627.7311, 627.732, 627.733,
 4 627.734, 627.736, 627.737, 627.739, 627.7401,
 5 627.7403, and 627.7405, F.S., which comprise the
 6 Florida Motor Vehicle No-Fault Law; repealing s.
 7 627.7407, F.S., relating to application of the Florida
 8 Motor Vehicle No-Fault Law; amending s. 316.646, F.S.;
 9 revising a requirement for proof of security on a
 10 motor vehicle and the applicability of the
 11 requirement; amending s. 318.18, F.S.; conforming a
 12 provision to changes made by the act; amending s.
 13 320.02, F.S.; revising the motor vehicle insurance
 14 coverages that an applicant must show to register
 15 certain vehicles with the Department of Highway Safety
 16 and Motor Vehicles; conforming a provision to changes
 17 made by the act; revising construction; amending s.
 18 320.0609, F.S.; conforming a provision to changes made
 19 by the act; amending s. 320.27, F.S.; defining the
 20 term "garage liability insurance"; revising garage
 21 liability insurance requirements for motor vehicle
 22 dealer applicants; conforming a provision to changes
 23 made by the act; amending s. 320.771, F.S.; revising
 24 garage liability insurance requirements for
 25 recreational vehicle dealer license applicants;
 26 amending ss. 322.251 and 322.34, F.S.; conforming
 27 provisions to changes made by the act; amending s.
 28 324.011, F.S.; revising legislative intent; amending
 29 s. 324.021, F.S.; revising definitions of the terms

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30 "motor vehicle" and "proof of financial
 31 responsibility"; revising minimum coverage
 32 requirements for proof of financial responsibility for
 33 specified motor vehicles; defining the term "for-hire
 34 passenger transportation vehicle"; conforming
 35 provisions to changes made by the act; amending s.
 36 324.022, F.S.; revising minimum liability coverage
 37 requirements for motor vehicle owners or operators;
 38 revising authorized methods for meeting such
 39 requirements; deleting a provision relating to an
 40 insurer's duty to defend certain claims; revising the
 41 vehicles that are excluded from the definition of the
 42 term "motor vehicle"; providing security requirements
 43 for certain excluded vehicles; conforming provisions
 44 to changes made by the act; conforming cross-
 45 references; amending s. 324.0221, F.S.; revising
 46 coverages that subject a policy to certain insurer
 47 reporting and notice requirements; conforming
 48 provisions to changes made by the act; creating s.
 49 324.0222, F.S.; providing that driver license or
 50 registration suspensions for failure to maintain
 51 required security which were in effect before a
 52 specified date remain in full force and effect;
 53 providing that such suspended licenses or
 54 registrations may be reinstated as provided in a
 55 specified section; amending s. 324.023, F.S.;
 56 conforming cross-references; amending s. 324.031,
 57 F.S.; specifying a method of proving financial
 58 responsibility; revising the amount of a certificate

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59 of deposit required to elect a certain method of proof
 60 of financial responsibility; revising excess liability
 61 coverage requirements for a person electing to use
 62 such method; amending s. 324.032, F.S.; revising
 63 financial responsibility requirements for owners or
 64 lessees of for-hire passenger transportation vehicles;
 65 amending ss. 324.051, 324.071, and 324.091, F.S.;
 66 making technical changes; amending s. 324.151, F.S.;
 67 revising requirements for motor vehicle liability
 68 insurance policies relating to coverage, and exclusion
 69 from coverage, for certain drivers and vehicles;
 70 defining terms; conforming provisions to changes made
 71 by the act; making technical changes; amending s.
 72 324.161, F.S.; revising requirements for a certificate
 73 of deposit that is required if a person elects a
 74 certain method of proving financial responsibility;
 75 amending s. 324.171, F.S.; revising the minimum net
 76 worth requirements to qualify certain persons as self-
 77 insurers; conforming provisions to changes made by the
 78 act; amending s. 324.251, F.S.; revising the short
 79 title and an effective date; amending s. 400.9905,
 80 F.S.; revising the definition of the term "clinic";
 81 amending ss. 400.991 and 400.9935, F.S.; conforming
 82 provisions to changes made by the act; amending s.
 83 409.901, F.S.; revising the definition of the term
 84 "third-party benefit"; amending s. 409.910, F.S.;
 85 revising the definition of the term "medical
 86 coverage"; amending s. 456.057, F.S.; conforming a
 87 cross-reference; amending s. 456.072, F.S.; revising

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88 specified grounds for discipline for certain health
 89 professions; amending s. 626.9541, F.S.; conforming a
 90 provision to changes made by the act; revising the
 91 type of insurance coverage applicable to a certain
 92 prohibited act; amending s. 626.989, F.S.; revising
 93 the definition of the term "fraudulent insurance act";
 94 amending s. 627.06501, F.S.; revising coverages that
 95 may provide for a reduction in motor vehicle insurance
 96 policy premium charges under certain circumstances;
 97 amending s. 627.0651, F.S.; specifying requirements
 98 for initial rate filings for motor vehicle liability
 99 policies submitted to the Office of Insurance
 100 Regulation beginning on a specified date; amending s.
 101 627.0652, F.S.; revising coverages that must provide a
 102 premium charge reduction under certain circumstances;
 103 amending s. 627.0653, F.S.; revising coverages subject
 104 to premium discounts for specified motor vehicle
 105 equipment; amending s. 627.4132, F.S.; revising the
 106 coverages of a motor vehicle policy which are subject
 107 to a stacking prohibition; amending s. 627.7263, F.S.;
 108 revising coverages that are deemed primary, except
 109 under certain circumstances, for the lessor of a motor
 110 vehicle for lease or rent; revising a notice that is
 111 required if the lessee's coverage is to be primary;
 112 creating s. 627.7265, F.S.; specifying persons whom
 113 medical payments coverage must protect; requiring
 114 medical payments coverage to cover reasonable expenses
 115 for certain medical services provided by specified
 116 providers and facilities and to provide a death

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117 benefit; specifying the minimum medical expense and
 118 death benefit limits; specifying coverage options an
 119 insurer must and may offer; providing that motor
 120 vehicle liability insurance policies are deemed to
 121 have medical payments coverage at a certain limit and
 122 with no deductible unless rejected or modified by the
 123 policyholder by certain means; specifying requirements
 124 for certain forms approved by the office; requiring
 125 insurers to provide policyholders with a certain
 126 annual notice; providing construction relating to
 127 limits on certain other coverages; requiring insurers,
 128 upon receiving certain notice of an accident, to hold
 129 a specified reserve for certain purposes for a certain
 130 timeframe; providing that the reserve requirement does
 131 not require insurers to establish a claim reserve for
 132 accounting purposes; specifying that an insurer
 133 providing medical payments coverage benefits may not
 134 have a lien on a certain recovery and may not have a
 135 certain cause of action; authorizing insurers to
 136 include policy provisions allowing for subrogation,
 137 under certain circumstances, for medical payments
 138 benefits paid; providing construction; specifying a
 139 requirement for an insured for repayment of medical
 140 payments benefits under certain circumstances;
 141 prohibiting insurers from including policy provisions
 142 allowing for subrogation for death benefits paid;
 143 amending s. 627.727, F.S.; revising the legal
 144 liability of an uninsured motorist coverage insurer;
 145 conforming provisions to changes made by the act;

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146 amending s. 627.7275, F.S.; revising required
 147 coverages for a motor vehicle insurance policy;
 148 conforming provisions to changes made by the act;
 149 creating s. 627.7278, F.S.; defining the term "minimum
 150 security requirements"; providing requirements,
 151 applicability, and construction relating to motor
 152 vehicle insurance policies as of a certain date;
 153 requiring insurers to allow certain insureds to make
 154 certain coverage changes, subject to certain
 155 conditions; requiring an insurer to provide, by a
 156 specified date, a specified notice to policyholders
 157 relating to requirements under the act; amending s.
 158 627.728, F.S.; conforming a provision to changes made
 159 by the act; amending s. 627.7295, F.S.; revising the
 160 definitions of the terms "policy" and "binder";
 161 revising the coverages of a motor vehicle insurance
 162 policy for which a licensed general lines agent may
 163 charge a specified fee; conforming a provision to
 164 changes made by the act; amending s. 627.7415, F.S.;
 165 revising additional liability insurance requirements
 166 for commercial motor vehicles; creating s. 627.747,
 167 F.S.; providing that private passenger motor vehicle
 168 policies may exclude certain identified individuals
 169 from specified coverages under certain circumstances;
 170 providing that such policies may not exclude coverage
 171 under certain circumstances; amending s. 627.748,
 172 F.S.; revising insurance requirements for
 173 transportation network company drivers; conforming
 174 provisions to changes made by the act; amending s.

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175 627.749, F.S.; conforming a provision to changes made
 176 by the act; amending s. 627.8405, F.S.; revising
 177 coverages in a policy sold in combination with an
 178 accidental death and dismemberment policy which a
 179 premium finance company may not finance; revising
 180 rulemaking authority of the Financial Services
 181 Commission; amending ss. 627.915, 628.909, 705.184,
 182 and 713.78, F.S.; conforming provisions to changes
 183 made by the act; amending s. 817.234, F.S.; revising
 184 coverages that are the basis of specified prohibited
 185 false and fraudulent insurance claims; conforming
 186 provisions to changes made by the act; providing an
 187 appropriation; providing effective dates.
 188

189 Be It Enacted by the Legislature of the State of Florida:

190
 191 Section 1. Sections 627.730, 627.731, 627.7311, 627.732,
 192 627.733, 627.734, 627.736, 627.737, 627.739, 627.7401, 627.7403,
 193 and 627.7405, Florida Statutes, are repealed.

194 Section 2. Section 627.7407, Florida Statutes, is repealed.

195 Section 3. Subsection (1) of section 316.646, Florida
 196 Statutes, is amended to read:

197 316.646 Security required; proof of security and display
 198 thereof.—

199 (1) Any person required by s. 324.022 to maintain liability
 200 security for property damage, liability security, required by s.
 201 324.023 to maintain liability security for bodily injury, or
 202 death, or required by s. 627.733 to maintain personal injury
 203 protection security on a motor vehicle shall have in his or her

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204 immediate possession at all times while operating such motor
 205 vehicle proper proof of maintenance of the ~~required~~ security
 206 required under s. 324.021(7).

207 (a) Such proof ~~must~~ shall be in a uniform paper or
 208 electronic format, as prescribed by the department, a valid
 209 insurance policy, an insurance policy binder, a certificate of
 210 insurance, or such other proof as may be prescribed by the
 211 department.

212 (b)1. The act of presenting to a law enforcement officer an
 213 electronic device displaying proof of insurance in an electronic
 214 format does not constitute consent for the officer to access any
 215 information on the device other than the displayed proof of
 216 insurance.

217 2. The person who presents the device to the officer
 218 assumes the liability for any resulting damage to the device.

219 Section 4. Paragraph (b) of subsection (2) of section
 220 318.18, Florida Statutes, is amended to read:

221 318.18 Amount of penalties.—The penalties required for a
 222 noncriminal disposition pursuant to s. 318.14 or a criminal
 223 offense listed in s. 318.17 are as follows:

224 (2) Thirty dollars for all nonmoving traffic violations
 225 and:

226 (b) For all violations of ss. 320.0605, 320.07(1), 322.065,
 227 and 322.15(1). A ~~Any~~ person who is cited for a violation of s.
 228 320.07(1) shall be charged a delinquent fee pursuant to s.
 229 320.07(4).

230 1. If a person who is cited for a violation of s. 320.0605
 231 or s. 320.07 can show proof of having a valid registration at
 232 the time of arrest, the clerk of the court may dismiss the case

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and may assess a dismissal fee of up to \$10, from which the clerk shall remit \$2.50 to the Department of Revenue for deposit into the General Revenue Fund. A person who finds it impossible or impractical to obtain a valid registration certificate must submit an affidavit detailing the reasons for the impossibility or impracticality. The reasons may include, but are not limited to, the fact that the vehicle was sold, stolen, or destroyed; that the state in which the vehicle is registered does not issue a certificate of registration; or that the vehicle is owned by another person.

2. If a person who is cited for a violation of s. 322.03, s. 322.065, or s. 322.15 can show a driver license issued to him or her and valid at the time of arrest, the clerk of the court may dismiss the case and may assess a dismissal fee of up to \$10, from which the clerk shall remit \$2.50 to the Department of Revenue for deposit into the General Revenue Fund.

3. If a person who is cited for a violation of s. 316.646 can show proof of security as required by s. 324.021(7) ~~s. 627.733~~, issued to the person and valid at the time of arrest, the clerk of the court may dismiss the case and may assess a dismissal fee of up to \$10, from which the clerk shall remit \$2.50 to the Department of Revenue for deposit into the General Revenue Fund. A person who finds it impossible or impractical to obtain proof of security must submit an affidavit detailing the reasons for the impracticality. The reasons may include, but are not limited to, the fact that the vehicle has since been sold, stolen, or destroyed; ~~that the owner or registrant of the vehicle is not required by s. 627.733 to maintain personal injury protection insurance;~~ or that the vehicle is owned by

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another person.

Section 5. Paragraphs (a) and (d) of subsection (5) of section 320.02, Florida Statutes, are amended to read:

320.02 Registration required; application for registration; forms.—

(5) (a) Proof that bodily injury liability coverage and property damage liability coverage ~~personal injury protection benefits~~ have been purchased if required under s. 324.022, s. 324.032, or s. 627.742 ~~s. 627.733~~, ~~that property damage liability coverage has been purchased as required under s. 324.022~~, that bodily injury liability ~~or death~~ coverage has been purchased if required under s. 324.023, and that combined bodily liability insurance and property damage liability insurance have been purchased if required under s. 627.7415 must ~~shall~~ be provided in the manner prescribed by law by the applicant at the time of application for registration of any motor vehicle that is subject to such requirements. The issuing agent may not ~~shall refuse to~~ issue registration if such proof of purchase is not provided. Insurers shall furnish uniform proof-of-purchase cards in a paper or electronic format in a form prescribed by the department and include the name of the insured's insurance company, the coverage identification number, and the make, year, and vehicle identification number of the vehicle insured. The card must contain a statement notifying the applicant of the penalty specified under s. 316.646(4). The card or insurance policy, insurance policy binder, or certificate of insurance or a photocopy of any of these; an affidavit containing the name of the insured's insurance company, the insured's policy number, and the make and year of the vehicle insured; or such other

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291 proof as may be prescribed by the department constitutes ~~shall~~
 292 ~~constitute~~ sufficient proof of purchase. If an affidavit is
 293 provided as proof, it must be in substantially the following
 294 form:

295
 296 Under penalty of perjury, I ...(Name of insured)... do hereby
 297 certify that I have ...(bodily injury liability and Personal
 298 ~~Injury Protection~~, property damage liability, ~~and, if required,~~
 299 ~~Bodily Injury Liability~~)... insurance currently in effect with
 300 ...(Name of insurance company)... under ...(policy number)...
 301 covering ...(make, year, and vehicle identification number of
 302 vehicle).... ...(Signature of Insured)...

303
 304 Such affidavit must include the following warning:

305
 306 WARNING: GIVING FALSE INFORMATION IN ORDER TO OBTAIN A VEHICLE
 307 REGISTRATION CERTIFICATE IS A CRIMINAL OFFENSE UNDER FLORIDA
 308 LAW. ANYONE GIVING FALSE INFORMATION ON THIS AFFIDAVIT IS
 309 SUBJECT TO PROSECUTION.

310
 311 If an application is made through a licensed motor vehicle
 312 dealer as required under s. 319.23, the original or a photocopy
 313 ~~photostatic copy~~ of such card, insurance policy, insurance
 314 policy binder, or certificate of insurance or the original
 315 affidavit from the insured must ~~shall~~ be forwarded by the dealer
 316 to the tax collector of the county or the Department of Highway
 317 Safety and Motor Vehicles for processing. By executing the
 318 ~~aforsaid~~ affidavit, a ~~no~~ licensed motor vehicle dealer is not
 319 ~~will be~~ liable in damages for any inadequacy, insufficiency, or

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320 falsification of any statement contained therein. ~~A card must~~
 321 ~~also indicate the existence of any bodily injury liability~~
 322 ~~insurance voluntarily purchased.~~

323 (d) The verifying of ~~proof of personal injury protection~~
 324 ~~insurance, proof of property damage liability insurance, proof~~
 325 ~~of combined bodily liability insurance and property damage~~
 326 ~~liability insurance, or~~ proof of financial responsibility
 327 insurance and the issuance or failure to issue the motor vehicle
 328 registration under the ~~provisions of this chapter~~ may not be
 329 construed in any court as a warranty of the reliability or
 330 accuracy of the evidence of such proof, or as meaning that the
 331 provisions of any insurance policy furnished as proof of
 332 financial responsibility comply with state law. Neither the
 333 department nor any tax collector is liable in damages for any
 334 inadequacy, insufficiency, falsification, or unauthorized
 335 modification of any item of the ~~proof of personal injury~~
 336 ~~protection insurance, proof of property damage liability~~
 337 ~~insurance, proof of combined bodily liability insurance and~~
 338 ~~property damage liability insurance, or~~ proof of financial
 339 responsibility before insurance prior to, during, or subsequent
 340 to the verification of the proof. The issuance of a motor
 341 vehicle registration does not constitute prima facie evidence or
 342 a presumption of insurance coverage.

343 Section 6. Paragraph (b) of subsection (1) of section
 344 320.0609, Florida Statutes, is amended to read:

345 320.0609 Transfer and exchange of registration license
 346 plates; transfer fee.—

347 (1)

348 (b) The transfer of a license plate from a vehicle disposed

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of to a newly acquired vehicle does not constitute a new registration. The application for transfer ~~must shall~~ be accepted without requiring proof of ~~personal injury protection~~ or liability insurance.

Section 7. Paragraph (g) is added to subsection (1) of section 320.27, Florida Statutes, and subsection (3) of that section is amended, to read:

320.27 Motor vehicle dealers.—

(1) DEFINITIONS.—The following words, terms, and phrases when used in this section have the meanings respectively ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(g) "Garage liability insurance" means, beginning January 1, 2021, combined single-limit liability coverage, including property damage and bodily injury liability coverage, in the amount of at least \$60,000.

(3) APPLICATION AND FEE.—~~The application for the license application must shall~~ be in such form as may be prescribed by the department and ~~is shall be~~ subject to such rules with ~~respect thereto~~ as may be so prescribed by the department ~~it~~. Such application ~~must shall~~ be verified by oath or affirmation and ~~must shall~~ contain a full statement of the name and birth date of the person or persons applying for the license ~~therefor~~; the name of the firm or copartnership, with the names and places of residence of all members ~~thereof~~, if such applicant is a firm or copartnership; the names and places of residence of the principal officers, if the applicant is a body corporate or other artificial body; the name of the state under whose laws the corporation is organized; the present and former place or

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places of residence of the applicant; and the prior business in which the applicant has been engaged and ~~its the~~ location ~~thereof~~. ~~The~~ Such application ~~must shall~~ describe the exact location of the place of business and ~~must shall~~ state whether the place of business is owned by the applicant and when acquired, or, if leased, a true copy of the lease ~~must shall~~ be attached to the application. The applicant shall certify that the location provides an adequately equipped office and is not a residence; that the location affords sufficient unoccupied space upon and within which adequately to store all motor vehicles offered and displayed for sale; and that the location is a suitable place where the applicant can in good faith carry on such business and keep and maintain books, records, and files necessary to conduct such business, which ~~must shall~~ be available at all reasonable hours to inspection by the department or any of its inspectors or other employees. The applicant shall certify that the business of a motor vehicle dealer is the principal business that will ~~which shall~~ be conducted at that location. The application ~~must shall~~ contain a statement that the applicant is either franchised by a manufacturer of motor vehicles, in which case the name of each motor vehicle that the applicant is franchised to sell ~~must shall~~ be included, or an independent (nonfranchised) motor vehicle dealer. The application ~~must shall~~ contain other relevant information as may be required by the department. The applicant shall furnish, including evidence, in a form approved by the department, that the applicant is insured under a garage liability insurance policy or a general liability insurance policy coupled with a business automobile policy having the

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407 coverages and limits of the garage liability insurance coverage
 408 in accordance with paragraph (1) (g), which shall include, at a
 409 minimum, \$25,000 combined single-limit liability coverage
 410 including bodily injury and property damage protection and
 411 \$10,000 personal injury protection. However, a salvage motor
 412 vehicle dealer as defined in subparagraph (1)(c)5. is exempt
 413 from the requirements for garage liability insurance ~~and~~
 414 ~~personal injury protection insurance~~ on those vehicles that
 415 cannot be legally operated on roads, highways, or streets in
 416 this state. Franchise dealers must submit a garage liability
 417 insurance policy, and all other dealers must submit a garage
 418 liability insurance policy or a general liability insurance
 419 policy coupled with a business automobile policy. Such policy
 420 must ~~shall~~ be for the license period, and evidence of a new or
 421 continued policy must ~~shall~~ be delivered to the department at
 422 the beginning of each license period. Upon making an initial
 423 application, the applicant shall pay to the department a fee of
 424 \$300 in addition to any other fees required by law. Applicants
 425 may choose to extend the licensure period for 1 additional year
 426 for a total of 2 years. An initial applicant shall pay to the
 427 department a fee of \$300 for the first year and \$75 for the
 428 second year, in addition to any other fees required by law. An
 429 applicant for renewal shall pay to the department \$75 for a 1-
 430 year renewal or \$150 for a 2-year renewal, in addition to any
 431 other fees required by law. Upon making an application for a
 432 change of location, the applicant ~~person~~ shall pay a fee of \$50
 433 in addition to any other fees now required by law. The
 434 department shall, in the case of every application for initial
 435 licensure, verify whether certain facts set forth in the

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436 application are true. Each applicant, general partner in the
 437 case of a partnership, or corporate officer and director in the
 438 case of a corporate applicant ~~shall, must~~ file a set of
 439 fingerprints with the department for the purpose of determining
 440 any prior criminal record or any outstanding warrants. The
 441 department shall submit the fingerprints to the Department of
 442 Law Enforcement for state processing and forwarding to the
 443 Federal Bureau of Investigation for federal processing. The
 444 actual cost of state and federal processing must ~~shall~~ be borne
 445 by the applicant and is in addition to the fee for licensure.
 446 The department may issue a license to an applicant pending the
 447 results of the fingerprint investigation, which license is fully
 448 revocable if the department subsequently determines that any
 449 facts set forth in the application are not true or correctly
 450 represented.

451 Section 8. Paragraph (j) of subsection (3) of section
 452 320.771, Florida Statutes, is amended to read:

453 320.771 License required of recreational vehicle dealers.—

454 (3) APPLICATION.—The application for such license shall be
 455 in the form prescribed by the department and subject to such
 456 rules as may be prescribed by it. The application shall be
 457 verified by oath or affirmation and shall contain:

458 (j) A statement that the applicant is insured under a
 459 garage liability insurance policy in accordance with s.
 460 320.27(1) (g), which shall include, at a minimum, \$25,000
 461 combined single-limit liability coverage, including bodily
 462 injury and property damage protection, and \$10,000 personal
 463 injury protection, if the applicant is to be licensed as a
 464 dealer in, or intends to sell, recreational vehicles.

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The department shall, if it deems necessary, cause an investigation to be made to ascertain if the facts set forth in the application are true and shall not issue a license to the applicant until it is satisfied that the facts set forth in the application are true.

Section 9. Subsections (1) and (2) of section 322.251, Florida Statutes, are amended to read:

322.251 Notice of cancellation, suspension, revocation, or disqualification of license.—

(1) All orders of cancellation, suspension, revocation, or disqualification issued under ~~the provisions of this chapter, chapter 318, or chapter 324 must, or ss. 627.732-627.734 shall~~ be given either by personal delivery thereof to the licensee whose license is being canceled, suspended, revoked, or disqualified or by deposit in the United States mail in an envelope, first class, postage prepaid, addressed to the licensee at his or her last known mailing address furnished to the department. Such mailing by the department constitutes notification, and any failure by the person to receive the mailed order will not affect or stay the effective date or term of the cancellation, suspension, revocation, or disqualification of the licensee's driving privilege.

(2) The giving of notice and an order of cancellation, suspension, revocation, or disqualification by mail is complete upon expiration of 20 days after deposit in the United States mail for all notices except those issued under chapter 324 ~~or ss. 627.732-627.734~~, which are complete 15 days after deposit in the United States mail. Proof of the giving of notice and an

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order of cancellation, suspension, revocation, or disqualification in either manner must ~~shall~~ be made by entry in the records of the department that such notice was given. The entry is admissible in the courts of this state and constitutes sufficient proof that such notice was given.

Section 10. Paragraph (a) of subsection (8) of section 322.34, Florida Statutes, is amended to read:

322.34 Driving while license suspended, revoked, canceled, or disqualified.—

(8)(a) Upon the arrest of a person for the offense of driving while the person's driver license or driving privilege is suspended or revoked, the arresting officer shall determine:

1. Whether the person's driver license is suspended or revoked, or the person is under suspension or revocation equivalent status.

2. Whether the person's driver license has remained suspended or revoked, or the person has been under suspension or revocation equivalent status, since a conviction for the offense of driving with a suspended or revoked license.

3. Whether the suspension, revocation, or suspension or revocation equivalent status was made under s. 316.646 ~~or s. 627.733~~, relating to failure to maintain required security, or under s. 322.264, relating to habitual traffic offenders.

4. Whether the driver is the registered owner or co-owner of the vehicle.

Section 11. Section 324.011, Florida Statutes, is amended to read:

324.011 Legislative intent and purpose of chapter.—It is the Legislature's intent of this chapter to ensure that the

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523 privilege of owning or operating a motor vehicle in this state
 524 is exercised recognize the existing privilege to own or operate
 525 a motor vehicle on the public streets and highways of this state
 526 when such vehicles are used with due consideration for others'
 527 safety ~~others~~ and their property, and to promote safety, and to
 528 provide financial security requirements for such owners and or
 529 operators whose responsibility it is to recompense others for
 530 injury to person or property caused by the operation of a motor
 531 vehicle. Therefore, this chapter requires that every owner or
 532 operator of a motor vehicle required to be registered in this
 533 state establish, maintain, and it is required herein that the
 534 operator of a motor vehicle involved in a crash or convicted of
 535 certain traffic offenses meeting the operative provisions of s.
 536 324.051(2) shall respond for such damages and show proof of
 537 financial ability to respond for damages arising out of the
 538 ownership, maintenance, or use of a motor vehicle in future
 539 accidents as a requisite to owning or operating a motor vehicle
 540 in this state his or her future exercise of such privileges.

541 Section 12. Subsections (1) and (7) and paragraph (c) of
 542 subsection (9) of section 324.021, Florida Statutes, are
 543 amended, and subsection (12) is added to that section, to read:

544 324.021 Definitions; minimum insurance required.—The
 545 following words and phrases when used in this chapter shall, for
 546 the purpose of this chapter, have the meanings respectively
 547 ascribed to them in this section, except in those instances
 548 where the context clearly indicates a different meaning:

549 (1) MOTOR VEHICLE.—Every self-propelled vehicle that is
 550 designed and required to be licensed for use upon a highway,
 551 including trailers and semitrailers designed for use with such

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552 vehicles, except traction engines, road rollers, farm tractors,
 553 power shovels, and well drillers, and every vehicle that is
 554 propelled by electric power obtained from overhead wires but not
 555 operated upon rails, but not including any personal delivery
 556 device or mobile carrier as defined in s. 316.003, bicycle, or
 557 moped. ~~However, the term "motor vehicle" does not include a~~
 558 ~~motor vehicle as defined in s. 627.732(3) when the owner of such~~
 559 ~~vehicle has complied with the requirements of ss. 627.730-~~
 560 ~~627.7405, inclusive, unless the provisions of s. 324.051 apply,~~
 561 ~~and, in such case, the applicable proof of insurance provisions~~
 562 ~~of s. 320.02 apply.~~

563 (7) PROOF OF FINANCIAL RESPONSIBILITY.—That Proof of
 564 ability to respond in damages for liability on account of
 565 crashes arising out of the ownership, maintenance, or use of a
 566 motor vehicle:

567 (a) Beginning January 1, 2021, with respect to a motor
 568 vehicle that is not a commercial motor vehicle, nonpublic sector
 569 bus, or for-hire passenger transportation vehicle, in the amount
 570 of:

571 1. Twenty-five thousand dollars for \$10,000 because of
 572 bodily injury to, or the death of, one person in any one crash
 573 and,

574 ~~(b)~~ subject to such limits for one person, in the amount of
 575 \$50,000 for \$20,000 because of bodily injury to, or the death
 576 of, two or more persons in any one crash; and

577 2. ~~(e)~~ Ten thousand dollars for damage in the amount of
 578 \$10,000 because of injury to, or destruction of, property of
 579 others in any one crash. ~~and~~

580 ~~(b)~~ (d) With respect to commercial motor vehicles and

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581 ~~nonpublic sector buses~~, in the amounts specified in s. 627.7415
582 ~~ss. 627.7415 and 627.742, respectively.~~

583 (c) With respect to nonpublic sector buses, in the amounts
584 specified in s. 627.742.

585 (d) With respect to for-hire passenger transportation
586 vehicles, in the amounts specified in s. 324.032.

587 (9) OWNER; OWNER/LESSOR.—

588 (c) *Application.*—

589 1. The limits on liability in subparagraphs (b)2. and 3. do
590 not apply to an owner of motor vehicles that are used for
591 commercial activity in the owner's ordinary course of business,
592 other than a rental company that rents or leases motor vehicles.
593 For purposes of this paragraph, the term "rental company"
594 includes only an entity that is engaged in the business of
595 renting or leasing motor vehicles to the general public and that
596 rents or leases a majority of its motor vehicles to persons with
597 no direct or indirect affiliation with the rental company. The
598 term also includes a motor vehicle dealer that provides
599 temporary replacement vehicles to its customers for up to 10
600 days. The term "rental company" also includes:

601 a. A related rental or leasing company that is a subsidiary
602 of the same parent company as that of the renting or leasing
603 company that rented or leased the vehicle.

604 b. The holder of a motor vehicle title or an equity
605 interest in a motor vehicle title if the title or equity
606 interest is held pursuant to or to facilitate an asset-backed
607 securitization of a fleet of motor vehicles used solely in the
608 business of renting or leasing motor vehicles to the general
609 public and under the dominion and control of a rental company,

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610 as described in this subparagraph, in the operation of such
611 rental company's business.

612 2. Furthermore, with respect to commercial motor vehicles
613 as defined in s. 207.002 or s. 320.01 ~~s. 627.732~~, the limits on
614 liability in subparagraphs (b)2. and 3. do not apply if, at the
615 time of the incident, the commercial motor vehicle is being used
616 in the transportation of materials found to be hazardous for the
617 purposes of the Hazardous Materials Transportation Authorization
618 Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq., and that is
619 required pursuant to such act to carry placards warning others
620 of the hazardous cargo, unless at the time of lease or rental
621 either:

622 a. The lessee indicates in writing that the vehicle will
623 not be used to transport materials found to be hazardous for the
624 purposes of the Hazardous Materials Transportation Authorization
625 Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq.; or

626 b. The lessee or other operator of the commercial motor
627 vehicle has in effect insurance with limits of at least \$5
628 ~~million \$5,000,000~~ combined property damage and bodily injury
629 liability.

630 (12) FOR-HIRE PASSENGER TRANSPORTATION VEHICLE.—Every for-
631 hire vehicle as defined in s. 320.01(15) which is offered or
632 used to provide transportation for persons, including taxicabs,
633 limousines, and jitneys.

634 Section 13. Section 324.022, Florida Statutes, is amended
635 to read:

636 324.022 Financial responsibility requirements ~~for property~~
637 ~~damage.~~—

638 (1) (a) Beginning January 1, 2021, every owner or operator

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of a motor vehicle required to be registered in this state shall establish and continuously maintain the ability to respond in damages for liability on account of accidents arising out of the use of the motor vehicle in the amount of:

1. Twenty-five thousand dollars for bodily injury to, or the death of, one person in any one crash and, subject to such limits for one person, in the amount of \$50,000 for bodily injury to, or the death of, two or more persons in any one crash; and

2. Ten thousand dollars for \$10,000 because of damage to, or destruction of, property of others in any one crash.

(b) The requirements of paragraph (a) this section may be met by one of the methods established in s. 324.031; by self-insuring as authorized by s. 768.28(16); or by maintaining a motor vehicle liability insurance policy that an insurance policy providing coverage for property damage liability in the amount of at least \$10,000 because of damage to, or destruction of, property of others in any one accident arising out of the use of the motor vehicle. The requirements of this section may also be met by having a policy which provides combined property damage liability and bodily injury liability coverage for any one crash arising out of the ownership, maintenance, or use of a motor vehicle and that conforms to the requirements of s. 324.151 in the amount of at least \$60,000 for every owner or operator subject to the financial responsibility required in paragraph (a) \$30,000 for combined property damage liability and bodily injury liability for any one crash arising out of the use of the motor vehicle. The policy, with respect to coverage for property damage liability, must meet the applicable requirements

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~~of s. 324.151, subject to the usual policy exclusions that have been approved in policy forms by the Office of Insurance Regulation. No insurer shall have any duty to defend uncovered claims irrespective of their joinder with covered claims.~~

(2) As used in this section, the term:

(a) "Motor vehicle" means any self-propelled vehicle that has four or more wheels and that is of a type designed and required to be licensed for use on the highways of this state, and any trailer or semitrailer designed for use with such vehicle. The term does not include the following:

1. A mobile home as defined in s. 320.01.

2. A motor vehicle that is used in mass transit and designed to transport more than five passengers, exclusive of the operator of the motor vehicle, and that is owned by a municipality, transit authority, or political subdivision of the state.

3. A school bus as defined in s. 1006.25, which must maintain security as required under s. 316.615.

4. A commercial motor vehicle as defined in s. 207.002 or s. 320.01, which must maintain security as required under ss. 324.031 and 627.7415.

5. A nonpublic sector bus, which must maintain security as required under ss. 324.031 and 627.742.

~~6.4. A vehicle providing for-hire passenger transportation vehicle, which must that is subject to the provisions of s. 324.031. A taxicab shall maintain security as required under s. 324.032 s. 324.032(1).~~

~~7.5. A personal delivery device as defined in s. 316.003.~~

(b) "Owner" means the person who holds legal title to a

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motor vehicle or the debtor or lessee who has the right to possession of a motor vehicle that is the subject of a security agreement or lease with an option to purchase.

(3) Each nonresident owner or registrant of a motor vehicle that, whether operated or not, has been physically present within this state for more than 90 days during the preceding 365 days shall maintain security as required by subsection (1). The security must be that is in effect continuously throughout the period the motor vehicle remains within this state.

(4) An The owner or registrant of a motor vehicle who is exempt from the requirements of this section if she or he is a member of the United States Armed Forces and is called to or on active duty outside the United States in an emergency situation is exempt from this section while he or she. The exemption provided by this subsection applies only as long as the member of the Armed Forces is on such active duty. This exemption outside the United States and applies only while the vehicle covered by the security is not operated by any person. Upon receipt of a written request by the insured to whom the exemption provided in this subsection applies, the insurer shall cancel the coverages and return any unearned premium or suspend the security required by this section. Notwithstanding s. 324.0221(2) s. 324.0221(3), the department may not suspend the registration or operator's license of an any owner or registrant of a motor vehicle during the time she or he qualifies for the an exemption under this subsection. An Any owner or registrant of a motor vehicle who qualifies for the an exemption under this subsection shall immediately notify the department before prior ~~to~~ and at the end of the expiration of the exemption.

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Section 14. Subsections (1) and (2) of section 324.0221, Florida Statutes, are amended to read:

324.0221 Reports by insurers to the department; suspension of driver license and vehicle registrations; reinstatement.-

(1) (a) Each insurer that has issued a policy providing ~~personal injury protection coverage or property damage~~ liability coverage shall report the cancellation or nonrenewal thereof to the department within 10 days after the processing date or effective date of each cancellation or nonrenewal. Upon the issuance of a policy providing ~~personal injury protection coverage or property damage~~ liability coverage to a named insured not previously insured by the insurer during that calendar year, the insurer shall report the issuance of the new policy to the department within 10 days. The report must ~~shall~~ be in the form ~~and format~~ and contain any information required by the department and must be provided in a format that is compatible with the data processing capabilities of the department. Failure by an insurer to file proper reports with the department as required by this subsection constitutes a violation of the Florida Insurance Code. These records may ~~shall~~ be used by the department only for enforcement and regulatory purposes, including the generation by the department of data regarding compliance by owners of motor vehicles with the requirements for financial responsibility coverage.

(b) With respect to an insurance policy providing ~~personal injury protection coverage or property damage~~ liability coverage, each insurer shall notify the named insured, or the first-named insured in the case of a commercial fleet policy, in writing that any cancellation or nonrenewal of the policy will

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be reported by the insurer to the department. The notice must also inform the named insured that failure to maintain bodily injury liability ~~personal injury protection~~ coverage and property damage liability coverage on a motor vehicle when required by law may result in the loss of registration and driving privileges in this state and inform the named insured of the amount of the reinstatement fees required by this section. This notice is for informational purposes only, and an insurer is not civilly liable for failing to provide this notice.

(2) The department shall suspend, after due notice and an opportunity to be heard, the registration and driver license of any owner or registrant of a motor vehicle for with respect to which security is required under s. 324.022, s. 324.032, s. 627.7415, or s. 627.742 ~~ss. 324.022 and 627.733~~ upon:

(a) The department's records showing that the owner or registrant of such motor vehicle did not have the in full force and effect when required security in full force and effect that ~~complies with the requirements of ss. 324.022 and 627.733~~; or

(b) Notification by the insurer to the department, in a form approved by the department, of cancellation or termination of the required security.

Section 15. Section 324.0222, Florida Statutes, is created to read:

324.0222 Application of suspensions for failure to maintain security; reinstatement.—All suspensions for failure to maintain required security as required by law in effect before January 1, 2021, remain in full force and effect after January 1, 2021. A driver may reinstate a suspended driver license or registration as provided under s. 324.0221.

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Section 16. Section 324.023, Florida Statutes, is amended to read:

324.023 Financial responsibility for bodily injury or death.—In addition to any other financial responsibility required by law, every owner or operator of a motor vehicle that is required to be registered in this state, or that is located within this state, and who, regardless of adjudication of guilt, has been found guilty of or entered a plea of guilty or nolo contendere to a charge of driving under the influence under s. 316.193 after October 1, 2007, shall, by one of the methods established in s. 324.031(1)(a) or (b) ~~s. 324.031(1) or (2)~~, establish and maintain the ability to respond in damages for liability on account of accidents arising out of the use of a motor vehicle in the amount of \$100,000 because of bodily injury to, or death of, one person in any one crash and, subject to such limits for one person, in the amount of \$300,000 because of bodily injury to, or death of, two or more persons in any one crash and in the amount of \$50,000 because of property damage in any one crash. If the owner or operator chooses to establish and maintain such ability by furnishing a certificate of deposit pursuant to s. 324.031(1)(b) ~~s. 324.031(2)~~, such certificate of deposit must be at least \$350,000. Such higher limits must be carried for a minimum period of 3 years. If the owner or operator has not been convicted of driving under the influence or a felony traffic offense for a period of 3 years from the date of reinstatement of driving privileges for a violation of s. 316.193, the owner or operator is ~~shall be~~ exempt from this section.

Section 17. Section 324.031, Florida Statutes, is amended

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to read:

324.031 Manner of proving financial responsibility.-

~~(1) The owner or operator of a taxicab, limousine, jitney, or any other for-hire passenger transportation vehicle may prove financial responsibility by providing satisfactory evidence of holding a motor vehicle liability policy as defined in s. 324.021(8) or s. 324.151, which policy is issued by an insurance carrier which is a member of the Florida Insurance Guaranty Association. The operator or owner of a motor vehicle other than a for-hire passenger transportation vehicle any other vehicle may prove his or her financial responsibility by:~~

(a)(1) Furnishing satisfactory evidence of holding a motor vehicle liability policy as defined in ss. 324.021(8) and 324.151 which provides liability coverage for the motor vehicle being operated;

(b)(2) Furnishing a certificate of self-insurance showing a deposit of cash in accordance with s. 324.161; or

(c)(3) Furnishing a certificate of self-insurance issued by the department in accordance with s. 324.171.

(2) (a) Beginning January 1, 2021, any person, including any firm, partnership, association, corporation, or other person, other than a natural person, electing to use the method of proof specified in paragraph (1)(b) subsection (2) shall furnish a certificate of deposit equal to the number of vehicles owned times \$60,000 ~~\$30,000~~, to a maximum of \$240,000. ~~\$120,000~~;

(b) In addition, any such person, other than a natural person, shall maintain insurance providing coverage conforming to the requirements of s. 324.151 in excess of the amount of the certificate of deposit, with limits of at least:

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1. One hundred twenty-five thousand dollars for bodily injury to, or the death of, one person in any one crash and, subject to such limits for one person, in the amount of \$250,000 for bodily injury to, or the death of, two or more persons in any one crash, and \$50,000 for damage to, or destruction of, property of others in any one crash; or

2. Three hundred thousand dollars for combined bodily injury liability and property damage liability for any one crash \$10,000/20,000/10,000 or \$30,000 combined single limits, and such excess insurance shall provide minimum limits of \$125,000/250,000/50,000 or \$300,000 combined single limits. These increased limits shall not affect the requirements for proving financial responsibility under s. 324.032(1).

Section 18. Section 324.032, Florida Statutes, is amended to read:

324.032 ~~Manner of proving~~ Financial responsibility ~~for~~ for-hire passenger transportation vehicles. ~~Notwithstanding the provisions of s. 324.031-~~

(1) An owner or lessee of a for-hire passenger transportation vehicle that is required to be registered in this state shall establish and continuously maintain the ability to respond in damages for liability on account of accidents arising out of the ownership, maintenance, or use of the for-hire passenger transportation vehicle, in the amount of:

(a) One hundred twenty-five thousand dollars for bodily injury to, or the death of, one person in any one crash and, subject to such limits for one person, in the amount of \$250,000 for bodily injury to, or the death of, two or more persons in any one crash; and A person who is either the owner or a lessee

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871 ~~required to maintain insurance under s. 627.733(1)(b) and who~~
 872 ~~operates one or more taxicabs, limousines, jitneys, or any other~~
 873 ~~for-hire passenger transportation vehicles may prove financial~~
 874 ~~responsibility by furnishing satisfactory evidence of holding a~~
 875 ~~motor vehicle liability policy, but with minimum limits of~~
 876 ~~\$125,000/250,000/50,000.~~

877 (b) Fifty thousand dollars for damage to, or destruction
 878 of, property of others in any one crash ~~A person who is either~~
 879 ~~the owner or a lessee required to maintain insurance under s.~~
 880 ~~324.021(9)(b) and who operates limousines, jitneys, or any other~~
 881 ~~for-hire passenger vehicles, other than taxicabs, may prove~~
 882 ~~financial responsibility by furnishing satisfactory evidence of~~
 883 ~~holding a motor vehicle liability policy as defined in s.~~
 884 ~~324.031.~~

885 (2) Except as provided in subsection (3), the requirements
 886 of this section must be met by the owner or lessee providing
 887 satisfactory evidence of holding a motor vehicle liability
 888 policy conforming to the requirements of s. 324.151 which is
 889 issued by an insurance carrier that is a member of the Florida
 890 Insurance Guaranty Association.

891 ~~(3)(2) An owner or a lessee who is required to maintain~~
 892 ~~insurance under s. 324.021(9)(b) and who operates at least 300~~
 893 ~~taxicabs, limousines, jitneys, or any other for-hire passenger~~
 894 ~~transportation vehicles may provide financial responsibility by~~
 895 ~~complying with the provisions of s. 324.171, which must such~~
 896 ~~compliance to be demonstrated by maintaining at its principal~~
 897 ~~place of business an audited financial statement, prepared in~~
 898 ~~accordance with generally accepted accounting principles, and~~
 899 ~~providing to the department a certification issued by a~~

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900 certified public accountant that the applicant's net worth is at
 901 least equal to the requirements of s. 324.171 as determined by
 902 the Office of Insurance Regulation of the Financial Services
 903 Commission, including claims liabilities in an amount certified
 904 as adequate by a Fellow of the Casualty Actuarial Society.
 905

906 Upon request by the department, the applicant shall ~~must~~ provide
 907 the department at the applicant's principal place of business in
 908 this state access to the applicant's underlying financial
 909 information and financial statements that provide the basis of
 910 the certified public accountant's certification. The applicant
 911 shall reimburse the requesting department for all reasonable
 912 costs incurred by it in reviewing the supporting information.
 913 The maximum amount of self-insurance permissible under this
 914 subsection is \$300,000 and must be stated on a per-occurrence
 915 basis, and the applicant shall maintain adequate excess
 916 insurance issued by an authorized or eligible insurer licensed
 917 or approved by the Office of Insurance Regulation. All risks
 918 self-insured shall remain with the owner or lessee providing it,
 919 and the risks are not transferable to any other person, unless a
 920 policy complying with subsections (1) and (2) ~~subsection (1)~~ is
 921 obtained.

922 Section 19. Paragraph (b) of subsection (2) of section
 923 324.051, Florida Statutes, is amended to read:

924 324.051 Reports of crashes; suspensions of licenses and
 925 registrations.—

926 (2)

927 (b) This subsection does ~~shall~~ not apply:

928 1. To such operator or owner if such operator or owner had

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in effect at the time of such crash or traffic conviction a
~~motor vehicle an automobile~~ liability policy with respect to all
of the registered motor vehicles owned by such operator or
owner.

2. To such operator, if not the owner of such motor
vehicle, if there was in effect at the time of such crash or
traffic conviction a motor vehicle ~~an automobile~~ liability
policy or bond with respect to his or her operation of motor
vehicles not owned by him or her.

3. To such operator or owner if the liability of such
operator or owner for damages resulting from such crash is, in
the judgment of the department, covered by any other form of
liability insurance or bond.

4. To any person who has obtained from the department a
certificate of self-insurance, in accordance with s. 324.171, or
to any person operating a motor vehicle for such self-insurer.

No such policy or bond shall be effective under this subsection
unless it contains limits of not less than those specified in s.
324.021(7).

Section 20. Section 324.071, Florida Statutes, is amended
to read:

324.071 Reinstatement; renewal of license; reinstatement
fee.—~~An~~ Any operator or owner whose license or registration has
been suspended pursuant to s. 324.051(2), s. 324.072, s.
324.081, or s. 324.121 may effect its reinstatement upon
compliance with ~~the provisions of~~ s. 324.051(2)(a)3. or 4., or
s. 324.081(2) and (3), as the case may be, and with one of the
provisions of s. 324.031 and upon payment to the department of a

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nonrefundable reinstatement fee of \$15. Only one such fee may
~~shall~~ be paid by any one person regardless irrespective of the
number of licenses and registrations to be then reinstated or
issued to such person. ~~All~~ Such fees must shall be deposited to
a department trust fund. ~~If when~~ the reinstatement of any
license or registration is effected by compliance with s.
324.051(2)(a)3. or 4., the department may shall not renew the
license or registration within ~~a period of~~ 3 years after from
such reinstatement, nor may shall any other license or
registration be issued in the name of such person, unless the
operator continues ~~is continuing~~ to comply with ~~one of the~~
~~provisions of~~ s. 324.031.

Section 21. Subsection (1) of section 324.091, Florida
Statutes, is amended to read:

324.091 Notice to department; notice to insurer.—

(1) Each owner and operator involved in a crash or
conviction case within the purview of this chapter shall furnish
evidence of ~~automobile liability insurance or~~ motor vehicle
liability insurance within 14 days after the date of the mailing
of notice of crash by the department in the form and manner as
it may designate. Upon receipt of evidence that ~~a an automobile~~
~~liability policy or~~ motor vehicle liability policy was in effect
at the time of the crash or conviction case, the department
shall forward to the insurer such information for verification
in a method as determined by the department. The insurer shall
respond to the department within 20 days after the notice as to
whether ~~or not~~ such information is valid. If the department
determines that ~~a an automobile liability policy or~~ motor
vehicle liability policy was not in effect and did not provide

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coverage for both the owner and the operator, it ~~must shall~~ take action as it is authorized to do under this chapter.

Section 22. Section 324.151, Florida Statutes, is amended to read:

324.151 Motor vehicle liability policies; required provisions.—

(1) A motor vehicle liability policy that serves as to be proof of financial responsibility under s. 324.031(1)(a) ~~must s. 324.031(1), shall~~ be issued to owners or operators of motor vehicles under the following provisions:

(a) A motor vehicle ~~An owner's~~ liability insurance policy issued to an owner of a motor vehicle required to be registered in this state must shall designate by explicit description or by appropriate reference all motor vehicles for with respect to which coverage is thereby granted. The policy must and shall insure the person or persons ~~owner~~ named therein and, except for a named driver excluded pursuant to s. 627.747, must insure any resident relative of a named insured other person as operator ~~using such motor vehicle or motor vehicles with the express or implied permission of such owner against loss~~ from the liability imposed by law for damage arising out of the ownership, maintenance, or use of any such motor vehicle or motor vehicles within the United States or the Dominion of Canada, subject to limits, exclusive of interest and costs with respect to each such motor vehicle as is provided for under s. 324.021(7). Except for a named driver excluded pursuant to s. 627.747, the policy must also insure any person operating an insured motor vehicle with the express or implied permission of a named insured against loss from the liability imposed by law for

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damage arising out of the use of any vehicle. However, the insurer may include provisions in its policy excluding liability coverage for a motor vehicle not designated as an insured vehicle on the policy if such motor vehicle does not qualify as a newly acquired vehicle, does not qualify as a temporary substitute vehicle, and was owned by the insured or was furnished for an insured's regular use for more than 30 consecutive days before the event giving rise to the claim. Insurers may make available, with respect to property damage liability coverage, a deductible amount not to exceed \$500. In the event of a property damage loss covered by a policy containing a property damage deductible provision, the insurer shall pay to the third-party claimant the amount of any property damage liability settlement or judgment, subject to policy limits, as if no deductible existed.

(b) A motor vehicle liability insurance policy issued to a person who does not own a motor vehicle must ~~An operator's motor vehicle liability policy of insurance shall~~ insure the person or persons named therein against loss from the liability imposed upon him or her by law for damages arising out of the use by the person of any motor vehicle not owned by him or her, ~~with the same territorial limits and subject to the same limits of liability as referred to above with respect to an owner's policy of liability insurance.~~

(c) All such motor vehicle liability policies must provide liability coverage with limits, exclusive of interest and costs, as specified under s. 324.021(7) for accidents occurring within the United States or Canada. The policies must shall state the name and address of the named insured, the coverage afforded by

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the policy, the premium charged therefor, the policy period, and the limits of liability, and ~~must shall~~ contain an agreement or be endorsed that insurance is provided in accordance with the coverage defined in this chapter ~~as respects bodily injury and death or property damage or both~~ and is subject to ~~all~~ provisions of this chapter. ~~The said~~ policies ~~must shall~~ also contain a provision that the satisfaction by an insured of a judgment for such injury or damage ~~may shall~~ not be a condition precedent to the right or duty of the insurance carrier to make payment on account of such injury or damage, and ~~must shall~~ also contain a provision that bankruptcy or insolvency of the insured or of the insured's estate ~~may shall~~ not relieve the insurance carrier of any of its obligations under ~~the said~~ policy.

(2) ~~The provisions of~~ This section ~~is shall~~ not be applicable to any motor vehicle automobile liability policy unless and until it is furnished as proof of financial responsibility for the future pursuant to s. 324.031, and then applies only from ~~and after~~ the date ~~the said~~ policy is ~~so~~ furnished.

(3) As used in this section, the term:

(a) "Newly acquired vehicle" means a vehicle owned by a named insured or resident relative of the named insured which was acquired within 30 days before an accident.

(b) "Resident relative" means a person related to a named insured by any degree by blood, marriage, or adoption, including a ward or foster child, who usually makes his or her home in the same family unit or residence as the named insured, whether or not he or she temporarily lives elsewhere.

(c) "Temporary substitute vehicle" means any motor vehicle

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as defined in s. 320.01(1) which is not owned by the named insured and which is temporarily used with the permission of the owner as a substitute for the owned motor vehicle designated on the policy when the owned vehicle is withdrawn from normal use because of breakdown, repair, servicing, loss, or destruction.

Section 23. Section 324.161, Florida Statutes, is amended to read:

324.161 Proof of financial responsibility; deposit.—~~If a person elects to prove his or her financial responsibility under the method of proof specified in s. 324.031(1)(b), he or she annually must obtain and submit to the department proof of a certificate of deposit in the amount required under s. 324.031(2) from a financial institution insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Annually, before any certificate of insurance may be issued to a person, including any firm, partnership, association, corporation, or other person, other than a natural person, proof of a certificate of deposit of \$30,000 issued and held by a financial institution must be submitted to the department. A power of attorney will be issued to and held by the department and may be executed upon a judgment issued against such person making the deposit, for damages for because of bodily injury to or death of any person or for damages for because of injury to or destruction of property resulting from the use or operation of any motor vehicle occurring after such deposit was made. Money so deposited is shall not be subject to attachment or execution unless such attachment or execution arises shall arise out of a lawsuit suit for such damages as~~ aforsaid.

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Section 24. Subsections (1) and (2) of section 324.171, Florida Statutes, are amended to read:

324.171 Self-insurer.—

(1) ~~A Any~~ person may qualify as a self-insurer by obtaining a certificate of self-insurance from the department, ~~which may, in its discretion and~~ Upon application of such a person, ~~the department may~~ issue ~~a said~~ certificate of self-insurance ~~to an applicant who satisfies when such person has satisfied~~ the requirements of this section. Effective January 1, 2021 ~~to~~ qualify as a self-insurer under this section:

(a) A private individual with private passenger vehicles shall possess a net unencumbered worth of at least \$100,000 ~~\$40,000~~.

(b) A person, including any firm, partnership, association, corporation, or other person, other than a natural person, shall:

1. Possess a net unencumbered worth of at least \$100,000 ~~\$40,000~~ for the first motor vehicle and \$50,000 ~~\$20,000~~ for each additional motor vehicle; or

2. Maintain sufficient net worth, in an amount determined by the department, to be financially responsible for potential losses. The department annually shall determine the minimum net worth sufficient to satisfy this subparagraph as determined annually by the department, pursuant to rules adopted ~~promulgated~~ by the department, with the assistance of the Office of Insurance Regulation of the Financial Services Commission, ~~to be financially responsible for potential losses.~~ The rules must consider any ~~shall take into consideration~~ excess insurance carried by the applicant. The department's determination must

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~~shall~~ be based upon reasonable actuarial principles considering the frequency, severity, and loss development of claims incurred by casualty insurers writing coverage on the type of motor vehicles for which a certificate of self-insurance is desired.

(c) The owner of a commercial motor vehicle, as defined in s. 207.002 or s. 320.01, may qualify as a self-insurer subject to the standards provided ~~for~~ in subparagraph (b)2.

(2) The self-insurance certificate must ~~shall~~ provide limits of liability insurance in the amounts specified under s. 324.021(7) ~~or s. 627.7415 and shall provide personal injury protection coverage under s. 627.733(3)(b).~~

Section 25. Section 324.251, Florida Statutes, is amended to read:

324.251 Short title.—This chapter may be cited as the "Financial Responsibility Law of 2020 ~~1955~~" and ~~is shall become~~ effective at 12:01 a.m., January 1, 2021 ~~October 1, 1955~~.

Section 26. Subsection (4) of section 400.9905, Florida Statutes, is amended to read:

400.9905 Definitions.—

(4) (a) "Clinic" means an entity where health care services are provided to individuals and which tenders charges for reimbursement for such services, including a mobile clinic and a portable equipment provider. As used in this part, the term does not include and the licensure requirements of this part do not apply to:

1. (a) ~~Entities~~ licensed or registered by the state under chapter 395; entities licensed or registered by the state and providing only health care services within the scope of services authorized under their respective licenses under ss. 383.30-

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1161 383.332, chapter 390, chapter 394, chapter 397, this chapter
 1162 except part X, chapter 429, chapter 463, chapter 465, chapter
 1163 466, chapter 478, chapter 484, or chapter 651; end-stage renal
 1164 disease providers authorized under 42 C.F.R. part 405, subpart
 1165 U; providers certified under 42 C.F.R. part 485, subpart B or
 1166 subpart H; providers certified by the Centers for Medicare and
 1167 Medicaid Services under the federal Clinical Laboratory
 1168 Improvement Amendments and the federal rules adopted thereunder;
 1169 or any entity that provides neonatal or pediatric hospital-based
 1170 health care services or other health care services by licensed
 1171 practitioners solely within a hospital licensed under chapter
 1172 395.

1173 2.(b) Entities that own, directly or indirectly, entities
 1174 licensed or registered by the state pursuant to chapter 395;
 1175 entities that own, directly or indirectly, entities licensed or
 1176 registered by the state and providing only health care services
 1177 within the scope of services authorized pursuant to their
 1178 respective licenses under ss. 383.30-383.332, chapter 390,
 1179 chapter 394, chapter 397, this chapter except part X, chapter
 1180 429, chapter 463, chapter 465, chapter 466, chapter 478, chapter
 1181 484, or chapter 651; end-stage renal disease providers
 1182 authorized under 42 C.F.R. part 405, subpart U; providers
 1183 certified under 42 C.F.R. part 485, subpart B or subpart H;
 1184 providers certified by the Centers for Medicare and Medicaid
 1185 Services under the federal Clinical Laboratory Improvement
 1186 Amendments and the federal rules adopted thereunder; or any
 1187 entity that provides neonatal or pediatric hospital-based health
 1188 care services by licensed practitioners solely within a hospital
 1189 licensed under chapter 395.

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1190 3.(e) Entities that are owned, directly or indirectly, by
 1191 an entity licensed or registered by the state pursuant to
 1192 chapter 395; entities that are owned, directly or indirectly, by
 1193 an entity licensed or registered by the state and providing only
 1194 health care services within the scope of services authorized
 1195 pursuant to their respective licenses under ss. 383.30-383.332,
 1196 chapter 390, chapter 394, chapter 397, this chapter except part
 1197 X, chapter 429, chapter 463, chapter 465, chapter 466, chapter
 1198 478, chapter 484, or chapter 651; end-stage renal disease
 1199 providers authorized under 42 C.F.R. part 405, subpart U;
 1200 providers certified under 42 C.F.R. part 485, subpart B or
 1201 subpart H; providers certified by the Centers for Medicare and
 1202 Medicaid Services under the federal Clinical Laboratory
 1203 Improvement Amendments and the federal rules adopted thereunder;
 1204 or any entity that provides neonatal or pediatric hospital-based
 1205 health care services by licensed practitioners solely within a
 1206 hospital under chapter 395.

1207 4.(d) Entities that are under common ownership, directly or
 1208 indirectly, with an entity licensed or registered by the state
 1209 pursuant to chapter 395; entities that are under common
 1210 ownership, directly or indirectly, with an entity licensed or
 1211 registered by the state and providing only health care services
 1212 within the scope of services authorized pursuant to their
 1213 respective licenses under ss. 383.30-383.332, chapter 390,
 1214 chapter 394, chapter 397, this chapter except part X, chapter
 1215 429, chapter 463, chapter 465, chapter 466, chapter 478, chapter
 1216 484, or chapter 651; end-stage renal disease providers
 1217 authorized under 42 C.F.R. part 405, subpart U; providers
 1218 certified under 42 C.F.R. part 485, subpart B or subpart H;

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providers certified by the Centers for Medicare and Medicaid Services under the federal Clinical Laboratory Improvement Amendments and the federal rules adopted thereunder; or any entity that provides neonatal or pediatric hospital-based health care services by licensed practitioners solely within a hospital licensed under chapter 395.

5.(e) An entity that is exempt from federal taxation under 26 U.S.C. s. 501(c)(3) or (4), an employee stock ownership plan under 26 U.S.C. s. 409 that has a board of trustees at least two-thirds of which are Florida-licensed health care practitioners and provides only physical therapy services under physician orders, any community college or university clinic, and any entity owned or operated by the federal or state government, including agencies, subdivisions, or municipalities thereof.

6.(f) A sole proprietorship, group practice, partnership, or corporation that provides health care services by physicians covered by s. 627.419, that is directly supervised by one or more of such physicians, and that is wholly owned by one or more of those physicians or by a physician and the spouse, parent, child, or sibling of that physician.

7.(g) A sole proprietorship, group practice, partnership, or corporation that provides health care services by licensed health care practitioners under chapter 457, chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 466, chapter 467, chapter 480, chapter 484, chapter 486, chapter 490, chapter 491, or part I, part III, part X, part XIII, or part XIV of chapter 468, or s. 464.012, and that is wholly owned by one or more licensed health care practitioners,

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or the licensed health care practitioners set forth in this ~~subparagraph~~ paragraph and the spouse, parent, child, or sibling of a licensed health care practitioner if one of the owners who is a licensed health care practitioner is supervising the business activities and is legally responsible for the entity's compliance with all federal and state laws. However, a health care practitioner may not supervise services beyond the scope of the practitioner's license, except that, for the purposes of this part, a clinic owned by a licensee in s. 456.053(3)(b) which provides only services authorized pursuant to s. 456.053(3)(b) may be supervised by a licensee specified in s. 456.053(3)(b).

8.(h) Clinical facilities affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows.

9.(i) Entities that provide only oncology or radiation therapy services by physicians licensed under chapter 458 or chapter 459 or entities that provide oncology or radiation therapy services by physicians licensed under chapter 458 or chapter 459 which are owned by a corporation whose shares are publicly traded on a recognized stock exchange.

10.(j) Clinical facilities affiliated with a college of chiropractic accredited by the Council on Chiropractic Education at which training is provided for chiropractic students.

11.(k) Entities that provide licensed practitioners to staff emergency departments or to deliver anesthesia services in facilities licensed under chapter 395 and that derive at least 90 percent of their gross annual revenues from the provision of such services. Entities claiming an exemption from licensure

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1277 under this subparagraph ~~paragraph~~ must provide documentation
 1278 demonstrating compliance.

1279 12.(1) Orthotic, prosthetic, pediatric cardiology, or
 1280 perinatology clinical facilities or anesthesia clinical
 1281 facilities that are not otherwise exempt under subparagraph 1.
 1282 or subparagraph 11. paragraph (a) or paragraph (k) and that are
 1283 a publicly traded corporation or are wholly owned, directly or
 1284 indirectly, by a publicly traded corporation. As used in this
 1285 subparagraph ~~paragraph~~, a publicly traded corporation is a
 1286 corporation that issues securities traded on an exchange
 1287 registered with the United States Securities and Exchange
 1288 Commission as a national securities exchange.

1289 13.(m) Entities that are owned by a corporation that has
 1290 \$250 million or more in total annual sales of health care
 1291 services provided by licensed health care practitioners where
 1292 one or more of the persons responsible for the operations of the
 1293 entity is a health care practitioner who is licensed in this
 1294 state and who is responsible for supervising the business
 1295 activities of the entity and is responsible for the entity's
 1296 compliance with state law for purposes of this part.

1297 14.(n) Entities that employ 50 or more licensed health care
 1298 practitioners licensed under chapter 458 or chapter 459 where
 1299 the billing for medical services is under a single tax
 1300 identification number. The application for exemption under this
 1301 subsection must include ~~shall contain information that includes:~~
 1302 the name, residence, and business address and telephone ~~phone~~
 1303 number of the entity that owns the practice; a complete list of
 1304 the names and contact information of all the officers and
 1305 directors of the corporation; the name, residence address,

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1306 business address, and medical license number of each licensed
 1307 Florida health care practitioner employed by the entity; the
 1308 corporate tax identification number of the entity seeking an
 1309 exemption; a listing of health care services to be provided by
 1310 the entity at the health care clinics owned or operated by the
 1311 entity; and a certified statement prepared by an independent
 1312 certified public accountant which states that the entity and the
 1313 health care clinics owned or operated by the entity have not
 1314 received payment for health care services under medical payments
 1315 ~~personal injury protection~~ insurance coverage for the preceding
 1316 year. If the agency determines that an entity that ~~which~~ is
 1317 exempt under this subsection has received payments for medical
 1318 services under medical payments ~~personal injury protection~~
 1319 insurance coverage, the agency may deny or revoke the exemption
 1320 from licensure under this subsection.

1321 (b) Notwithstanding paragraph (a) ~~this subsection~~, an
 1322 entity is ~~shall be~~ deemed a clinic and must be licensed under
 1323 this part in order to receive medical payments coverage
 1324 reimbursement under s. 627.7265 unless the entity is: ~~the~~
 1325 ~~Florida Motor Vehicle No-Fault Law, ss. 627.730-627.7405, unless~~
 1326 ~~exempted under s. 627.736(5)(h).~~

1327 1. Wholly owned by a physician licensed under chapter 458
 1328 or chapter 459, or by the physician and the spouse, parent,
 1329 child, or sibling of the physician;

1330 2. Wholly owned by a dentist licensed under chapter 466, or
 1331 by the dentist and the spouse, parent, child, or sibling of the
 1332 dentist;

1333 3. Wholly owned by a chiropractic physician licensed under
 1334 chapter 460, or by the chiropractic physician and the spouse,

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1335 parent, child, or sibling of the chiropractic physician;
 1336 4. A hospital or ambulatory surgical center licensed under
 1337 chapter 395;
 1338 5. An entity that wholly owns or is wholly owned, directly
 1339 or indirectly, by a hospital or hospitals licensed under chapter
 1340 395;
 1341 6. A clinical facility affiliated with an accredited
 1342 medical school at which training is provided for medical
 1343 students, residents, or fellows;
 1344 7. Certified under 42 C.F.R. part 485, subpart H; or
 1345 8. Owned by a publicly traded corporation, either directly
 1346 or indirectly through its subsidiaries, which has \$250 million
 1347 or more in total annual sales of health care services provided
 1348 by licensed health care practitioners, if one or more of the
 1349 persons responsible for the operations of the entity are health
 1350 care practitioners who are licensed in this state and are
 1351 responsible for supervising the business activities of the
 1352 entity and the entity's compliance with state law for purposes
 1353 of this subsection.
 1354 Section 27. Subsection (5) of section 400.991, Florida
 1355 Statutes, is amended to read:
 1356 400.991 License requirements; background screenings;
 1357 prohibitions.—
 1358 (5) All agency forms for licensure application or exemption
 1359 from licensure under this part must contain the following
 1360 statement:
 1361
 1362 INSURANCE FRAUD NOTICE.—A person commits a fraudulent
 1363 insurance act, as defined in s. 626.989, Florida

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1364 Statutes, if the person ~~who~~ knowingly submits a false,
 1365 misleading, or fraudulent application or other
 1366 document when applying for licensure as a health care
 1367 clinic, seeking an exemption from licensure as a
 1368 health care clinic, or demonstrating compliance with
 1369 part X of chapter 400, Florida Statutes, with the
 1370 intent to use the license, exemption from licensure,
 1371 or demonstration of compliance to provide services or
 1372 seek reimbursement under a motor vehicle liability
 1373 insurance policy's medical payments coverage the
 1374 Florida Motor Vehicle No-Fault Law, commits a
 1375 fraudulent insurance act, as defined in s. 626.989,
 1376 Florida Statutes. A person who presents a claim for
 1377 benefits under medical payments coverage, ~~personal~~
 1378 ~~injury protection benefits~~ knowing that the payee
 1379 knowingly submitted such health care clinic
 1380 application or document, commits insurance fraud, as
 1381 defined in s. 817.234, Florida Statutes.
 1382 Section 28. Paragraph (g) of subsection (1) of section
 1383 400.9935, Florida Statutes, is amended to read:
 1384 400.9935 Clinic responsibilities.—
 1385 (1) Each clinic shall appoint a medical director or clinic
 1386 director who shall agree in writing to accept legal
 1387 responsibility for the following activities on behalf of the
 1388 clinic. The medical director or the clinic director shall:
 1389 (g) Conduct systematic reviews of clinic billings to ensure
 1390 that the billings are not fraudulent or unlawful. Upon discovery
 1391 of an unlawful charge, the medical director or clinic director
 1392 shall take immediate corrective action. If the clinic performs

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only the technical component of magnetic resonance imaging, static radiographs, computed tomography, or positron emission tomography, and provides the professional interpretation of such services, in a fixed facility that is accredited by a national accrediting organization that is approved by the Centers for Medicare and Medicaid Services for magnetic resonance imaging and advanced diagnostic imaging services and if, in the preceding quarter, the percentage of scans performed by that clinic which was billed to motor vehicle ~~all personal injury protection~~ insurance carriers under medical payments coverage was less than 15 percent, the chief financial officer of the clinic may, in a written acknowledgment provided to the agency, assume the responsibility for the conduct of the systematic reviews of clinic billings to ensure that the billings are not fraudulent or unlawful.

Section 29. Subsection (28) of section 409.901, Florida Statutes, is amended to read:

409.901 Definitions; ss. 409.901-409.920.—As used in ss. 409.901-409.920, except as otherwise specifically provided, the term:

(28) "Third-party benefit" means any benefit that is or may be available at any time through contract, court award, judgment, settlement, agreement, or any arrangement between a third party and any person or entity, including, without limitation, a Medicaid recipient, a provider, another third party, an insurer, or the agency, for any Medicaid-covered injury, illness, goods, or services, including costs of medical services related thereto, for bodily personal injury or for death of the recipient, but specifically excluding ~~policies of~~

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life insurance policies on the recipient, unless available under terms of the policy to pay medical expenses before ~~prior to~~ death. The term includes, without limitation, collateral, as defined in this section; ~~health insurance;~~ any benefit under a health maintenance organization, a preferred provider arrangement, a prepaid health clinic, liability insurance, uninsured motorist insurance, or medical payments coverage; ~~or personal injury protection coverage;~~ medical benefits under workers' compensation, and any obligation under law or equity to provide medical support.

Section 30. Paragraph (f) of subsection (11) of section 409.910, Florida Statutes, is amended to read:

409.910 Responsibility for payments on behalf of Medicaid-eligible persons when other parties are liable.—

(11) The agency may, as a matter of right, in order to enforce its rights under this section, institute, intervene in, or join any legal or administrative proceeding in its own name in one or more of the following capacities: individually, as subrogee of the recipient, as assignee of the recipient, or as lienholder of the collateral.

(f) Notwithstanding any provision in this section to the contrary, in the event of an action in tort against a third party in which the recipient or his or her legal representative is a party which results in a judgment, award, or settlement from a third party, the amount recovered shall be distributed as follows:

1. After attorney ~~attorney's~~ fees and taxable costs as defined by the Florida Rules of Civil Procedure, one-half of the remaining recovery shall be paid to the agency up to the total

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amount of medical assistance provided by Medicaid.

2. The remaining amount of the recovery shall be paid to the recipient.

3. For purposes of calculating the agency's recovery of medical assistance benefits paid, the fee for services of an attorney retained by the recipient or his or her legal representative shall be calculated at 25 percent of the judgment, award, or settlement.

4. Notwithstanding any other provision of this section to the contrary, the agency shall be entitled to all medical coverage benefits up to the total amount of medical assistance provided by Medicaid. For purposes of this paragraph, the term "medical coverage" means any benefits under health insurance, a health maintenance organization, a preferred provider arrangement, or a prepaid health clinic, and the portion of benefits designated for medical payments under ~~coverage for~~ workers' compensation coverage, motor vehicle insurance coverage, ~~personal injury protection~~, and casualty coverage.

Section 31. Paragraph (k) of subsection (2) of section 456.057, Florida Statutes, is amended to read:

456.057 Ownership and control of patient records; report or copies of records to be furnished; disclosure of information.—

(2) As used in this section, the terms "records owner," "health care practitioner," and "health care practitioner's employer" do not include any of the following persons or entities; furthermore, the following persons or entities are not authorized to acquire or own medical records, but are authorized under the confidentiality and disclosure requirements of this section to maintain those documents required by the part or

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chapter under which they are licensed or regulated:

(k) Persons or entities practicing under s. 627.7265 ~~or~~ ~~627.736(7)~~.

Section 32. Paragraphs (ee) and (ff) of subsection (1) of section 456.072, Florida Statutes, are amended to read:

456.072 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(ee) With respect to making a medical payments coverage ~~personal injury protection~~ claim under s. 627.7265 ~~as required by s. 627.736~~, intentionally submitting a claim, statement, or bill that has been upcoded. As used in this paragraph, the term "upcoded" means an action that submits a billing code that would result in a greater payment amount than would be paid using a billing code that accurately describes the services performed. The term does not include an otherwise lawful bill by a magnetic resonance imaging facility, which globally combines both technical and professional components, if the amount of the global bill is not more than the components if billed separately; however, payment of such a bill constitutes payment in full for all components of such service ~~"upcoded" as defined in s. 627.732.~~

(ff) With respect to making a medical payments coverage ~~personal injury protection~~ claim as required under s. 627.7265 ~~by s. 627.736~~, intentionally submitting a claim, statement, or bill for payment of services that were not rendered.

Section 33. Paragraphs (i) and (o) of subsection (1) of section 626.9541, Florida Statutes, are amended to read:

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1509 626.9541 Unfair methods of competition and unfair or
1510 deceptive acts or practices defined.—

1511 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
1512 ACTS.—The following are defined as unfair methods of competition
1513 and unfair or deceptive acts or practices:

1514 (i) *Unfair claim settlement practices.*—

1515 1. Attempting to settle claims on the basis of an
1516 application, when serving as a binder or intended to become a
1517 part of the policy, or any other material document which was
1518 altered without notice to, or knowledge or consent of, the
1519 insured;

1520 2. A material misrepresentation made to an insured or any
1521 other person having an interest in the proceeds payable under
1522 such contract or policy, for the purpose and with the intent of
1523 effecting settlement of such claims, loss, or damage under such
1524 contract or policy on less favorable terms than those provided
1525 in, and contemplated by, such contract or policy; ~~or~~

1526 3. Committing or performing with such frequency as to
1527 indicate a general business practice any of the following:

1528 a. Failing to adopt and implement standards for the proper
1529 investigation of claims;

1530 b. Misrepresenting pertinent facts or insurance policy
1531 provisions relating to coverages at issue;

1532 c. Failing to acknowledge and act promptly upon
1533 communications with respect to claims;

1534 d. Denying claims without conducting reasonable
1535 investigations based upon available information;

1536 e. Failing to affirm or deny full or partial coverage of
1537 claims, and, as to partial coverage, the dollar amount or extent

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1538 of coverage, or failing to provide a written statement that the
1539 claim is being investigated, upon the written request of the
1540 insured within 30 days after proof-of-loss statements have been
1541 completed;

1542 f. Failing to promptly provide a reasonable explanation in
1543 writing to the insured of the basis in the insurance policy, in
1544 relation to the facts or applicable law, for denial of a claim
1545 or for the offer of a compromise settlement;

1546 g. Failing to promptly notify the insured of any additional
1547 information necessary for the processing of a claim; or

1548 h. Failing to clearly explain the nature of the requested
1549 information and the reasons why such information is necessary.

1550 ~~1. Failing to pay personal injury protection insurance~~
1551 ~~claims within the time periods required by s. 627.736(4) (b). The~~
1552 ~~office may order the insurer to pay restitution to a~~
1553 ~~policyholder, medical provider, or other claimant, including~~
1554 ~~interest at a rate consistent with the amount set forth in s.~~
1555 ~~55.03(1), for the time period within which an insurer fails to~~
1556 ~~pay claims as required by law. Restitution is in addition to any~~
1557 ~~other penalties allowed by law, including, but not limited to,~~
1558 ~~the suspension of the insurer's certificate of authority.~~

1559 4. Failing to pay undisputed amounts of partial or full
1560 benefits owed under first-party property insurance policies
1561 within 90 days after an insurer receives notice of a residential
1562 property insurance claim, determines the amounts of partial or
1563 full benefits, and agrees to coverage, unless payment of the
1564 undisputed benefits is prevented by an act of God, prevented by
1565 the impossibility of performance, or due to actions by the
1566 insured or claimant that constitute fraud, lack of cooperation,

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1567 or intentional misrepresentation regarding the claim for which
1568 benefits are owed.

1569 (o) *Illegal dealings in premiums; excess or reduced charges*
1570 *for insurance.*—

1571 1. Knowingly collecting any sum as a premium or charge for
1572 insurance, which is not then provided, or is not in due course
1573 to be provided, subject to acceptance of the risk by the
1574 insurer, by an insurance policy issued by an insurer as
1575 permitted by this code.

1576 2. Knowingly collecting as a premium or charge for
1577 insurance any sum in excess of or less than the premium or
1578 charge applicable to such insurance, in accordance with the
1579 applicable classifications and rates as filed with and approved
1580 by the office, and as specified in the policy; or, in cases when
1581 classifications, premiums, or rates are not required by this
1582 code to be so filed and approved, premiums and charges collected
1583 from a Florida resident in excess of or less than those
1584 specified in the policy and as fixed by the insurer.
1585 Notwithstanding any other provision of law, this provision shall
1586 not be deemed to prohibit the charging and collection, by
1587 surplus lines agents licensed under part VIII of this chapter,
1588 of the amount of applicable state and federal taxes, or fees as
1589 authorized by s. 626.916(4), in addition to the premium required
1590 by the insurer or the charging and collection, by licensed
1591 agents, of the exact amount of any discount or other such fee
1592 charged by a credit card facility in connection with the use of
1593 a credit card, as authorized by subparagraph (q)3., in addition
1594 to the premium required by the insurer. This subparagraph shall
1595 not be construed to prohibit collection of a premium for a

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1596 universal life or a variable or indeterminate value insurance
1597 policy made in accordance with the terms of the contract.

1598 3.a. Imposing or requesting an additional premium for
1599 bodily injury liability coverage, property damage liability
1600 coverage ~~a policy of motor vehicle liability, personal injury~~
1601 ~~protection,~~ medical payments coverage payment, or collision
1602 coverage in a motor vehicle liability insurance policy ~~insurance~~
1603 ~~or any combination thereof~~ or refusing to renew the policy
1604 solely because the insured was involved in a motor vehicle
1605 accident unless the insurer's file contains information from
1606 which the insurer in good faith determines that the insured was
1607 substantially at fault in the accident.

1608 b. An insurer which imposes and collects such a surcharge
1609 or which refuses to renew such policy shall, in conjunction with
1610 the notice of premium due or notice of nonrenewal, notify the
1611 named insured that he or she is entitled to reimbursement of
1612 such amount or renewal of the policy under the conditions listed
1613 below and will subsequently reimburse him or her or renew the
1614 policy, if the named insured demonstrates that the operator
1615 involved in the accident was:

1616 (I) Lawfully parked;

1617 (II) Reimbursed by, or on behalf of, a person responsible
1618 for the accident or has a judgment against such person;

1619 (III) Struck in the rear by another vehicle headed in the
1620 same direction and was not convicted of a moving traffic
1621 violation in connection with the accident;

1622 (IV) Hit by a "hit-and-run" driver, if the accident was
1623 reported to the proper authorities within 24 hours after
1624 discovering the accident;

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1625 (V) Not convicted of a moving traffic violation in
 1626 connection with the accident, but the operator of the other
 1627 automobile involved in such accident was convicted of a moving
 1628 traffic violation;

1629 (VI) Finally adjudicated not to be liable by a court of
 1630 competent jurisdiction;

1631 (VII) In receipt of a traffic citation which was dismissed
 1632 or nolle prossed; or

1633 (VIII) Not at fault as evidenced by a written statement
 1634 from the insured establishing facts demonstrating lack of fault
 1635 which are not rebutted by information in the insurer's file from
 1636 which the insurer in good faith determines that the insured was
 1637 substantially at fault.

1638 c. In addition to the other provisions of this
 1639 subparagraph, an insurer may not fail to renew a policy if the
 1640 insured has had only one accident in which he or she was at
 1641 fault within the current 3-year period. However, an insurer may
 1642 nonrenew a policy for reasons other than accidents in accordance
 1643 with s. 627.728. This subparagraph does not prohibit nonrenewal
 1644 of a policy under which the insured has had three or more
 1645 accidents, regardless of fault, during the most recent 3-year
 1646 period.

1647 4. Imposing or requesting an additional premium for, or
 1648 refusing to renew, a policy for motor vehicle insurance solely
 1649 because the insured committed a noncriminal traffic infraction
 1650 as described in s. 318.14 unless the infraction is:

1651 a. A second infraction committed within an 18-month period,
 1652 or a third or subsequent infraction committed within a 36-month
 1653 period.

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1654 b. A violation of s. 316.183, when such violation is a
 1655 result of exceeding the lawful speed limit by more than 15 miles
 1656 per hour.

1657 5. Upon the request of the insured, the insurer and
 1658 licensed agent shall supply to the insured the complete proof of
 1659 fault or other criteria which justifies the additional charge or
 1660 cancellation.

1661 6. No insurer shall impose or request an additional premium
 1662 for motor vehicle insurance, cancel or refuse to issue a policy,
 1663 or refuse to renew a policy because the insured or the applicant
 1664 is a handicapped or physically disabled person, so long as such
 1665 handicap or physical disability does not substantially impair
 1666 such person's mechanically assisted driving ability.

1667 7. No insurer may cancel or otherwise terminate any
 1668 insurance contract or coverage, or require execution of a
 1669 consent to rate endorsement, during the stated policy term for
 1670 the purpose of offering to issue, or issuing, a similar or
 1671 identical contract or coverage to the same insured with the same
 1672 exposure at a higher premium rate or continuing an existing
 1673 contract or coverage with the same exposure at an increased
 1674 premium.

1675 8. No insurer may issue a nonrenewal notice on any
 1676 insurance contract or coverage, or require execution of a
 1677 consent to rate endorsement, for the purpose of offering to
 1678 issue, or issuing, a similar or identical contract or coverage
 1679 to the same insured at a higher premium rate or continuing an
 1680 existing contract or coverage at an increased premium without
 1681 meeting any applicable notice requirements.

1682 9. No insurer shall, with respect to premiums charged for

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1683 motor vehicle insurance, unfairly discriminate solely on the
 1684 basis of age, sex, marital status, or scholastic achievement.

1685 10. Imposing or requesting an additional premium for motor
 1686 vehicle comprehensive or uninsured motorist coverage solely
 1687 because the insured was involved in a motor vehicle accident or
 1688 was convicted of a moving traffic violation.

1689 11. No insurer shall cancel or issue a nonrenewal notice on
 1690 any insurance policy or contract without complying with any
 1691 applicable cancellation or nonrenewal provision required under
 1692 the Florida Insurance Code.

1693 12. No insurer shall impose or request an additional
 1694 premium, cancel a policy, or issue a nonrenewal notice on any
 1695 insurance policy or contract because of any traffic infraction
 1696 when adjudication has been withheld and no points have been
 1697 assessed pursuant to s. 318.14(9) and (10). However, this
 1698 subparagraph does not apply to traffic infractions involving
 1699 accidents in which the insurer has incurred a loss due to the
 1700 fault of the insured.

1701 Section 34. Paragraph (a) of subsection (1) of section
 1702 626.989, Florida Statutes, is amended to read:

1703 626.989 Investigation by department or Division of
 1704 Investigative and Forensic Services; compliance; immunity;
 1705 confidential information; reports to division; division
 1706 investigator's power of arrest.—

1707 (1) For the purposes of this section:

1708 (a) A person commits a "fraudulent insurance act" if the
 1709 person:

1710 1. Knowingly and with intent to defraud presents, causes to
 1711 be presented, or prepares with knowledge or belief that it will

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1712 be presented, to or by an insurer, self-insurer, self-insurance
 1713 fund, servicing corporation, purported insurer, broker, or any
 1714 agent thereof, any written statement as part of, or in support
 1715 of, an application for the issuance of, or the rating of, any
 1716 insurance policy, or a claim for payment or other benefit
 1717 pursuant to any insurance policy, which the person knows to
 1718 contain materially false information concerning any fact
 1719 material thereto or if the person conceals, for the purpose of
 1720 misleading another, information concerning any fact material
 1721 thereto.

1722 2. Knowingly submits:

1723 a. A false, misleading, or fraudulent application or other
 1724 document when applying for licensure as a health care clinic,
 1725 seeking an exemption from licensure as a health care clinic, or
 1726 demonstrating compliance with part X of chapter 400 with an
 1727 intent to use the license, exemption from licensure, or
 1728 demonstration of compliance to provide services or seek
 1729 reimbursement under a motor vehicle liability insurance policy's
 1730 medical payments coverage ~~the Florida Motor Vehicle No-Fault~~
 1731 ~~Law.~~

1732 b. A claim for payment or other benefit under medical
 1733 payments coverage ~~pursuant to a personal injury protection~~
 1734 ~~insurance policy under the Florida Motor Vehicle No-Fault Law~~ if
 1735 the person knows that the payee knowingly submitted a false,
 1736 misleading, or fraudulent application or other document when
 1737 applying for licensure as a health care clinic, seeking an
 1738 exemption from licensure as a health care clinic, or
 1739 demonstrating compliance with part X of chapter 400.

1740 Section 35. Subsection (1) of section 627.06501, Florida

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Statutes, is amended to read:

627.06501 Insurance discounts for certain persons completing driver improvement course.—

(1) Any rate, rating schedule, or rating manual for the liability, ~~medical payments personal injury protection~~, and collision coverages of a motor vehicle insurance policy filed with the office may provide for an appropriate reduction in premium charges as to such coverages ~~if when~~ the principal operator on the covered vehicle has successfully completed a driver improvement course approved and certified by the Department of Highway Safety and Motor Vehicles which is effective in reducing crash or violation rates, or both, as determined pursuant to s. 318.1451(5). Any discount, not to exceed 10 percent, used by an insurer is presumed to be appropriate unless credible data demonstrates otherwise.

Section 36. Subsection (15) is added to section 627.0651, Florida Statutes, to read:

627.0651 Making and use of rates for motor vehicle insurance.—

(15) Initial rate filings for motor vehicle liability policies which are submitted to the office on or after January 1, 2021, must reflect the financial responsibility requirements in s. 324.022, as amended, and may be approved only through the file and use process under s. 627.0651(1)(a).

Section 37. Subsection (1) of section 627.0652, Florida Statutes, is amended to read:

627.0652 Insurance discounts for certain persons completing safety course.—

(1) Any rates, rating schedules, or rating manuals for the

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liability, ~~medical payments personal injury protection~~, and collision coverages of a motor vehicle insurance policy filed with the office ~~must shall~~ provide for an appropriate reduction in premium charges as to such coverages ~~if when~~ the principal operator on the covered vehicle is an insured 55 years of age or older who has successfully completed a motor vehicle accident prevention course approved by the Department of Highway Safety and Motor Vehicles. Any discount used by an insurer is presumed to be appropriate unless credible data demonstrates otherwise.

Section 38. Subsections (1), (3), and (6) of section 627.0653, Florida Statutes, are amended to read:

627.0653 Insurance discounts for specified motor vehicle equipment.—

(1) Any rates, rating schedules, or rating manuals for the liability, ~~medical payments personal injury protection~~, and collision coverages of a motor vehicle insurance policy filed with the office ~~must shall~~ provide a premium discount if the insured vehicle is equipped with factory-installed, four-wheel antilock brakes.

(3) Any rates, rating schedules, or rating manuals for ~~personal injury protection coverage and~~ medical payments coverage, ~~if offered~~, of a motor vehicle insurance policy filed with the office ~~must shall~~ provide a premium discount if the insured vehicle is equipped with one or more air bags ~~that which~~ are factory installed.

(6) The Office of Insurance Regulation may approve a premium discount to any rates, rating schedules, or rating manuals for the liability, ~~medical payments personal injury protection~~, and collision coverages of a motor vehicle insurance

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policy filed with the office if the insured vehicle is equipped with an automated driving system or electronic vehicle collision avoidance technology that is factory installed or a retrofitted system and that complies with National Highway Traffic Safety Administration standards.

Section 39. Section 627.4132, Florida Statutes, is amended to read:

627.4132 Stacking of coverages prohibited.—If an insured or named insured is protected by any type of motor vehicle insurance policy for bodily injury and property damage liability, ~~personal injury protection, or other coverage~~, the policy must ~~shall~~ provide that the insured or named insured is protected only to the extent of the coverage she or he has on the vehicle involved in the accident. However, if none of the insured's or named insured's vehicles are ~~is~~ involved in the accident, coverage is available only to the extent of coverage on any one of the vehicles with applicable coverage. Coverage on any other vehicles may ~~shall~~ not be added to or stacked upon that coverage. This section does not apply:

(1) To uninsured motorist coverage that ~~which~~ is separately governed by s. 627.727.

(2) To reduce the coverage available by reason of insurance policies insuring different named insureds.

Section 40. Section 627.7263, Florida Statutes, is amended to read:

627.7263 Rental and leasing driver's insurance to be primary; exception.—

(1) The valid and collectible liability insurance and ~~medical payments coverage or personal injury protection~~

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~~insurance providing coverage~~ for the lessor of a motor vehicle for rent or lease is primary unless otherwise stated in at least 10-point type on the face of the rental or lease agreement. Such insurance is primary for the limits of liability ~~and personal injury protection~~ coverage as required by s. 324.021(7) and the medical payments coverage limit specified under s. 627.7265 ~~ss. 324.021(7) and 627.736~~.

(2) If the lessee's coverage is to be primary, the rental or lease agreement must contain the following language, in at least 10-point type:

"The valid and collectible liability insurance and medical payments coverage ~~personal injury protection~~ insurance of an ~~any~~ authorized rental or leasing driver is primary for the limits of liability ~~and personal injury protection~~ coverage required under section 324.021(7), Florida Statutes, and the medical payments coverage limit specified under section 627.7265 ~~by ss. 324.021(7) and 627.736~~, Florida Statutes."

Section 41. Section 627.7265, Florida Statutes, is created to read:

627.7265 Motor vehicle insurance; medical payments coverage.—

(1) Medical payments coverage must protect the named insured, resident relatives, persons operating the insured motor vehicle, passengers in the insured motor vehicle, and persons who are struck by the insured motor vehicle and suffer bodily injury while not an occupant of a self-propelled motor vehicle

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1857 at a limit of at least \$5,000 for medical expense incurred due
 1858 to bodily injury, sickness, or disease arising out of the
 1859 ownership, maintenance, or use of a motor vehicle. Medical
 1860 payments coverage must pay for reasonable expenses for necessary
 1861 medical, diagnostic, and rehabilitative services that are
 1862 lawfully provided, supervised, ordered, or prescribed by a
 1863 physician licensed under chapter 458 or chapter 459, by a
 1864 dentist licensed under chapter 466, or by a chiropractic
 1865 physician licensed under chapter 460 or that are provided in a
 1866 hospital or in a facility that owns, or is wholly owned by, a
 1867 hospital. The coverage must provide an additional death benefit
 1868 of at least \$5,000.

1869 (a) Before issuing a motor vehicle liability insurance
 1870 policy that is furnished as proof of financial responsibility
 1871 under s. 324.031, the insurer must offer medical payments
 1872 coverage at limits of \$5,000 and \$10,000. The insurer may also
 1873 offer medical payments coverage at any limit greater than
 1874 \$5,000.

1875 (b) The medical payments coverage must be offered with an
 1876 option with no deductible. The insurer may also offer medical
 1877 payments coverage with a deductible not to exceed \$500.

1878 (c) Each motor vehicle liability insurance policy that is
 1879 furnished as proof of financial responsibility under s. 324.031
 1880 is deemed to have:

1881 1. Medical payments coverage to a limit of \$10,000, unless
 1882 the insurer obtains the policyholder's written refusal of
 1883 medical payments coverage or written selection of medical
 1884 payments coverage at a limit other than \$10,000. The rejection
 1885 or selection of coverage at a limit other than \$10,000 must be

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1886 made on a form approved by the office.

1887 2. No medical payments coverage deductible, unless the
 1888 insurer obtains the policyholder's written selection of a
 1889 deductible of up to \$500. The selection of a deductible must be
 1890 made on a form approved by the office.

1891 (d)1. The forms in subparagraphs (c)1. and 2. must fully
 1892 advise the applicant of the nature of the coverage being
 1893 rejected or the policy limit or deductible being selected. If
 1894 the form is signed by a named insured, it is conclusively
 1895 presumed that there was an informed, knowing rejection of the
 1896 coverage or election of the policy limit or deductible selected.

1897 2. Unless the policyholder requests in writing the coverage
 1898 specified in this section, it need not be provided in or
 1899 supplemental to any other policy that renews, insures, extends,
 1900 changes, supersedes, or replaces an existing policy if the
 1901 policyholder has rejected the coverage specified in this section
 1902 or has selected an alternative coverage limit or deductible. At
 1903 least annually, the insurer shall provide the policyholder with
 1904 a notice of the availability of such coverage in a form approved
 1905 by the office. The notice must be part of, and attached to, the
 1906 notice of premium and must provide for a means to allow the
 1907 insured to request medical payments coverage at the limits and
 1908 deductibles required to be offered under this section. The
 1909 notice must be given in a manner approved by the office. Receipt
 1910 of this notice does not constitute an affirmative waiver of the
 1911 insured's right to medical payments coverage if the insured has
 1912 not signed a selection or rejection form.

1913 (e) This section may not be construed to limit any other
 1914 coverage made available by an insurer.

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1915 (2) Upon receiving notice of an accident that is
 1916 potentially covered by medical payments coverage benefits, the
 1917 insurer must reserve \$5,000 of medical payments coverage
 1918 benefits for payment to physicians licensed under chapter 458 or
 1919 chapter 459 or dentists licensed under chapter 466 who provide
 1920 emergency services and care, as defined in s. 395.002, or who
 1921 provide hospital inpatient care. The amount required to be held
 1922 in reserve may be used only to pay claims from such physicians
 1923 or dentists until 30 days after the date the insurer receives
 1924 notice of the accident. After the 30-day period, any amount of
 1925 the reserve for which the insurer has not received notice of
 1926 such claims may be used by the insurer to pay other claims. This
 1927 subsection does not require an insurer to establish a claim
 1928 reserve for insurance accounting purposes.

1929 (3) An insurer providing medical payments coverage benefits
 1930 may not have a:

1931 (a) Lien on any recovery in tort by judgment, settlement,
 1932 or otherwise for medical payments coverage benefits, whether
 1933 suit has been filed or settlement has been reached without suit;
 1934 or

1935 (b) Cause of action against a person to whom or for whom
 1936 medical payments coverage benefits were paid, except when
 1937 medical payments coverage benefits are paid by reason of fraud
 1938 the person commits.

1939 (4) An insurer providing medical payments coverage may
 1940 include provisions in its policy allowing for subrogation for
 1941 medical payments benefits paid if the expenses giving rise to
 1942 the payments were caused by the wrongful act or omission of
 1943 another who is not also an insured under the policy paying the

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1944 medical payments benefits. However, this subrogation right is
 1945 inferior to the rights of the injured insured and is available
 1946 only after all the insured's damages are recovered and the
 1947 insured is made whole. An insured who obtains a recovery from a
 1948 third party of the full amount of the damages sustained and
 1949 delivers a release or satisfaction that impairs a medical
 1950 payments insurer's subrogation right is liable to the insurer
 1951 for repayment of medical payments benefits less any expenses of
 1952 acquiring the recovery, including a prorated share of attorney
 1953 fees and costs, and shall hold that net recovery in trust to be
 1954 delivered to the medical payments insurer. The insurer may not
 1955 include any provision in its policy allowing for subrogation for
 1956 any death benefit paid.

1957 Section 42. Subsections (1) and (7) of section 627.727,
 1958 Florida Statutes, are amended to read:

1959 627.727 Motor vehicle insurance; uninsured and underinsured
 1960 vehicle coverage; insolvent insurer protection.—

1961 (1) A ~~No~~ motor vehicle liability insurance policy that
 1962 which provides bodily injury liability coverage may not ~~shall~~ be
 1963 delivered or issued for delivery in this state with respect to
 1964 any specifically insured or identified motor vehicle registered
 1965 or principally garaged in this state, unless uninsured motor
 1966 vehicle coverage is provided therein or supplemental thereto for
 1967 the protection of persons insured thereunder who are legally
 1968 entitled to recover damages from owners or operators of
 1969 uninsured motor vehicles because of bodily injury, sickness, or
 1970 disease, including death, resulting therefrom. However, the
 1971 coverage required under this section is not applicable ~~if when,~~
 1972 or to the extent that, an insured named in the policy makes a

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1973 written rejection of the coverage on behalf of all insureds
 1974 under the policy. ~~If when~~ a motor vehicle is leased for a period
 1975 ~~of~~ 1 year or longer and the lessor of such vehicle, by the terms
 1976 of the lease contract, provides liability coverage on the leased
 1977 vehicle, the lessee of such vehicle ~~has shall have~~ the sole
 1978 privilege to reject uninsured motorist coverage or to select
 1979 lower limits than the bodily injury liability limits, regardless
 1980 of whether the lessor is qualified as a self-insurer pursuant to
 1981 s. 324.171. Unless an insured, or a lessee having the privilege
 1982 of rejecting uninsured motorist coverage, requests such coverage
 1983 or requests higher uninsured motorist limits in writing, the
 1984 coverage or such higher uninsured motorist limits need not be
 1985 provided in or supplemental to any other policy that which
 1986 renews, extends, changes, supersedes, or replaces an existing
 1987 policy with the same bodily injury liability limits when an
 1988 insured or lessee had rejected the coverage. When an insured or
 1989 lessee has initially selected limits of uninsured motorist
 1990 coverage lower than her or his bodily injury liability limits,
 1991 higher limits of uninsured motorist coverage need not be
 1992 provided in or supplemental to any other policy that which
 1993 renews, extends, changes, supersedes, or replaces an existing
 1994 policy with the same bodily injury liability limits unless an
 1995 insured requests higher uninsured motorist coverage in writing.
 1996 The rejection or selection of lower limits must shall be made on
 1997 a form approved by the office. The form must shall fully advise
 1998 the applicant of the nature of the coverage and must shall state
 1999 that the coverage is equal to bodily injury liability limits
 2000 unless lower limits are requested or the coverage is rejected.
 2001 The heading of the form must shall be in 12-point bold type and

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2002 must shall state: "You are electing not to purchase certain
 2003 valuable coverage that which protects you and your family or you
 2004 are purchasing uninsured motorist limits less than your bodily
 2005 injury liability limits when you sign this form. Please read
 2006 carefully." If this form is signed by a named insured, it will
 2007 be conclusively presumed that there was an informed, knowing
 2008 rejection of coverage or election of lower limits on behalf of
 2009 all insureds. The insurer shall notify the named insured at
 2010 least annually of her or his options as to the coverage required
 2011 by this section. Such notice must shall be part of, and attached
 2012 to, the notice of premium, must shall provide for a means to
 2013 allow the insured to request such coverage, and must shall be
 2014 given in a manner approved by the office. Receipt of this notice
 2015 does not constitute an affirmative waiver of the insured's right
 2016 to uninsured motorist coverage if where the insured has not
 2017 signed a selection or rejection form. The coverage described
 2018 under this section must shall be over and above, but may shall
 2019 not duplicate, the benefits available to an insured under any
 2020 workers' compensation law, ~~personal injury protection benefits,~~
 2021 disability benefits law, or similar law; under any automobile
 2022 medical payments expense coverage; under any motor vehicle
 2023 liability insurance coverage; or from the owner or operator of
 2024 the uninsured motor vehicle or any other person or organization
 2025 jointly or severally liable together with such owner or operator
 2026 for the accident,⁺ and such coverage must shall cover the
 2027 difference, if any, between the sum of such benefits and the
 2028 damages sustained, up to the maximum amount of such coverage
 2029 provided under this section. The amount of coverage available
 2030 under this section may shall not be reduced by a setoff against

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any coverage, including liability insurance. Such coverage does
~~shall~~ not inure directly or indirectly to the benefit of any
 workers' compensation or disability benefits carrier or any
 person or organization qualifying as a self-insurer under any
 workers' compensation or disability benefits law or similar law.

(7) The legal liability of an uninsured motorist coverage
 insurer includes ~~does not include~~ damages in tort for pain,
 suffering, disability or physical impairment, disfigurement,
 mental anguish, and inconvenience, and the loss of capacity for
the enjoyment of life experienced in the past and to be
experienced in the future unless the injury or disease is
~~described in one or more of paragraphs (a) (d) of s. 627.737(2).~~

Section 43. Subsection (1) and paragraphs (a) and (b) of
 subsection (2) of section 627.7275, Florida Statutes, are
 amended to read:

627.7275 Motor vehicle liability.—

(1) A motor vehicle insurance policy ~~providing personal~~
~~injury protection as set forth in s. 627.736~~ may not be
 delivered or issued for delivery in this state for a with
~~respect to any~~ specifically insured or identified motor vehicle
 registered or principally garaged in this state must provide
bodily injury liability coverage and unless the policy also
~~provides coverage for~~ property damage liability coverage as
 required under ~~by~~ s. 324.022.

(2) (a) Insurers writing motor vehicle insurance in this
 state shall make available, subject to the insurers' usual
 underwriting restrictions:

1. Coverage under policies as described in subsection (1)
 to an applicant for private passenger motor vehicle insurance

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coverage who is seeking the coverage in order to reinstate the
 applicant's driving privileges in this state if the driving
 privileges were revoked or suspended pursuant to s. 316.646 or
 s. 324.0221 due to the failure of the applicant to maintain
 required security.

2. Coverage under policies as described in subsection (1),
 which includes bodily injury ~~also provides~~ liability coverage
and property damage liability coverage, for bodily injury,
~~death, and property damage arising out of the ownership,~~
~~maintenance, or use of the motor vehicle~~ in an amount not less
 than the minimum limits required under ~~described in~~ s.
 324.021(7) or s. 324.023 and which conforms to the requirements
 of s. 324.151, to an applicant for private passenger motor
 vehicle insurance coverage who is seeking the coverage in order
 to reinstate the applicant's driving privileges in this state
 after such privileges were revoked or suspended under s. 316.193
 or s. 322.26(2) for driving under the influence.

(b) The policies described in paragraph (a) must ~~shall~~ be
 issued for at least 6 months and, as to the minimum coverages
 required under this section, may not be canceled by the insured
 for any reason or by the insurer after 60 days, during which
 period the insurer is completing the underwriting of the policy.
 After the insurer has completed underwriting the policy, the
 insurer shall notify the Department of Highway Safety and Motor
 Vehicles that the policy is in full force and effect and is not
 cancelable for the remainder of the policy period. A premium
must ~~shall~~ be collected and the coverage is in effect for the
 60-day period during which the insurer is completing the
 underwriting of the policy, whether or not the person's driver

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license, motor vehicle tag, and motor vehicle registration are in effect. Once the noncancelable provisions of the policy become effective, the bodily injury liability and property damage liability coverages ~~for bodily injury, property damage, and personal injury protection~~ may not be reduced below the minimum limits required under s. 324.021 or s. 324.023 during the policy period.

Section 44. Effective upon this act becoming a law, section 627.7278, Florida Statutes, is created to read:

627.7278 Applicability and construction; notice to policyholders.-

(1) As used in this section, the term "minimum security requirements" means security that enables a person to respond in damages for liability on account of crashes arising out of the ownership, maintenance, or use of a motor vehicle, in the amounts required by s. 324.021(7).

(2) Effective January 1, 2021:

(a) Motor vehicle insurance policies issued or renewed on or after that date may not include personal injury protection.

(b) All persons subject to s. 324.022, s. 324.032, s. 627.7415, or s. 627.742 must maintain at least minimum security requirements.

(c) Any new or renewal motor vehicle insurance policy delivered or issued for delivery in this state must provide coverage that complies with minimum security requirements.

(d) An existing motor vehicle insurance policy issued before that date which provides personal injury protection and property damage liability coverage that meets the requirements of s. 324.022 on December 31, 2020, but which does not meet

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minimum security requirements on or after January 1, 2021, is deemed to meet the security requirements of s. 324.022 until such policy is renewed, nonrenewed, or canceled on or after January 1, 2021. Sections 627.730-627.7405, 400.9905, 400.991, 456.057, 456.072, 627.7263, 627.727, 627.748, 627.9541(1)(i), and 817.234, Florida Statutes 2019, remain in full force and effect for motor vehicle accidents covered under a policy issued under the Florida Motor Vehicle No-Fault Law before January 1, 2021, until the policy is renewed, nonrenewed, or canceled.

(3) Each insurer shall allow each insured who has a new or renewal policy providing personal injury protection which becomes effective before January 1, 2021, and whose policy does not meet minimum security requirements on or after January 1, 2021, to change coverages so as to eliminate personal injury protection and obtain coverage providing minimum security requirements, which shall be effective on or after January 1, 2021. The insurer is not required to provide coverage complying with minimum security requirements in such policies if the insured does not pay the required premium, if any, by January 1, 2021, or such later date as the insurer may allow. The insurer must also offer each insured medical payments coverage pursuant to s. 627.7265. Any reduction in the premium must be refunded by the insurer. The insurer may not impose on the insured an additional fee or charge that applies solely to a change in coverage; however, the insurer may charge an additional required premium that is actuarially indicated.

(4) By September 1, 2020, each motor vehicle insurer shall provide notice of this section to each motor vehicle policyholder who is subject to this section. The notice is

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2147 subject to approval by the office and must clearly inform the
 2148 policyholder that:

2149 (a) The Florida Motor Vehicle No-Fault Law is repealed
 2150 effective January 1, 2021, and that on or after that date, the
 2151 insured is no longer required to maintain personal injury
 2152 protection insurance coverage, that personal injury protection
 2153 coverage is no longer available for purchase in this state, and
 2154 that all new or renewal policies issued on or after that date
 2155 will not contain that coverage.

2156 (b) Effective January 1, 2021, a person subject to the
 2157 financial responsibility requirements of s. 324.022 must
 2158 maintain minimum security requirements that enable the person to
 2159 respond to damages for liability on account of accidents arising
 2160 out of the use of a motor vehicle in the following amounts:

2161 1. Twenty-five thousand dollars for bodily injury to, or
 2162 the death of, one person in any one crash and, subject to such
 2163 limits for one person, in the amount of \$50,000 for bodily
 2164 injury to, or the death of, two or more persons in any one
 2165 crash; and

2166 2. Ten thousand dollars for damage to, or destruction of,
 2167 the property of others in any one crash.

2168 (c) Bodily injury liability coverage protects the insured,
 2169 up to the coverage limits, against loss if the insured is
 2170 legally responsible for the death of or bodily injury to others
 2171 in a motor vehicle accident.

2172 (d) Effective January 1, 2021, each policyholder of motor
 2173 vehicle liability insurance purchased as proof of financial
 2174 responsibility must be offered medical payments coverage
 2175 benefits that comply with s. 627.7265. The insurer must offer

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2176 medical payments coverage at limits of \$5,000 and \$10,000
 2177 without a deductible. The insurer may also offer medical
 2178 payments coverage at other limits greater than \$5,000, and may
 2179 offer coverage with a deductible of up to \$500. Medical payments
 2180 coverage pays covered medical expenses, up to the limits of such
 2181 coverage, for injuries sustained in a motor vehicle crash by the
 2182 named insured, resident relatives, persons operating the insured
 2183 motor vehicle, passengers in the insured motor vehicle, and
 2184 persons who are struck by the insured motor vehicle and suffer
 2185 bodily injury while not an occupant of a self-propelled motor
 2186 vehicle as provided in s. 627.7265. Medical payments coverage
 2187 pays for reasonable expenses for necessary medical, diagnostic,
 2188 and rehabilitative services that are lawfully provided,
 2189 supervised, ordered, or prescribed by a physician licensed under
 2190 chapter 458 or chapter 459, by a dentist licensed under chapter
 2191 466, or by a chiropractic physician licensed under chapter 460
 2192 or that are provided in a hospital or in a facility that owns,
 2193 or is wholly owned by, a hospital. Medical payments coverage
 2194 also provides a death benefit of at least \$5,000.

2195 (e) The policyholder may obtain uninsured and underinsured
 2196 motorist coverage, which provides benefits, up to the limits of
 2197 such coverage, to a policyholder or other insured entitled to
 2198 recover damages for bodily injury, sickness, disease, or death
 2199 resulting from a motor vehicle accident with an uninsured or
 2200 underinsured owner or operator of a motor vehicle.

2201 (f) If the policyholder's new or renewal motor vehicle
 2202 insurance policy is effective before January 1, 2021, and
 2203 contains personal injury protection and property damage
 2204 liability coverage as required by state law before January 1,

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2021, but does not meet minimum security requirements on or after January 1, 2021, the policy is deemed to meet minimum security requirements until it is renewed, nonrenewed, or canceled on or after January 1, 2021.

(g) A policyholder whose new or renewal policy becomes effective before January 1, 2021, but does not meet minimum security requirements on or after January 1, 2021, may change coverages under the policy so as to eliminate personal injury protection and to obtain coverage providing minimum security requirements, including bodily injury liability coverage, which are effective on or after January 1, 2021.

(h) If the policyholder has any questions, he or she should contact the person named at the telephone number provided in the notice.

Section 45. Paragraph (a) of subsection (1) of section 627.728, Florida Statutes, is amended to read:

627.728 Cancellations; nonrenewals.—

(1) As used in this section, the term:

(a) "Policy" means the bodily injury and property damage liability, ~~personal injury protection~~, medical payments, comprehensive, collision, and uninsured motorist coverage portions of a policy of motor vehicle insurance delivered or issued for delivery in this state:

1. Insuring a natural person as named insured or one or more related individuals who are residents ~~resident~~ of the same household; and

2. Insuring only a motor vehicle of the private passenger type or station wagon type which is not used as a public or livery conveyance for passengers or rented to others; or

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insuring any other four-wheel motor vehicle having a load capacity of 1,500 pounds or less which is not used in the occupation, profession, or business of the insured other than farming; other than any policy issued under an automobile insurance assigned risk plan or covering garage, automobile sales agency, repair shop, service station, or public parking place operation hazards.

The term "policy" does not include a binder as defined in s. 627.420 unless the duration of the binder period exceeds 60 days.

Section 46. Subsection (1), paragraph (a) of subsection (5), and subsections (6) and (7) of section 627.7295, Florida Statutes, are amended to read:

627.7295 Motor vehicle insurance contracts.—

(1) As used in this section, the term:

(a) "Policy" means a motor vehicle insurance policy that provides bodily injury liability ~~personal injury protection~~ coverage and ~~property damage liability coverage, or both~~.

(b) "Binder" means a binder that provides motor vehicle bodily injury liability coverage ~~personal injury protection~~ and property damage liability coverage.

(5) (a) A licensed general lines agent may charge a per-policy fee of up to not to exceed ~~of up to not to exceed~~ \$10 to cover the administrative costs of the agent associated with selling the motor vehicle insurance policy if the policy covers only bodily injury liability coverage ~~personal injury protection coverage as provided by s. 627.736~~ and property damage liability coverage as provided by s. 627.7275 and if no other insurance is sold or

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issued in conjunction with or collateral to the policy. The fee is not ~~considered~~ part of the premium.

(6) If a motor vehicle owner's driver license, license plate, and registration have previously been suspended pursuant to s. 316.646 ~~or s. 627.733~~, an insurer may cancel a new policy only as provided in s. 627.7275.

(7) A policy of private passenger motor vehicle insurance or a binder for such a policy may be initially issued in this state only if, before the effective date of such binder or policy, the insurer or agent has collected from the insured an amount equal to at least 1 month's premium. An insurer, agent, or premium finance company may not, directly or indirectly, take any action that results ~~resulting~~ in the insured paying ~~having paid~~ from the insured's own funds an amount less than the 1 month's premium required by this subsection. This subsection applies without regard to whether the premium is financed by a premium finance company or is paid pursuant to a periodic payment plan of an insurer or an insurance agent.

(a) This subsection does not apply:

1. If an insured or member of the insured's family is renewing or replacing a policy or a binder for such policy written by the same insurer or a member of the same insurer group. ~~This subsection does not apply~~

2. To an insurer that issues private passenger motor vehicle coverage primarily to active duty or former military personnel or their dependents. ~~This subsection does not apply~~

3. If all policy payments are paid pursuant to a payroll deduction plan, an automatic electronic funds transfer payment plan from the policyholder, or a recurring credit card or debit

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card agreement with the insurer.

(b) This subsection and subsection (4) do not apply if:

1. All policy payments to an insurer are paid pursuant to an automatic electronic funds transfer payment plan from an agent, a managing general agent, or a premium finance company and if the policy includes, at a minimum, bodily injury liability coverage ~~and personal injury protection pursuant to ss. 627.730-627.7405~~, motor vehicle property damage liability coverage pursuant to s. 627.7275; ~~or and bodily injury liability in at least the amount of \$10,000 because of bodily injury to, or death of, one person in any one accident and in the amount of \$20,000 because of bodily injury to, or death of, two or more persons in any one accident. This subsection and subsection (4) do not apply if~~

2. An insured has had a policy in effect for at least 6 months, the insured's agent is terminated by the insurer that issued the policy, and the insured obtains coverage on the policy's renewal date with a new company through the terminated agent.

Section 47. Section 627.7415, Florida Statutes, is amended to read:

627.7415 Commercial motor vehicles; additional liability insurance coverage. ~~Beginning January 1, 2021~~, commercial motor vehicles, as defined in s. 207.002 or s. 320.01, operated upon the roads and highways of this state must ~~shall~~ be insured with the following minimum levels of combined bodily liability insurance and property damage liability insurance in addition to any other insurance requirements:

(1) Sixty ~~Fifty~~ thousand dollars per occurrence for a

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2321 commercial motor vehicle with a gross vehicle weight of 26,000
 2322 pounds or more, but less than 35,000 pounds.

2323 (2) One hundred ~~twenty~~ thousand dollars per occurrence for
 2324 a commercial motor vehicle with a gross vehicle weight of 35,000
 2325 pounds or more, but less than 44,000 pounds.

2326 (3) Three hundred thousand dollars per occurrence for a
 2327 commercial motor vehicle with a gross vehicle weight of 44,000
 2328 pounds or more.

2329 (4) All commercial motor vehicles subject to regulations of
 2330 the United States Department of Transportation, 49 C.F.R. part
 2331 387, subpart A, and as may be hereinafter amended, shall be
 2332 insured in an amount equivalent to the minimum levels of
 2333 financial responsibility as set forth in such regulations.

2334

2335 A violation of this section is a noncriminal traffic infraction,
 2336 punishable as a nonmoving violation as provided in chapter 318.

2337 Section 48. Section 627.747, Florida Statutes, is created
 2338 to read:

2339 627.747 Named driver exclusion.—

2340 (1) A private passenger motor vehicle policy may exclude an
 2341 identified individual from the following coverages while the
 2342 identified individual is operating a motor vehicle, provided
 2343 that the identified individual is specifically excluded by name
 2344 on the declarations page or by endorsement, and the policyholder
 2345 consents in writing to the exclusion:

2346 (a) Property damage liability coverage.
 2347 (b) Bodily injury liability coverage.
 2348 (c) Uninsured motorist coverage for any damages sustained
 2349 by the identified excluded individual, if the policyholder has

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2350 purchased such coverage.

2351 (d) Any coverage the policyholder is not required by law to
 2352 purchase.

2353 (2) A private passenger motor vehicle policy may not
 2354 exclude coverage when:

2355 (a) The identified excluded individual is injured while not
 2356 operating a motor vehicle;

2357 (b) The exclusion is unfairly discriminatory under the
 2358 Florida Insurance Code, as determined by the office; or

2359 (c) The exclusion is inconsistent with the underwriting
 2360 rules filed by the insurer pursuant to s. 627.0651(13)(a).

2361 Section 49. Paragraphs (b), (c), and (g) of subsection (7)
 2362 and paragraphs (a) and (b) of subsection (8) of section 627.748,
 2363 Florida Statutes, are amended to read:

2364 627.748 Transportation network companies.—

2365 (7) TRANSPORTATION NETWORK COMPANY AND TNC DRIVER INSURANCE
 2366 REQUIREMENTS.—

2367 (b) The following automobile insurance requirements apply
 2368 while a participating TNC driver is logged on to the digital
 2369 network but is not engaged in a prearranged ride:

2370 1. Automobile insurance that provides:

2371 a. A primary automobile liability coverage of at least
 2372 \$50,000 for death and bodily injury per person, \$100,000 for
 2373 death and bodily injury per incident, and \$25,000 for property
 2374 damage; and

2375 ~~b. Personal injury protection benefits that meet the~~
 2376 ~~minimum coverage amounts required under ss. 627.730–627.7405;~~
 2377 ~~and~~

2378 ~~e.~~ Uninsured and underinsured vehicle coverage as required

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2379 by s. 627.727.

2380 2. The coverage requirements of this paragraph may be
 2381 satisfied by any of the following:

- 2382 a. Automobile insurance maintained by the TNC driver;
- 2383 b. Automobile insurance maintained by the TNC; or
- 2384 c. A combination of sub-subparagraphs a. and b.
- 2385 (c) The following automobile insurance requirements apply

2386 while a TNC driver is engaged in a prearranged ride:

- 2387 1. Automobile insurance that provides:

- 2388 a. A primary automobile liability coverage of at least \$1
- 2389 million for death, bodily injury, and property damage; and
- 2390 b. ~~Personal injury protection benefits that meet the~~
- 2391 ~~minimum coverage amounts required of a limousine under ss.~~
- 2392 ~~627.730-627.7405; and~~

- 2393 e. Uninsured and underinsured vehicle coverage as required
- 2394 by s. 627.727.

2395 2. The coverage requirements of this paragraph may be
 2396 satisfied by any of the following:

- 2397 a. Automobile insurance maintained by the TNC driver;
- 2398 b. Automobile insurance maintained by the TNC; or
- 2399 c. A combination of sub-subparagraphs a. and b.

2400 (g) Insurance satisfying the requirements under this
 2401 subsection is deemed to satisfy the financial responsibility
 2402 requirement for a motor vehicle under chapter 324 ~~and the~~
 2403 ~~security required under s. 627.733~~ for any period when the TNC
 2404 driver is logged onto the digital network or engaged in a
 2405 prearranged ride.

2406 (8) TRANSPORTATION NETWORK COMPANY AND INSURER; DISCLOSURE;
 2407 EXCLUSIONS.—

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2408 (a) Before a TNC driver is allowed to accept a request for
 2409 a prearranged ride on the digital network, the TNC must disclose
 2410 in writing to the TNC driver:

- 2411 1. The insurance coverage, including the types of coverage
- 2412 and the limits for each coverage, which the TNC provides while
- 2413 the TNC driver uses a TNC vehicle in connection with the TNC's
- 2414 digital network.

- 2415 2. That the TNC driver's own automobile insurance policy
- 2416 might not provide any coverage while the TNC driver is logged on
- 2417 to the digital network or is engaged in a prearranged ride,
- 2418 depending on the terms of the TNC driver's own automobile
- 2419 insurance policy.

- 2420 3. That the provision of rides for compensation which are
- 2421 not prearranged rides subjects the driver to the coverage
- 2422 requirements imposed under s. 324.032(1) and (2) and that
- 2423 failure to meet such coverage requirements subjects the TNC
- 2424 driver to penalties provided in s. 324.221, up to and including
- 2425 a misdemeanor of the second degree.

- 2426 (b)1. An insurer that provides an automobile liability
- 2427 insurance policy under this part may exclude any and all
- 2428 coverage afforded under the policy issued to an owner or
- 2429 operator of a TNC vehicle while driving that vehicle for any
- 2430 loss or injury that occurs while a TNC driver is logged on to a
- 2431 digital network or while a TNC driver provides a prearranged
- 2432 ride. Exclusions imposed under this subsection are limited to
- 2433 coverage while a TNC driver is logged on to a digital network or
- 2434 while a TNC driver provides a prearranged ride. This right to
- 2435 exclude all coverage may apply to any coverage included in an
- 2436 automobile insurance policy, including, but not limited to:

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2437 a. Liability coverage for bodily injury and property
 2438 damage;
 2439 b. Uninsured and underinsured motorist coverage;
 2440 c. Medical payments coverage;
 2441 d. Comprehensive physical damage coverage; and
 2442 e. Collision physical damage coverage; ~~and~~
 2443 ~~f. Personal injury protection.~~
 2444 2. The exclusions described in subparagraph 1. apply
 2445 notwithstanding any requirement under chapter 324. These
 2446 exclusions do not affect or diminish coverage otherwise
 2447 available for permissive drivers or resident relatives under the
 2448 personal automobile insurance policy of the TNC driver or owner
 2449 of the TNC vehicle who are not occupying the TNC vehicle at the
 2450 time of loss. This section does not require that a personal
 2451 automobile insurance policy provide coverage while the TNC
 2452 driver is logged on to a digital network, while the TNC driver
 2453 is engaged in a prearranged ride, or while the TNC driver
 2454 otherwise uses a vehicle to transport riders for compensation.
 2455 3. This section must not be construed to require an insurer
 2456 to use any particular policy language or reference to this
 2457 section in order to exclude any and all coverage for any loss or
 2458 injury that occurs while a TNC driver is logged on to a digital
 2459 network or while a TNC driver provides a prearranged ride.
 2460 4. This section does not preclude an insurer from providing
 2461 primary or excess coverage for the TNC driver's vehicle by
 2462 contract or endorsement.
 2463 Section 50. Paragraph (a) of subsection (2) of section
 2464 627.749, Florida Statutes, is amended to read:
 2465 627.749 Autonomous vehicles; insurance requirements.—

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2466 (2) INSURANCE REQUIREMENTS.—
 2467 (a) A fully autonomous vehicle with the automated driving
 2468 system engaged while logged on to an on-demand autonomous
 2469 vehicle network or engaged in a prearranged ride must be covered
 2470 by a policy of automobile insurance which provides:
 2471 1. Primary liability coverage of at least \$1 million for
 2472 death, bodily injury, and property damage.
 2473 2. ~~Personal injury protection benefits that meet the~~
 2474 ~~minimum coverage amounts required under ss. 627.730-627.7405.~~
 2475 3. Uninsured and underinsured vehicle coverage as required
 2476 by s. 627.727.
 2477 Section 51. Section 627.8405, Florida Statutes, is amended
 2478 to read:
 2479 627.8405 Prohibited acts; financing companies.—A ~~No~~ premium
 2480 finance company ~~shall~~, in a premium finance agreement or other
 2481 agreement, may not finance the cost of or otherwise provide for
 2482 the collection or remittance of dues, assessments, fees, or
 2483 other periodic payments of money for the cost of:
 2484 (1) A membership in an automobile club. The term
 2485 "automobile club" means a legal entity that ~~which~~, in
 2486 consideration of dues, assessments, or periodic payments of
 2487 money, promises its members or subscribers to assist them in
 2488 matters relating to the ownership, operation, use, or
 2489 maintenance of a motor vehicle; however, the term ~~this~~
 2490 ~~definition of "automobile club"~~ does not include persons,
 2491 associations, or corporations ~~which are~~ organized and operated
 2492 solely for the purpose of conducting, sponsoring, or sanctioning
 2493 motor vehicle races, exhibitions, or contests upon racetracks,
 2494 or upon racecourses established and marked as such for the

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2495 duration of such particular events. The term words "motor
 2496 vehicle" used herein has ~~have~~ the same meaning as defined in
 2497 chapter 320.

2498 (2) An accidental death and dismemberment policy sold in
 2499 combination with a policy providing only bodily injury liability
 2500 coverage ~~personal injury protection~~ and property damage
 2501 liability coverage ~~only policy~~.

2502 (3) Any product not regulated under ~~the provisions of~~ this
 2503 insurance code.

2504
 2505 This section also applies to premium financing by any insurance
 2506 agent or insurance company under part XVI. The commission shall
 2507 adopt rules to assure disclosure, at the time of sale, of
 2508 coverages financed ~~with personal injury protection~~ and shall
 2509 prescribe the form of such disclosure.

2510 Section 52. Subsection (1) of section 627.915, Florida
 2511 Statutes, is amended to read:

2512 627.915 Insurer experience reporting.—

2513 (1) Each insurer transacting private passenger automobile
 2514 insurance in this state shall report certain information
 2515 annually to the office. The information will be due on or before
 2516 July 1 of each year. The information must ~~shall~~ be divided into
 2517 the following categories: bodily injury liability; property
 2518 damage liability; uninsured motorist; ~~personal injury protection~~
 2519 ~~benefits~~, medical payments; and comprehensive and collision. The
 2520 information given must ~~shall~~ be on direct insurance writings in
 2521 the state alone and ~~shall~~ represent total limits data. The
 2522 information set forth in paragraphs (a)-(f) is applicable to
 2523 voluntary private passenger and Joint Underwriting Association

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2524 private passenger writings and must ~~shall~~ be reported for each
 2525 of the latest 3 calendar-accident years, with an evaluation date
 2526 of March 31 of the current year. The information set forth in
 2527 paragraphs (g)-(j) is applicable to voluntary private passenger
 2528 writings and must ~~shall~~ be reported on a calendar-accident year
 2529 basis ultimately seven times at seven different stages of
 2530 development.

2531 (a) Premiums earned for the latest 3 calendar-accident
 2532 years.

2533 (b) Loss development factors and the historic development
 2534 of those factors.

2535 (c) Policyholder dividends incurred.

2536 (d) Expenses for other acquisition and general expense.

2537 (e) Expenses for agents' commissions and taxes, licenses,
 2538 and fees.

2539 (f) Profit and contingency factors as utilized in the
 2540 insurer's automobile rate filings for the applicable years.

2541 (g) Losses paid.

2542 (h) Losses unpaid.

2543 (i) Loss adjustment expenses paid.

2544 (j) Loss adjustment expenses unpaid.

2545 Section 53. Subsections (2) and (3) of section 628.909,
 2546 Florida Statutes, are amended to read:

2547 628.909 Applicability of other laws.—

2548 (2) The following provisions of the Florida Insurance Code
 2549 apply to captive insurance companies that ~~who~~ are not industrial
 2550 insured captive insurance companies to the extent that such
 2551 provisions are not inconsistent with this part:

2552 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,

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624.40851, 624.4095, 624.411, 624.425, and 624.426.

(b) Chapter 625, part II.

(c) Chapter 626, part IX.

(d) ~~Sections 627.730-627.7405, when no-fault coverage is provided.~~

~~(e)~~ Chapter 628.

(3) The following provisions of the Florida Insurance Code ~~shall~~ apply to industrial insured captive insurance companies to the extent that such provisions are not inconsistent with this part:

(a) Chapter 624, except for ss. 624.407, 624.408, 624.4085, 624.40851, 624.4095, 624.411, 624.425, 624.426, and 624.609(1).

(b) Chapter 625, part II, if the industrial insured captive insurance company is incorporated in this state.

(c) Chapter 626, part IX.

(d) ~~Sections 627.730-627.7405 when no-fault coverage is provided.~~

~~(e)~~ Chapter 628, except for ss. 628.341, 628.351, and 628.6018.

Section 54. Subsections (2), (6), and (7) of section 705.184, Florida Statutes, are amended to read:

705.184 Derelict or abandoned motor vehicles on the premises of public-use airports.—

(2) The airport director or the director's designee shall contact the Department of Highway Safety and Motor Vehicles to notify that department that the airport has possession of the abandoned or derelict motor vehicle and to determine the name and address of the owner of the motor vehicle, the insurance company insuring the motor vehicle, ~~notwithstanding the~~

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~~provisions of s. 627.736,~~ and any person who has filed a lien on the motor vehicle. Within 7 business days after receipt of the information, the director or the director's designee shall send notice by certified mail, return receipt requested, to the owner of the motor vehicle, the insurance company insuring the motor vehicle, ~~notwithstanding the provisions of s. 627.736,~~ and all persons of record claiming a lien against the motor vehicle. The notice must ~~shall~~ state the fact of possession of the motor vehicle, that charges for reasonable towing, storage, and parking fees, if any, have accrued and the amount thereof, that a lien as provided in subsection (6) will be claimed, that the lien is subject to enforcement pursuant to law, that the owner or lienholder, if any, has the right to a hearing as set forth in subsection (4), and that any motor vehicle which, at the end of 30 calendar days after receipt of the notice, has not been removed from the airport upon payment in full of all accrued charges for reasonable towing, storage, and parking fees, if any, may be disposed of as provided in s. 705.182(2) (a), (b), (d), or (e), including, but not limited to, the motor vehicle being sold free of all prior liens after 35 calendar days after the time the motor vehicle is stored if any prior liens on the motor vehicle are more than 5 years of age or after 50 calendar days after the time the motor vehicle is stored if any prior liens on the motor vehicle are 5 years of age or less.

(6) The airport pursuant to this section or, if used, a licensed independent wrecker company pursuant to s. 713.78 shall have a lien on an abandoned or derelict motor vehicle for all reasonable towing, storage, and accrued parking fees, if any, except that no storage fee may ~~shall~~ be charged if the motor

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vehicle is stored less than 6 hours. As a prerequisite to perfecting a lien under this section, the airport director or the director's designee must serve a notice in accordance with subsection (2) on the owner of the motor vehicle, the insurance company insuring the motor vehicle, ~~notwithstanding the provisions of s. 627.736,~~ and all persons of record claiming a lien against the motor vehicle. If attempts to notify the owner, the insurance company insuring the motor vehicle, ~~notwithstanding the provisions of s. 627.736,~~ or lienholders are not successful, the requirement of notice by mail shall be considered met. Serving of the notice does not dispense with recording the claim of lien.

(7) (a) For the purpose of perfecting its lien under this section, the airport shall record a claim of lien which states ~~shall state~~:

1. The name and address of the airport.

2. The name of the owner of the motor vehicle, the insurance company insuring the motor vehicle, ~~notwithstanding the provisions of s. 627.736,~~ and all persons of record claiming a lien against the motor vehicle.

3. The costs incurred from reasonable towing, storage, and parking fees, if any.

4. A description of the motor vehicle sufficient for identification.

(b) The claim of lien must ~~shall~~ be signed and sworn to or affirmed by the airport director or the director's designee.

(c) The claim of lien is ~~shall be~~ sufficient if it is in substantially the following form:

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CLAIM OF LIEN

State of

County of

Before me, the undersigned notary public, personally appeared

....., who was duly sworn and says that he/she is the

..... of, whose address is.....; and that the following described motor vehicle:

...(Description of motor vehicle)...

owned by, whose address is, has accrued

\$..... in fees for a reasonable tow, for storage, and for

parking, if applicable; that the lienor served its notice to the owner, the insurance company insuring the motor vehicle

~~notwithstanding the provisions of s. 627.736, Florida Statutes,~~

and all persons of record claiming a lien against the motor

vehicle on, ...(year)...., by.....

...(Signature)...

Sworn to (or affirmed) and subscribed before me this day of

...., ...(year)...., by ...(name of person making statement)....

...(Signature of Notary Public).....(Print, Type, or Stamp

Commissioned name of Notary Public)...

Personally Known....OR Produced....as identification.

However, the negligent inclusion or omission of any information in this claim of lien which does not prejudice the owner does not constitute a default that operates to defeat an otherwise valid lien.

(d) The claim of lien must ~~shall~~ be served on the owner of the motor vehicle, the insurance company insuring the motor vehicle, ~~notwithstanding the provisions of s. 627.736,~~ and all

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persons of record claiming a lien against the motor vehicle. If attempts to notify the owner, the insurance company insuring the motor vehicle ~~notwithstanding the provisions of s. 627.736~~, or lienholders are not successful, the requirement of notice by mail shall be considered met. The claim of lien must ~~shall~~ be so served before recordation.

(e) The claim of lien must ~~shall~~ be recorded with the clerk of court in the county where the airport is located. The recording of the claim of lien shall be constructive notice to all persons of the contents and effect of such claim. The lien attaches ~~shall attach~~ at the time of recordation and takes ~~shall take~~ priority as of that time.

Section 55. Subsection (4) of section 713.78, Florida Statutes, is amended to read:

713.78 Liens for recovering, towing, or storing vehicles and vessels.—

(4) (a) A person regularly engaged in the business of recovering, towing, or storing vehicles or vessels who comes into possession of a vehicle or vessel pursuant to subsection (2), and who claims a lien for recovery, towing, or storage services, shall give notice, by certified mail, to the registered owner, the insurance company insuring the vehicle ~~notwithstanding s. 627.736~~, and all persons claiming a lien thereon, as disclosed by the records in the Department of Highway Safety and Motor Vehicles or as disclosed by the records of any corresponding agency in any other state in which the vehicle is identified through a records check of the National Motor Vehicle Title Information System or an equivalent commercially available system as being titled or registered.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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(b) Whenever a law enforcement agency authorizes the removal of a vehicle or vessel or whenever a towing service, garage, repair shop, or automotive service, storage, or parking place notifies the law enforcement agency of possession of a vehicle or vessel pursuant to s. 715.07(2)(a)2., the law enforcement agency of the jurisdiction where the vehicle or vessel is stored shall contact the Department of Highway Safety and Motor Vehicles, or the appropriate agency of the state of registration, if known, within 24 hours through the medium of electronic communications, giving the full description of the vehicle or vessel. Upon receipt of the full description of the vehicle or vessel, the department shall search its files to determine the owner's name, the insurance company insuring the vehicle or vessel, and whether any person has filed a lien upon the vehicle or vessel as provided in s. 319.27(2) and (3) and notify the applicable law enforcement agency within 72 hours. The person in charge of the towing service, garage, repair shop, or automotive service, storage, or parking place shall obtain such information from the applicable law enforcement agency within 5 days after the date of storage and shall give notice pursuant to paragraph (a). The department may release the insurance company information to the requestor ~~notwithstanding s. 627.736~~.

(c) The notice of lien must be sent by certified mail to the registered owner, the insurance company insuring the vehicle ~~notwithstanding s. 627.736~~, and all other persons claiming a lien thereon within 7 business days, excluding Saturday and Sunday, after the date of storage of the vehicle or vessel. However, in no event shall the notice of lien be sent less than

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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2727 30 days before the sale of the vehicle or vessel. The notice
2728 must state:

2729 1. If the claim of lien is for a vehicle, the last 8 digits
2730 of the vehicle identification number of the vehicle subject to
2731 the lien, or, if the claim of lien is for a vessel, the hull
2732 identification number of the vessel subject to the lien, clearly
2733 printed in the delivery address box and on the outside of the
2734 envelope sent to the registered owner and all other persons
2735 claiming an interest therein or lien thereon.

2736 2. The name, physical address, and telephone number of the
2737 lienor, and the entity name, as registered with the Division of
2738 Corporations, of the business where the towing and storage
2739 occurred, which must also appear on the outside of the envelope
2740 sent to the registered owner and all other persons claiming an
2741 interest in or lien on the vehicle or vessel.

2742 3. The fact of possession of the vehicle or vessel.

2743 4. The name of the person or entity that authorized the
2744 lienor to take possession of the vehicle or vessel.

2745 5. That a lien as provided in subsection (2) is claimed.

2746 6. That charges have accrued and include an itemized
2747 statement of the amount thereof.

2748 7. That the lien is subject to enforcement under law and
2749 that the owner or lienholder, if any, has the right to a hearing
2750 as set forth in subsection (5).

2751 8. That any vehicle or vessel that remains unclaimed, or
2752 for which the charges for recovery, towing, or storage services
2753 remain unpaid, may be sold free of all prior liens 35 days after
2754 the vehicle or vessel is stored by the lienor if the vehicle or
2755 vessel is more than 3 years of age or 50 days after the vehicle

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2756 or vessel is stored by the lienor if the vehicle or vessel is 3
2757 years of age or less.

2758 9. The address at which the vehicle or vessel is physically
2759 located.

2760 (d) The notice of lien may not be sent to the registered
2761 owner, the insurance company insuring the vehicle or vessel, and
2762 all other persons claiming a lien thereon less than 30 days
2763 before the sale of the vehicle or vessel.

2764 (e) If attempts to locate the name and address of the owner
2765 or lienholder prove unsuccessful, the towing-storage operator
2766 shall, after 7 business days, excluding Saturday and Sunday,
2767 after the initial tow or storage, notify the public agency of
2768 jurisdiction where the vehicle or vessel is stored in writing by
2769 certified mail or acknowledged hand delivery that the towing-
2770 storage company has been unable to locate the name and address
2771 of the owner or lienholder and a physical search of the vehicle
2772 or vessel has disclosed no ownership information and a good
2773 faith effort has been made, including records checks of the
2774 Department of Highway Safety and Motor Vehicles database and the
2775 National Motor Vehicle Title Information System or an equivalent
2776 commercially available system. For purposes of this paragraph
2777 and subsection (9), the term "good faith effort" means that the
2778 following checks have been performed by the company to establish
2779 the prior state of registration and for title:

2780 1. A check of the department's database for the owner and
2781 any lienholder.

2782 2. A check of the electronic National Motor Vehicle Title
2783 Information System or an equivalent commercially available
2784 system to determine the state of registration when there is not

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2785 a current registration record for the vehicle or vessel on file
2786 with the department.

2787 3. A check of the vehicle or vessel for any type of tag,
2788 tag record, temporary tag, or regular tag.

2789 4. A check of the law enforcement report for a tag number
2790 or other information identifying the vehicle or vessel, if the
2791 vehicle or vessel was towed at the request of a law enforcement
2792 officer.

2793 5. A check of the trip sheet or tow ticket of the tow truck
2794 operator to determine whether a tag was on the vehicle or vessel
2795 at the beginning of the tow, if a private tow.

2796 6. If there is no address of the owner on the impound
2797 report, a check of the law enforcement report to determine
2798 whether an out-of-state address is indicated from driver license
2799 information.

2800 7. A check of the vehicle or vessel for an inspection
2801 sticker or other stickers and decals that may indicate a state
2802 of possible registration.

2803 8. A check of the interior of the vehicle or vessel for any
2804 papers that may be in the glove box, trunk, or other areas for a
2805 state of registration.

2806 9. A check of the vehicle for a vehicle identification
2807 number.

2808 10. A check of the vessel for a vessel registration number.

2809 11. A check of the vessel hull for a hull identification
2810 number which should be carved, burned, stamped, embossed, or
2811 otherwise permanently affixed to the outboard side of the
2812 transom or, if there is no transom, to the outmost seaboard side
2813 at the end of the hull that bears the rudder or other steering

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2814 mechanism.

2815 Section 56. Paragraph (a) of subsection (1), paragraph (c)
2816 of subsection (7), paragraphs (a), (b), and (c) of subsection
2817 (8), and subsections (9) and (10) of section 817.234, Florida
2818 Statutes, are amended to read:

2819 817.234 False and fraudulent insurance claims.—

2820 (1) (a) A person commits insurance fraud punishable as
2821 provided in subsection (11) if that person, with the intent to
2822 injure, defraud, or deceive any insurer:

2823 1. Presents or causes to be presented any written or oral
2824 statement as part of, or in support of, a claim for payment or
2825 other benefit pursuant to an insurance policy or a health
2826 maintenance organization subscriber or provider contract,
2827 knowing that such statement contains ~~any~~ false, incomplete, or
2828 misleading information concerning any fact or thing material to
2829 such claim;

2830 2. Prepares or makes any written or oral statement that is
2831 intended to be presented to an ~~any~~ insurer in connection with,
2832 or in support of, any claim for payment or other benefit
2833 pursuant to an insurance policy or a health maintenance
2834 organization subscriber or provider contract, knowing that such
2835 statement contains ~~any~~ false, incomplete, or misleading
2836 information concerning any fact or thing material to such claim;

2837 3.a. Knowingly presents, causes to be presented, or
2838 prepares or makes with knowledge or belief that it will be
2839 presented to an ~~any~~ insurer, purported insurer, servicing
2840 corporation, insurance broker, or insurance agent, or any
2841 employee or agent thereof, ~~any~~ false, incomplete, or misleading
2842 information or a written or oral statement as part of, or in

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support of, an application for the issuance of, or the rating of, any insurance policy, or a health maintenance organization subscriber or provider contract; or

b. Knowingly conceals information concerning any fact material to such application; or

4. Knowingly presents, causes to be presented, or prepares or makes with knowledge or belief that it will be presented to any insurer a claim for payment or other benefit under medical payments coverage in a motor vehicle ~~a personal injury protection~~ insurance policy if the person knows that the payee knowingly submitted a false, misleading, or fraudulent application or other document when applying for licensure as a health care clinic, seeking an exemption from licensure as a health care clinic, or demonstrating compliance with part X of chapter 400.

(7)

~~(e) An insurer, or any person acting at the direction of or on behalf of an insurer, may not change an opinion in a mental or physical report prepared under s. 627.736(7) or direct the physician preparing the report to change such opinion; however, this provision does not preclude the insurer from calling to the attention of the physician errors of fact in the report based upon information in the claim file. Any person who violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

(8) (a) It is unlawful for any person intending to defraud any other person to solicit or cause to be solicited any business from a person involved in a motor vehicle accident for the purpose of making, adjusting, or settling motor vehicle tort

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claims or claims for benefits under medical payments coverage in a motor vehicle insurance policy ~~personal injury protection~~ ~~benefits required by s. 627.736~~. Any person who violates the ~~provisions of~~ this paragraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person who is convicted of a violation of this subsection shall be sentenced to a minimum term of imprisonment of 2 years.

(b) A person may not solicit or cause to be solicited any business from a person involved in a motor vehicle accident by any means of communication other than advertising directed to the public for the purpose of making motor vehicle tort claims or claims for benefits under medical payments coverage in a motor vehicle insurance policy ~~personal injury protection~~ ~~benefits required by s. 627.736~~, within 60 days after the occurrence of the motor vehicle accident. Any person who violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) A lawyer, health care practitioner as defined in s. 456.001, or owner or medical director of a clinic required to be licensed pursuant to s. 400.9905 may not, at any time after 60 days have elapsed from the occurrence of a motor vehicle accident, solicit or cause to be solicited any business from a person involved in a motor vehicle accident by means of in person or telephone contact at the person's residence, for the purpose of making motor vehicle tort claims or claims for benefits under medical payments coverage in a motor vehicle insurance policy ~~personal injury protection~~ ~~benefits required by s. 627.736~~. Any person who violates this paragraph commits a

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felony of the third degree, punishable as provided in s.

775.082, s. 775.083, or s. 775.084.

(9) A person may not organize, plan, or knowingly participate in an intentional motor vehicle crash or a scheme to create documentation of a motor vehicle crash that did not occur for the purpose of making motor vehicle tort claims or claims for benefits under medical payments coverage in a motor vehicle insurance policy ~~personal injury protection benefits as required by s. 627.736~~. Any person who violates this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person who is convicted of a violation of this subsection shall be sentenced to a minimum term of imprisonment of 2 years.

(10) A licensed health care practitioner who is found guilty of insurance fraud under this section for an act relating to a motor vehicle ~~personal injury protection~~ insurance policy loses his or her license to practice for 5 years and may not receive reimbursement under medical payments coverage in a motor vehicle insurance policy ~~for personal injury protection benefits~~ for 10 years.

Section 57. For the 2020-2021 fiscal year, the sum of \$83,651 in nonrecurring funds is appropriated from the Insurance Regulatory Trust Fund to the Office of Insurance Regulation for the purpose of implementing this act.

Section 58. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect January 1, 2021.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/2020

Meeting Date

378

Bill Number (if applicable)

Topic Auto Insurance

Amendment Barcode (if applicable)

Name Greg Black

Job Title Lobbyist

Address 1727 Highland Place

Phone 509 8022

Street

TLH
City

FL
State

32308
Zip

Email greg@waypointstrat.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing R Street Institute

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name

Job Title

Address

Street

City

State

Zip

Phone

Email

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-21-20

Meeting Date

SB 378

Bill Number (if applicable)

Topic Motor Vehicle Insurance

Amendment Barcode (if applicable)

Name Gary Guzzo

Job Title Lobbyist

Address 108 S. Monroe St

Phone 850-681-0024

Street

Tallahassee

City

Fla

State

32301

Zip

Email gguzzo@flapartners.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing The Florida Insurance Council

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/20
Meeting Date

378
Bill Number (if applicable)

Topic S 378

Amendment Barcode (if applicable)

Name Bonny Gordon

Job Title S.R. Counsel

Address 1 GEICO Plaza

Phone 301-986-2653

Street

Washington DC

20076

City

State

Zip

Email bgordon@geico.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing GEICO

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/20/20
Meeting Date

378
Bill Number (if applicable)

Topic BI + payment to doctors

Amendment Barcode (if applicable)

Name Paul Lambert

Job Title General Counsel

Address 263 Rosehill DR. N.
Street
Tallahassee FL 32312
City State Zip

Phone 850 597-2696

Email plambert@paulambertlaw.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Chiropractic Assn.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

01.21.20

Meeting Date

378

Bill Number (if applicable)

Topic Motor Vehicle Insurance

Amendment Barcode (if applicable)

Name Rick Parker

Job Title _____

Address 3600 Maclay Boulevard - Suite 101

Phone (850) 894-4111

Street

Tallahassee

FL

32312

Email jparker@butler.legal

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Justice Reform Institute

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

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 Infrastructure and Security

BILL: CS/SB 538

INTRODUCER: Senators Diaz and Book

SUBJECT: Emergency Reporting

DATE: January 22, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Miller	IS	FAV/CS
2.			CA	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 538 creates mandatory reporting of any incidents listed in the State Watch Office (SWO) Reportable Incidents List to the SWO within the Division of Emergency Management (DEM). Such incidents may include:

- Major fire incidents and search and rescue operations;
- Law enforcement incidents;
- Natural hazards;
- Population protective actions;
- Technical hazards or environmental concerns;
- Transportation incidents;
- Incidents involving utilities or infrastructure; and
- Military events.

The CS may have a local mandate and require the approval of two-thirds of the membership in each house of the Legislature. See Section IV.

The fiscal impact of this CS on counties and municipalities is indeterminate.

The CS has an effective date of July 1, 2020.

II. Present Situation:

The SWO is located in the State Emergency Operations Center in Tallahassee, FL, and is manned by the DEM's Operations Officers. The SWO is Florida's official State Warning Point with the Federal Emergency Management Agency, and maintains communication systems and warning capabilities to ensure that the state's population and emergency management agencies are warned of developing emergency situations and can communicate emergency response decisions.^{1, 2}

The SWO is manned 24 hours a day, 7 days a week, and its primary purpose is to record, analyze and share information with local, county, state and federal partners to aid in their appropriate response. The SWO is not a dispatch center but a clearinghouse of information to be shared with other government entities who can independently act within their own agency authority and protocols.³ DEM's mission is to provide members of the State Emergency Response Team with the most accurate information available relating to ongoing or impending hazardous situations throughout the State and region.⁴

The SWO also maintains a direct relationship with the Florida Fusion Center⁵, which allows both Emergency Management and Law Enforcement officials to have the most complete and up-to-date intelligence available to better serve citizens, businesses, and visitors.⁶

The SWO takes between 8,000 and 9,000 incidents a year.⁷ They include simple fuel spills, radiological emergencies, damages from severe weather, and rocket launches from Cape Canaveral. A list of potential hazards that are called in and monitored by the SWO are:⁸

<u>Natural Hazards</u>	<u>Technological Hazards</u>
Hurricanes	Terrorism
Tornadoes	Mass Migration

¹ Section 252.35, F.S.

² Florida Division of Emergency Management, *State Watch Office Guide for Florida County Warning Points and PSAPs* (Published June 2015),

³ Florida Division of Emergency Management, *State Watch Office Incident Reporting Guidelines* (August 2011), available at <https://www.floridadisaster.org/globalassets/importedpdfs/swo-reporting-guidelines-2011.pdf> (last visited January 16, 2020).

⁴ *Supra*, note 2.

⁵ The Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108-458, 118 Stat. 3638 (Dec. 17, 2004), provided guidance on the need for each state to designate a single fusion center to serve as a hub for information sharing, access and collaboration at all levels. The Florida Fusion Center is housed within the Florida Department of Law Enforcement with a mission to protect citizens, visitors, resources, and critical infrastructure of Florida by gathering, processing, analyzing, and disseminating of terrorism, law enforcement, and homeland security information for all local, state, and federal agencies in accordance with Florida's Domestic Security Strategy.

⁶ *Supra*, note 2.

⁷ Florida Division of Emergency Management, *Program Spotlight: The Florida State Watch Office*, available at <https://floridagetaplan.wordpress.com/2015/07/17/program-spotlight-the-florida-state-watch-office/> (last visited January 16, 2020).

⁸ *Id.*

Flooding	Radiological
Wildfire	Hazardous Materials
Severe Thunderstorms	Special Events (2012 Republican National Convention, Super Bowl)
Severe Hot and Cold	Transportation Accidents (Rail, Aircraft, Motor Vehicle, Marine)
Earthquakes	Law Enforcement Incidents

The information for these incidents is generally given to the SWO from a county Public Safety Answering Point⁹, and sometimes from the general public. The collected information is logged into an incident tracking system and then disseminated to local, state, tribal, federal, and private partners to aid in their response actions.¹⁰

Counties and municipalities currently have no statutory direction on informing the State about localized emergency events or incidents in their jurisdiction(s). However, local governments currently share information regularly with the SWO regarding natural and technological hazards, so that the SWO is consistently provided with incident reports from across the state.¹¹ Only wastewater and chemical spills, are required by law to be reported to the SWO.¹²

III. Effect of Proposed Changes:

The CS creates s. 252.351, F.S., for mandatory reporting of certain incidents by counties and municipalities. The CS provides that:

- As soon as practicable following its initial response to an incident, a county or a municipality must provide notification to the SWO within the DEM of any incidents listed in the SWO Reportable Incidents List which occur within the geographic boundaries of the county or municipality;
- The DEM will annually provide the SWO Reportable Incidents List to county and municipal emergency managers, the Speaker of the House of Representatives, and the President of the Senate; and
- The DEM will maintain the SWO Reportable Incidents List, and will annually notify county and municipal emergency managers, the Speaker of the House of Representatives, and the President of the Senate when the list is amended by the division director.

The CS has an effective date of July 1, 2020.

⁹ DATA.GOV, *Public Safety Answering Point (PSAP) 911 Service Area Boundaries*, available at <https://catalog.data.gov/dataset/public-safety-answering-point-psap-911-service-area-boundaries> (last visited January 17, 2020), defines a Public Safety Answering Point as a facility equipped and staffed to receive 9-1-1 calls.

¹⁰ *Supra*, note 7.

¹¹ Division of Emergency Management, *FDEM Legislative Priorities 2019-2020* (Fla. Stat. § 252), on file with the Senate Committee on Infrastructure and Security.

¹² Section 403.077(2), F.S., see also Chapter 62-620, F.A.C.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, subsection (a) of section 18 of the Florida Constitution provides that cities and counties are not bound by general laws requiring them to spend funds or take action that requires the expenditure of funds unless certain specified exemptions or exceptions are met.

Under this CS, cities and counties may incur costs relating to reporting of certain incidents. However, the mandate requirements do not apply to laws having an insignificant impact, which, for Fiscal Year 2020-2021, is forecast at slightly over \$2.1 million.^{13,14,15} The impact of this CS on cities and counties is indeterminate.

If such costs were determined to exceed \$2.1 million in the aggregate, the CS may be binding on cities and counties if the CS contains a finding of important state interest and meets one of the exceptions specified in State Constitution (e.g., provision of funding or a funding mechanism or enactment by vote of two-thirds of the membership of each house).

However, this provision does not apply if the law has an insignificant fiscal impact.¹⁶

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

¹³ FLA. CONST. art. VII, s. 18(d).

¹⁴ An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year times \$0.10. See Florida Senate Committee on Community Affairs, Interim Report 2012-115: Insignificant Impact, (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited January 17, 2020).

¹⁵ Based on the Florida Demographic Estimating Conference's December 3, 2019, population forecast for 2020 of 21,555,986. The conference packet is available at <http://edr.state.fl.us/Content/conferences/population/ConferenceResults.pdf> (last visited January 17, 2020).

¹⁶ Article VII, s. 18(d) of the Florida Constitution

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There may be an insignificant negative fiscal impact to local governments for implementation of the CS. With the exception of wastewater and chemical spills¹⁷, counties and municipalities have no statutory direction on informing the State about localized emergency events or incidents in their jurisdiction(s). However, local governments currently share information regularly with the SWO regarding natural and technological hazards, so that the SWO is consistently provided with incident reports from across the state.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This CS creates the following section of the Florida Statutes: 252.351

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

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

CS by Infrastructure and Security on January 21, 2020:

- Provides the DEM shall annually provide the State Watch Office Reportable Incidents List to county and municipal emergency managers, the Speaker of the House of Representatives, and the President of the Senate; and
- Provides the DEM will maintain the State Watch Office Reportable Incidents List, and shall annually notify county and municipal emergency managers, the Speaker of the House of Representatives, and the President of the Senate when the list is amended by the division director.

¹⁷ *Supra*, note 12.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



639450

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/22/2020	.	
	.	
	.	
	.	

The Committee on Infrastructure and Security (Diaz) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 252.351, Florida Statutes, is created to
read:

252.351 Mandatory reporting of certain incidents by
counties and municipalities.—

(1) As soon as practicable following its initial response
to an incident, a county or a municipality shall provide



639450

notification to the State Watch Office within the division of
any incidents listed in the State Watch Office Reportable
Incidents List which occur within the geographic boundaries of
the county or municipality.

(2) The division shall annually provide the State Watch
Office Reportable Incidents List to county and municipal
emergency mangers, the Speaker of the House of Representatives,
and the President of the Senate.

(3) The division shall maintain the State Watch Office
Reportable Incidents List, and shall annually notify county and
municipal emergency mangers, the Speaker of the House of
Representatives, and the President of the Senate when the list
is amended by the division director.

Section 2. This act shall take effect July 1, 2020.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to emergency reporting; creating s.
252.351, F.S.; requiring a county or municipality to
report certain incidents to the State Watch Office
within the Division of Emergency Management; requiring
the division to annually provide the State Watch
Office Reportable Incidents List to local emergency
managers and the Legislature; requiring the division
to maintain the reportable incidents list; requiring
the division to notify local emergency managers and



639450

40 the Legislature of any amendments to the reportable
41 incidents list; providing an effective date.



784498

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/22/2020	.	
	.	
	.	
	.	

The Committee on Infrastructure and Security (Diaz) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 252.351, Florida Statutes, is created to
read:

252.351 Mandatory reporting of certain incidents by
counties and municipalities.—

(1) As soon as practicable following its initial response
to an incident, a county or a municipality shall provide



784498

notification to the State Watch Office within the division of
any incidents listed in the State Watch Office Reportable
Incidents List which occur within the geographic boundaries of
the county or municipality.

(2) The division shall annually provide the State Watch
Office Reportable Incidents List to county and municipal
emergency managers, the Speaker of the House of Representatives,
and the President of the Senate.

(3) The division shall maintain the State Watch Office
Reportable Incidents List, and shall annually notify county and
municipal emergency managers, the Speaker of the House of
Representatives, and the President of the Senate when the list
is amended by the division director.

Section 2. This act shall take effect July 1, 2020.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to emergency reporting; creating s.
252.351, F.S.; requiring a county or municipality to
report certain incidents to the State Watch Office
within the Division of Emergency Management; requiring
the division to annually provide the State Watch
Office Reportable Incidents List to local emergency
managers and the Legislature; requiring the division
to maintain the reportable incidents list; requiring
the division to notify local emergency managers and



784498

40 the Legislature of any amendments to the reportable
41 incidents list; providing an effective date.

By Senator Diaz

36-00812-20

2020538__

A bill to be entitled

An act relating to emergency reporting; creating s. 252.351, F.S.; requiring a county or municipality to report certain incidents to the State Watch Office within the Division of Emergency Management; authorizing the division to establish guidelines to specify additional information that must be provided by a reporting county or municipality; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 252.351, Florida Statutes, is created to read:

252.351 Mandatory reporting of certain incidents by counties and municipalities.—

(1) As soon as practicable following its initial response to an incident, a county or a municipality shall provide notification to the State Watch Office within the division of any of the following incidents that occur within the geographic boundaries of the county or municipality:

(a) Major fire incidents and search and rescue operations, including wildfires, multiunit commercial or residential fires, industrial accidents, structure collapses, urban search and rescue responses, and transportation incidents requiring a search and rescue response.

(b) Law enforcement incidents and other suspicious activity, including bomb threats, the report of a threat to inflict harm on large numbers of people or significant damage to

Page 1 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

36-00812-20

2020538__

critical infrastructure, a device detonation, the discovery of any suspicious device, civil events or disturbances, rioting, any law enforcement search or manhunt for a violent felony suspect, active shooter or active shooting situations, looting, poisoning, any incidents involving a suspicious powder, correctional facility incidents, a cyber-related infrastructure breach, a lockdown, and a security breach.

(c) Natural hazards, including earthquakes, ground subsidence or sinkholes, severe weather reports, and severe weather damage.

(d) Population protective actions, including any public health hazards, the establishment of shelter-in-place orders or evacuation orders, emergency shelter openings, hazards involving animals or agriculture, and food supply contamination or recalls.

(e) Technical hazards or environmental concerns, including petroleum spills; wastewater releases; hazardous material spills and releases; chemical, biological, radiological, and nuclear incidents; nuclear power plant events; and environmental crimes.

(f) Transportation incidents, including incidents involving aircraft or airports, railroad accidents or derailments, major road or bridge closings, and incidents involving marine vessels that block a navigable channel of a major waterway.

(g) Incidents involving utilities or infrastructure, including dam failure or overtopping, a drinking water facility breach, a water quality issue or boil water advisory, and utility disruptions or major outages involving transmission lines or substations.

(h) Military events, when information regarding such

Page 2 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

36-00812-20

2020538__

59 activity is provided to local officials.
60 (2) The division may establish guidelines specifying
61 additional information that a county or municipality must
62 provide to the State Watch Office when reporting an incident
63 pursuant to subsection (1).
64 Section 2. This act shall take effect July 1, 2020.

THE FLORIDA SENATE
APPEARANCE RECORD

1/21/20

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 538

Meeting Date

Bill Number (if applicable)

Topic Emergency Regarding

~~Amendment Barcode (if applicable)~~

Name Jared Moskowitz

Job Title Director, FDEM

Address 2555 Shumard Oak Blvd
Street

Phone 954-600-4949

Tallahassee FL 32311
City State Zip

Email Jared@em.myflorida.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FDEM

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

1/21/20

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

538

Bill Number (if applicable)

784498

Amendment Barcode (if applicable)

Topic Emergency Reporting

Name Jared Rosenstein

Job Title Legislative Affairs Dir.

Address 2555 Shumard Oak Blvd

Street

Tallahassee

City

FL

State

32311

Zip

Phone 786-247-8716

Email Jared.Rosenstein@em.myflorida.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FDEM

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

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 Infrastructure and Security

BILL: CS/SB 636

INTRODUCER: Senator Stargel

SUBJECT: Department of Highway Safety and Motor Vehicles

DATE: January 22, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Miller	IS	FAV/CS
2.			ATD	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 636 provides authority for the Department of Highway Safety and Motor Vehicles (DHSMV) and its agents (Tax Collectors) to collect and use electronic mail addresses and cellular telephone numbers to contact customers for providing information other than renewal notifications.

The CS removes the Florida Fish and Wildlife Commission (FWC) as an entity eligible to accept applications by electronic or telephonic means for vessel registration and titling.

The CS provides that all records made or kept by the DHSMV for vessel registration are subject to inspection and copying as provided in chapter 119.

The CS has an effective date of July 1, 2020.

II. Present Situation:

Collection and Use of Cellular Telephone Numbers

The DHSMV lacks statutory authority to collect and use cellular telephone numbers as a method to communicate with customers in an expedited manner. Florida Statutes already allows for the collection of email addresses and the use of email, in lieu of the United State Postal Service (USPS), to provide renewal notices, including driver license renewal notices, registration renewal notices, and vessel registration renewal notices. However, current law does not allow the

e-mail to be used for other business purposes.^{1 2 3 4 5} The DHSMV is not specifically authorized to collect or use a customer's cellular telephone number.⁶

Electronic or Telephonic Vessel Applications

The DHSMV is responsible for titling and registering vessels under chapter 328, F.S. The DHSMV is authorized to accept applications by electronic or telephonic means under s. 328.30, F.S., for titling and registering vessels; however, s. 328.80, F.S., also authorizes the FWC to do so. This inconsistency was the result of the passing of two laws in 1999 that amended the same section of statute.⁷

Public Record Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.⁸ This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.⁹

In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.¹⁰ Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.¹¹ The Public Records Act states that:

[i]t is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.¹²

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.¹³ The Florida Supreme

¹ Section 319.40, F.S.

² Section 320.95, F.S.

³ Section 322.08(10), F.S.

⁴ Section 328.30, F.S.

⁵ Section 328.80, F.S.

⁶ Highway Safety and Motor Vehicles, *Senate Bill 636 Bill Analysis* (January 13, 2020) (on file with the Senate Committee on Infrastructure and Security).

⁷ In 1999, the Legislature transferred responsibility for the registration of vessels from the Department of Environmental Protection ("DEP") to the DHMSV (Ch. 99-289, L.O.F.). During the same 1999 regular session, the Legislature transferred various other duties of DEP to the Fish and Wildlife Conservation Commission ("FWC") (Ch. 99-245, L.O.F.). Although the DHSMV is responsible for the titling and registration of vessels, s. 328.80, F.S., authorizes FWC to accept applications by electronic or telephonic means under chapter 328, despite FWC having no statutory authority to provide titling and registration services for vessels under chapter 328.

⁸ FLA. CONST., art. I, s. 24(a).

⁹ *Id.*

¹⁰ The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature's records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are primarily located in s. 11.0431(2)-(3), F.S.

¹¹ Public records laws are found throughout the Florida Statutes.

¹² Section 119.01(1), F.S.

¹³ Section 119.011(12), F.S., defines "public record" to mean "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form,

Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”¹⁴ A violation of the Public Records Act may result in civil or criminal liability.¹⁵

III. Effect of Proposed Changes:

The CS amends ss. 319.40, F.S., to allow authorized agents of the DHSMV to collect electronic mail addresses and use electronic mail for title certificates, including, but not limited to, use of electronic mail in lieu of the USPS as a method of notification. It further requires all electronic mail addresses to be mutually shared between the DHSMV and its authorized agents upon request. However, any notice regarding the potential forfeiture or foreclosure of an interest in property must be sent via the USPS.

The CS amends ss. 320.95, 322.08, 328.30, and 328.80, F.S., to allow the DHSMV or its authorized agents to collect electronic mail addresses or cellular telephone numbers to contact customers for business reasons other than a vessel title, vessel registration, motor vehicle license, driver license and identification card renewal notice. They may use electronic mail or text messages in lieu of the USPS for the purpose of providing information, including, but not limited to, renewal notices, appointment scheduling information, tax collector office locations, hours of operation, contact information, driving skills testing locations, and website information. It further requires all electronic mail addresses to be mutually shared between the DHSMV and its authorized agents upon request.

The CS further amends s. 328.80, F.S., to remove the FWC as an entity eligible to accept applications by electronic or telephonic means for vessel registration and titling.

The CS amends s. 328.40, F.S., to provide that all records made or kept by the DHSMV for vessel registration are subject to inspection and copying as provided in chapter 119.

The CS has an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

¹⁴ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

¹⁵ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Local governments may incur indeterminate expenditures relating to information technology programming costs should authorized agents of the DHSMV pursue collection of cellular telephone numbers.¹⁶

The DHSMV may incur indeterminate programming costs related to modifying existing systems to enable the capture of a cellular telephone number should the DHSMV pursue that activity.¹⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹⁶ *Supra*, note 6.

¹⁷ *Id.*

VIII. Statutes Affected:

This CS substantially amends the following sections of the Florida Statutes: 319.40, 320.95, 322.08, 328.30, 328.40, and 328.80.

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

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

CS by Infrastructure and Security on January 21, 2020:

- Changes the term “verified texting numbers” to “cellular telephone numbers”; and
- Replaces “all electronic mail addresses shall be made available to the department or its authorized agents upon request” with “all electronic mail addresses shall be mutually shared between the department and its authorized agents upon request.”

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/22/2020	.	
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	.	

The Committee on Infrastructure and Security (Stargel)
recommended the following:

Senate Amendment (with title amendment)

Delete lines 50 - 121
and insert:
mutually shared between the department and its authorized agents
upon request. However, any notice regarding the potential
forfeiture or foreclosure of an interest in property must be
sent via the United States Postal Service.

Section 2. Subsection (2) of section 320.95, Florida
Statutes, is amended to read:



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320.95 Transactions by electronic or telephonic means.—

(2) The department or its authorized agents may collect electronic mail addresses or cellular telephone numbers and use electronic mail or text messages in lieu of the United States Postal Service for the purpose of providing information, including, but not limited to, renewal notices, appointment scheduling information, tax collector office locations, hours of operation, contact information, driving skills testing locations, and website information. All electronic mail addresses shall be mutually shared between the department and its authorized agents upon request ~~renewal notices.~~

Section 3. Subsection (10) of section 322.08, Florida Statutes, is amended to read:

322.08 Application for license; requirements for license and identification card forms.—

(10) The department or its authorized agents may collect electronic mail addresses or cellular telephone numbers and use electronic mail or text messages in lieu of the United States Postal Service for the purpose of providing information, including, but not limited to, renewal notices, appointment scheduling information, tax collector office locations, hours of operation, contact information, driving skills testing locations, and website information. All electronic mail addresses shall be mutually shared between the department and its authorized agents upon request ~~renewal notices.~~

Section 4. Section 328.30, Florida Statutes, is amended to read:

328.30 Transactions by electronic or telephonic means.—

(1) The Department of Highway Safety and Motor Vehicles may



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accept any application provided for under this part ~~chapter~~ by electronic or telephonic means.

(2) The department may issue an electronic certificate of title in lieu of printing a paper title.

(3) The department or its authorized agents may collect electronic mail addresses or cellular telephone numbers and use electronic mail or text messages in lieu of the United States Postal Service for the purpose of providing information, including, but not limited to, renewal notices, appointment scheduling information, tax collector office locations, hours of operation, contact information, and website information. All electronic mail addresses shall be mutually shared between the department and its authorized agents upon request ~~renewal notices.~~

Section 5. Subsection (3) of section 328.40, Florida Statutes, is amended to read:

328.40 Administration of vessel registration and titling laws; records.—

(3) All records made or kept by the Department of Highway Safety and Motor Vehicles under this part are subject to inspection and copying as provided in chapter 119 ~~law are public records except for confidential reports.~~

Section 6. Section 328.80, Florida Statutes, is amended to read:

328.80 Transactions by electronic or telephonic means.—

(1) The Department of Highway Safety and Motor Vehicles ~~commission~~ is authorized to accept any application provided for under this part ~~chapter~~ by electronic or telephonic means.

(2) The department or its authorized agents may collect



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electronic mail addresses or cellular telephone numbers and use
electronic mail or text messages in lieu of the United States
Postal Service for the purpose of providing information under
this part, including, but not limited to, renewal notices,
appointment scheduling information, tax collector office
locations, hours of operation, and contact information. All
electronic mail addresses shall be mutually shared between the
department and its authorized agents upon request.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 8 - 37

and insert:

addresses be mutually shared between the department
and its authorized agents upon request; amending ss.
320.95 and 322.08, F.S.; authorizing the department or
its authorized agents to collect electronic mail
addresses or cellular telephone numbers and use
electronic mail or text messages in lieu of the United
States Postal Service for certain purposes; requiring
that all electronic mail addresses be mutually shared
between the department and its authorized agents upon
request; amending s. 328.30, F.S.; limiting the
applications the department may accept by electronic
or telephonic means; authorizing the department or its
authorized agents to collect electronic mail addresses
or cellular telephone numbers and use electronic mail
or text messages in lieu of the United States Postal
Service for certain purposes; requiring that all



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98 electronic mail addresses be mutually shared between
99 the department and its authorized agents upon request;
100 amending s. 328.40, F.S.; requiring that certain
101 records made or kept by the department be subject to
102 inspection and copying; amending s. 328.80, F.S.;
103 authorizing the department, instead of the Fish and
104 Wildlife Conservation Commission, to accept certain
105 applications by electronic or telephonic means;
106 authorizing the department or its authorized agents to
107 collect electronic mail addresses or cellular
108 telephone numbers and use electronic mail or text
109 messages in lieu of the United States Postal Service
110 for certain purposes; requiring that all electronic
111 mail addresses be mutually shared between the
112 department and its authorized

By Senator Stargel

22-00610-20

2020636__

1 A bill to be entitled
 2 An act relating to the Department of Highway Safety
 3 and Motor Vehicles; amending s. 319.40, F.S.;
 4 authorizing the Department of Highway Safety and Motor
 5 Vehicles or its authorized agents to collect
 6 electronic mail addresses and use electronic mail for
 7 certain purposes; requiring that all electronic mail
 8 addresses be made available to the department or its
 9 authorized agents upon request; amending ss. 320.95
 10 and 322.08, F.S.; authorizing the department or its
 11 authorized agents to collect electronic mail addresses
 12 or verified texting numbers and use electronic mail or
 13 text messages in lieu of the United States Postal
 14 Service for certain purposes; requiring that all
 15 electronic mail addresses be made available to the
 16 department or its authorized agents upon request;
 17 amending s. 328.30, F.S.; limiting the applications
 18 the department may accept by electronic or telephonic
 19 means; authorizing the department or its authorized
 20 agents to collect electronic mail addresses or
 21 verified texting numbers and use electronic mail or
 22 text messages in lieu of the United States Postal
 23 Service for certain purposes; requiring that all
 24 electronic mail addresses be made available to the
 25 department or its authorized agents upon request;
 26 amending s. 328.40, F.S.; requiring that certain
 27 records made or kept by the department be subject to
 28 inspection and copying; amending s. 328.80, F.S.;
 29 authorizing the department, instead of the Fish and

Page 1 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

22-00610-20

2020636__

30 Wildlife Conservation Commission, to accept certain
 31 applications by electronic or telephonic means;
 32 authorizing the department or its authorized agents to
 33 collect electronic mail addresses or verified texting
 34 numbers and use electronic mail or text messages in
 35 lieu of the United States Postal Service for certain
 36 purposes; requiring that all electronic mail addresses
 37 be made available to the department or its authorized
 38 agents upon request; providing an effective date.
 39
 40 Be It Enacted by the Legislature of the State of Florida:
 41
 42 Section 1. Subsection (3) of section 319.40, Florida
 43 Statutes, is amended to read:
 44 319.40 Transactions by electronic or telephonic means.—
 45 (3) The department or its authorized agents may collect
 46 electronic mail addresses and use electronic mail for purposes
 47 of this chapter, including, but not limited to, use of
 48 electronic mail in lieu of the United States Postal Service as a
 49 method of notification. All electronic mail addresses shall be
 50 made available to the department or its authorized agents upon
 51 request. However, any notice regarding the potential forfeiture
 52 or foreclosure of an interest in property must be sent via the
 53 United States Postal Service.
 54 Section 2. Subsection (2) of section 320.95, Florida
 55 Statutes, is amended to read:
 56 320.95 Transactions by electronic or telephonic means.—
 57 (2) The department or its authorized agents may collect
 58 electronic mail addresses or verified texting numbers and use

Page 2 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

22-00610-20

2020636__

electronic mail or text messages in lieu of the United States Postal Service for the purpose of providing information, including, but not limited to, renewal notices, appointment scheduling information, tax collector office locations, hours of operation, contact information, driving skills testing locations, and website information. All electronic mail addresses shall be made available to the department or its authorized agents upon request ~~renewal notices.~~

Section 3. Subsection (10) of section 322.08, Florida Statutes, is amended to read:

322.08 Application for license; requirements for license and identification card forms.—

(10) The department or its authorized agents may collect electronic mail addresses or verified texting numbers and use electronic mail or text messages in lieu of the United States Postal Service for the purpose of providing information, including, but not limited to, renewal notices, appointment scheduling information, tax collector office locations, hours of operation, contact information, driving skills testing locations, and website information. All electronic mail addresses shall be made available to the department or its authorized agents upon request ~~renewal notices.~~

Section 4. Section 328.30, Florida Statutes, is amended to read:

328.30 Transactions by electronic or telephonic means.—

(1) The Department of Highway Safety and Motor Vehicles may accept any application provided for under this part ~~chapter~~ by electronic or telephonic means.

(2) The department may issue an electronic certificate of

22-00610-20

2020636__

title in lieu of printing a paper title.

(3) The department or its authorized agents may collect electronic mail addresses or verified texting numbers and use electronic mail or text messages in lieu of the United States Postal Service for the purpose of providing information, including, but not limited to, renewal notices, appointment scheduling information, tax collector office locations, hours of operation, contact information, and website information. All electronic mail addresses shall be made available to the department or its authorized agents upon request ~~renewal notices.~~

Section 5. Subsection (3) of section 328.40, Florida Statutes, is amended to read:

328.40 Administration of vessel registration and titling laws; records.—

(3) All records made or kept by the Department of Highway Safety and Motor Vehicles under this part are subject to inspection and copying as provided in chapter 119 ~~law are public records except for confidential reports.~~

Section 6. Section 328.80, Florida Statutes, is amended to read:

328.80 Transactions by electronic or telephonic means.—

(1) The Department of Highway Safety and Motor Vehicles ~~commission~~ is authorized to accept any application provided for under this part ~~chapter~~ by electronic or telephonic means.

(2) The department or its authorized agents may collect electronic mail addresses or verified texting numbers and use electronic mail or text messages in lieu of the United States Postal Service for the purpose of providing information under

22-00610-20

2020636__

117 this part, including, but not limited to, renewal notices,
118 appointment scheduling information, tax collector office
119 locations, hours of operation, and contact information. All
120 electronic mail addresses shall be made available to the
121 department or its authorized agents upon request.

122 Section 7. This act shall take effect July 1, 2020.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/2020

Meeting Date

SB636

Bill Number (if applicable)

Topic FLHSMV Emails

Amendment Barcode (if applicable)

Name Mon. Anne Gannon

Job Title Palm Beach Tax Collector

Address 216 S. Monroe St.
Street

Phone 850.222.7206

Tallahassee FL 32301
City State Zip

Email info@floridatxcollectors.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Tax Collectors Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/2020
Meeting Date

SB636
Bill Number (if applicable)

Topic DHSMV Emails

Amendment Barcode (if applicable)

Name Chuck Purdue

Job Title Legislative Director

Address 216 S. Monroe St.
Street

Phone 850.222.7206

Tallahassee FL 32301
City State Zip

Email info@floridatxcollectors.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Tax Collector Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

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 Infrastructure and Security

BILL: CS/SB 676

INTRODUCER: Infrastructure and Security Committee and Senator Mayfield

SUBJECT: High-speed Passenger Rail Safety

DATE: January 22, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Miller	IS	Fav/CS
2.			ATD	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 676 creates the Florida High-Speed Passenger Rail Safety Act. Specifically, the bill provides a short title, definitions relating to the act, Legislative intent, and applicability; and requires the Florida Department of Transportation (FDOT) to regulate certain railroad companies in this state to the extent not preempted by federal law. By January 1, 2021, the bill requires the FDOT to adopt minimum standards for public railroad-highway grade crossing design and installation of safety equipment, use of sealed corridors at such crossings, and field surveys for determining areas where fencing is necessary to protect the public. The bill authorizes the FDOT to impose an administrative penalty of up to \$10,000 for each violation of the FDOT rules.

The bill imposes certain accident-related reporting requirements on railroad companies and the FDOT, as well as railroad reporting requirements, Florida Division of Emergency Management (FDEM) training responsibilities, and FDOT rulemaking duties with respect to unplanned releases of liquefied natural gas. The bill specifies that the railroad reporting requirements are for informational purposes only and may not be used to economically regulate a railroad company.

The bill also assigns to railroad companies responsibility for certain costs incurred due to installation of safety improvements; but provides the newly created section of law may not be construed to impair existing contractual agreements between a railroad company operating a high-speed passenger rail system and a governmental entity within the state.

The bill raises a number of federal preemption issues as discussed in more detail throughout the remainder of this analysis.

The bill may have an indeterminate negative fiscal impact on the private sector and on state governments, and an indeterminate positive fiscal impact on local governments to the extent that future costs are avoided. See Section V. Fiscal Impact Statement for details.

II. Present Situation:

Following general discussion of current and relevant federal and state provisions of law, the present situation for each section of the bill is discussed below in conjunction with the Effect of Proposed Changes.

The Federal Regulatory Framework for Railroad Activities

The reach of federal law and regulations relating to various aspects of rail activities is extensive. Recognition of the need to regulate railroad operations at the federal level to provide uniformity, and Congress' authority under the Commerce Clause¹ to regulate the railroads, is well established.² The U.S. Supreme Court has on numerous occasions recognized the preemptive effect of federal regulation of railroads, a scheme that is "among the most pervasive and comprehensive."³ State and local regulation is often, but not always, preempted. A number of federal laws apply, but the following relevant federal provisions often involve questions of preemption of state and local efforts to regulate railroad activities.

The Interstate Commerce Commission Termination Act of 1995

The Interstate Commerce Commission Termination Act of 1995 (ICCTA)⁴ granted to the Surface Transportation Board (STB) exclusive jurisdiction, previously exercised by the Interstate Commerce Commission,⁵ over:

- Transportation by rail carriers⁶ and the remedies provided with respect to rates, classifications, rules (including car service, interchange, and other operating rules), practices, routes, services, and facilities of such carriers; and
- The construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks, or facilities, even if the tracks are located, or intended to be located, entirely in one state.

Except as otherwise provided, the remedies "with respect to regulation of rail transportation are exclusive and preempt the remedies provided under Federal or State law."⁷

¹ U.S. Const. art. VI.

² See *City of Auburn v. United States*, 154 F.3d 1025 (9th Circuit 1998).

³ See, e.g., *Chicago & N.W. Transp. Co v. Kalo Brick & Tile Co.*, 450 U.S. 311, 318 (1981).

⁴ 49 U.S.C. 10101 *et seq.*

⁵ ICCTA abolished the Interstate Commerce Commission.

⁶ Defined to mean a person providing common carrier railroad transportation for compensation, but does not include street, suburban, or interurban electric railways not operated as part of the general system of rail transportation. 49 U.S.C. 10102(5).

⁷ 49 U.S.C. 10501(b).

State or local attempts to intrude into matters directly regulated by the STB; e.g., railroad rates, services, construction, or abandonment, are categorically preempted. ICCTA also prevents state or local imposition of requirements that could be used to deny a railroad the right to conduct rail operations or proceed with activities authorized by the STB. Even if a state or local requirement is not categorically preempted, state and local attempts to impose requirements on railroads may be preempted as applied; i.e., if the requirements unreasonably burden or interfere with rail transportation.⁸

Thus, ICCTA preempts regulations that unreasonably interfere with railroad operations that come within the STB's jurisdiction, regardless of whether the STB actively regulates the particular activity involved. ICCTA is broad and far-reaching, but "state and local actions taken under their retained police powers" are not preempted "as long as they do not unreasonably interfere with railroad operations or the Board's regulatory programs."⁹

"States and towns may exercise traditional police powers over the development of railroad property, at least to the extent that the regulations protect the public health and safety, are settled and defined, can be obeyed with reasonable certainty, entail no extended or open-ended delays, and can be approved (or rejected) without the exercise of discretion on subjective questions."¹⁰

A conclusion as to whether a state or local regulation is preempted "requires a factual assessment of whether that action would have the effect of preventing or unreasonably interfering with railroad transportation."¹¹

The Federal Railroad Safety Act

The purpose of the federal rail safety program is to promote safety in every area of railroad operations and reduce railroad-related accidents and incidents.¹² The program is implemented through mandatory federal safety requirements and through joint efforts of FRA and state inspections to determine compliance of railroads, shippers, and manufacturers with the federal requirements.¹³

⁸ Surface Transportation Board Decision, Docket No. FD 35792, Decided October 29, 2014 (citations omitted), available at: <https://www.stb.gov/decisions/readingroom.nsf/cac42df635267da4852572b80041558c/2c4e7a01a148e0a385257d8200477be9?OpenDocument> (last visited January 17, 2020). However, the Board has determined that the All Aboard Florida rail line is not part of the interstate rail network and does not come within the Board's jurisdiction. See *Surface Transportation Board Decision*, Docket No. FD 35680, available at: <https://www.stb.gov/Decisions/readingroom.nsf/WEBUNID/3742BD042B141CAA85257ADB0079675B> (last visited January 17, 2020).

⁹ ICCTA preempts more than explicit economic regulation. While "Congress was particularly concerned about state economic regulation of railroads when it enacted the ICCTA[.]" "[w]hat matters is the degree to which the challenged regulation burdens rail transportation..." not the label placed on the regulation, economic or otherwise. "The ICCTA 'completely preempts state laws (and remedies based on such laws) that directly attempt to manage or govern a railroad's decisions in the economic realm.'" See *Town of Atherton v. California High-Speed Rail Authority*, 228 Ca.App.4th 314, 331 (July 24, 2014) (citations omitted).

¹⁰ *Emerson v. Kansas City S. Ry. Co.*, 503 F.3d 1126, 1133 (10th Cir. 2007), citing *Green Mountain R.R. Corp. v. Vermont*, 404 F.3d 638, 643 (2d Cir. 2005) (internal quotation marks omitted). *Emerson* collects, with citations, a number of examples of circumstances under which ICCTA preemption did and did not apply.

¹¹ *Id.*

¹² 49 U.S.C. 20101.

¹³ See 49 C.F.R. 212.101.

The general rule with respect to railroad safety and security calls for national uniformity to the extent practicable. Like the ICCTA, the Federal Railroad Safety Act (FRSA) may also preempt state and local actions. The FRSA in 49 U.S.C. s. 20106 contains an express preemption provision authorizing a state to adopt or continue in force a law, regulation, or order related to rail safety or security until the Secretary of Transportation (as to railroad safety) or the Secretary of Homeland Security (as to railroad security) issues a regulation or order covering the subject matter of the state requirement.

Additionally, a state may adopt or continue a more stringent law, regulation or order relating to railroad safety or security if the law, regulation, or order:

- Is necessary to eliminate or reduce an essentially local safety hazard;
- Is not incompatible with a law, regulation, or order of the United States Government; and
- Does not unreasonably burden interstate commerce.¹⁴

The Federal Hazardous Material Transportation Law

The purpose of the Federal Hazardous Materials Transportation Law (HMTL)¹⁵ “is to protect against the risks to life, property, and the environment that are inherent in the transportation of hazardous material in intrastate, interstate, and foreign commerce.”¹⁶ The United States Department of Transportation (U.S.D.O.T.) secretary is charged with prescribing regulations for the safe transportation, including security, of hazardous material in intrastate, interstate, and foreign commerce.¹⁷ A number of federal agencies share enforcement. One of the FRA’s primary emphases is on the transportation or shipment of hazardous material by rail.

The HMTL also contains express preemption provisions. Except as otherwise provided, a state or local requirement relating to rail safety or security is preempted if:

- Complying with the state or local requirement and a federal requirements is not possible;¹⁸
- A state or local requirement, as applied or enforced, is an obstacle to carrying out a federal safety requirement or regulation or security regulation or directive;¹⁹
- A state or local requirement relating to any of the following is not substantively the same as a federal requirement:
 - The designation, description, and classification of hazardous material;
 - The packing, repacking, handling, labeling, marking, and placarding of hazardous material;

¹⁴ The FRSA was amended in 2007 to clarify that the preemption provision does not preempt an action under state law seeking damages for personal injury, death, or property damage alleging a party failed to comply with the Federal standard of care established by the Transportation or Homeland Security secretaries covering the subject matter; failed to comply with its own plan, rule, or standard that it created pursuant to a regulation or order issued by either of the secretaries; or has failed to comply with a state law, regulation, or order not incompatible with 49 U.S.C. s. 20106(a)(2)..

¹⁵ 49 U.S.C. 5101-5128.

¹⁶ 49 U.S.C. 5101.

¹⁷ 49 U.S.C. 5103

¹⁸ Labeled the “dual compliance” test. See discussion of federal preemption in *Preemption Determination No. PD-18(R)*, *Broward County, Florida’s Requirements on the Transportation of Certain Hazardous Materials to or From Points in the County*, at p. 81951, available at: <https://www.federalregister.gov/documents/2000/12/27/00-32885/preemption-determination-no-pd-18r-broward-county-floridas-requirements-on-the-transportation-of>. (Last visited October 30, 2017.)

¹⁹ Labeled the “obstacle” test. *Id.*

- The preparation, execution, and use of shipping documents related to hazardous material and requirement related to the number, contents, and placement of those documents;
- The written notification, recording, and reporting of the unintentional release in transportation of hazardous material and other written hazardous materials transportation incident reporting involving State or local emergency responders in the initial response to the incident; and
- The designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transportation hazardous material in commerce.²⁰

Section 5125(d) of 49 U.S.C. authorizes a person (including a state, political subdivision of a state, or Indian tribe) directly affected by a requirement of the state, political subdivision or Indian tribe to apply to the U.S.D.O.T. secretary for a determination of whether such a requirement is preempted.

A state, political subdivision, or Indian tribe may also in some cases apply to the secretary for a waiver of preemption, and the secretary may waive preemption if the given requirement provides the public at least as much protection as do the federal HMTL provisions and regulations and is not an unreasonable burden on commerce.²¹

Recent Federal Railroad Administration Rule

Effective in January of 2019, the FRA issued a final rule amending the FRA’s passenger equipment safety standards governing the construction of conventional and high-speed passenger rail equipment. Among other items, the rule adds a new tier of passenger equipment safety standards for interoperable high-speed passenger rail service at speeds up to 220 mph. Under the rule, these trainsets are required to operate in exclusive rights-of-way without grade crossings at speeds above 125 mph, but these trains are authorized to share the right-of-way with freight trains and other tiers of passenger equipment at speeds not exceeding 125 mph.²²

Rail Programs and Activity in Florida

Section 341.302, F.S., prescribes the duties and responsibilities of the FDOT in relation to Florida’s rail program. The FDOT, in conjunction with other governmental units and the private sector, is directed to develop and implement a statewide rail program ensuring “the proper maintenance, safety, revitalization, and expansion of the rail system” necessary to respond to statewide mobility needs.²³ The rail system plan must identify the priorities, programs, and funding levels required to meet statewide needs and assure the maximum use of existing facilities along with the integration and coordination of the various modes of transportation in the most cost-effective manner possible.²⁴ The FDOT is required to update the rail system plan every

²⁰ Labeled the “substantively the same as” test. *Supra* note 18.

²¹ 49 U.S.C. 5125.

²² The final rule is available at: <https://www.apta.com/wp-content/uploads/FRA-2013-0060-0016.pdf> (last visited January 18, 2020.)

²³ Section 341.302, F.S.

²⁴ Section 341.302(3), F.S.

two years and to include plans for both passenger and freight rail service.²⁵ The FDOT is also directed to promote and facilitate the implementation of advanced rail systems, including high-speed rail.²⁶

Commuter Rail

In 1988, the FDOT and CSX Transportation, Inc., (CSX) entered into an agreement under which the department bought approximately 81 miles of CSX track and right-of-way in order to operate commuter rail in South Florida. Today, the commuter rail system (Tri-Rail) is operated by the South Florida Regional Transportation Authority and continues to serve Miami-Dade, Broward, and Palm Beach counties.²⁷

In addition, in 2007, the FDOT entered into an agreement with CSX to purchase 61.5 miles of track or right-of-way in Central Florida to provide commuter rail service. Known as SunRail, the first phase of the project opened in 2014, connecting DeBary in Volusia County to Sand Lake Road in Orange County and featuring 12 Central Florida stations.²⁸ The FDOT operates the SunRail system, and CSX continues to operate freight trains in the corridor.

SunRail's southern expansion into Osceola County began in 2016 and opened in 2018, connecting Sand Lake Road in Orange County to Poinciana in Osceola County, with a 17.2-mile segment featuring four additional stations.²⁹ Northern expansion plans are expected to link DeBary to DeLand in Volusia County. This project is a 12-mile segment, adding one station to the existing system.³⁰

High-Speed Rail/Florida Rail Enterprise

In November of 2000, the Florida voters approved a constitutional amendment³¹ mandating the construction of a high-speed transportation system for the state. The amendment required the use of train technologies that operate at speeds in excess of 120 miles per hour. The high-speed rail system was to link the five largest urban areas in Florida, and construction was mandated to begin by November 1, 2003. To implement the constitutional amendment, the Florida Legislature enacted the Florida High-Speed Rail Authority Act³² and created the Florida High-Speed Rail Authority in 2002. In November 2004, Florida voters approved repeal of the high-speed rail constitutional amendment.

In 2009, the Legislature repealed the Florida High-Speed Rail Authority and re-named the Florida High-Speed Rail Act as the Florida Rail Enterprise Act.³³ In place of the Authority, the

²⁵ *Id.*

²⁶ Section 341.302(2), F.S.

²⁷ See the Tri-Rail website under the *Destinations* tab, available at: <http://www.tri-rail.com/#> (last visited January 17, 2020).

²⁸ See the SunRail website available at: <http://corporate.sunrail.com/stations-trains/phase-1-stations/>. (Last visited October 30, 2017).

²⁹ See the SunRail website available at: <http://corpsunrail.wpengine.com/stations-trains/southern-expansion-stations/> (last visited January 17, 2020).

³⁰ See the SunRail website available at: <http://corpsunrail.wpengine.com/stations-trains/northern-expansion-stations/> (last visited January 17, 2020).

³¹ Section 19, Article X of the State Constitution.

³² Sections 341.8201 through 341.842, F.S. (2002).

³³ Chapter 2009-271, L.O.F.

Legislature established the Florida Rail Enterprise as part of the FDOT³⁴ and directed the Enterprise to locate, plan, design, finance, construct, maintain, own, operate, administer, and manage the high-speed rail system in the state.³⁵ The Legislature also created the Florida Statewide Passenger Rail Commission to advise the FDOT on policies and strategies for a coordinated statewide system of passenger rail services, and evaluating passenger rail policies and provided advice and recommendations. The Commission was abolished in 2014.³⁶

Section 341.822, F.S., authorizes the Rail enterprise to plan, construct, maintain, repair, and operate a high-speed rail system, to acquire corridors, and to coordinate the development and operation of publicly funded passenger rail systems in the state. The FDOT is the only governmental entity authorized to acquire, construct, maintain, or operate the high-speed rail system.³⁷

The All Aboard Florida Project

Florida East Coast Industries (FECI) was incorporated in 1983 and became the holding company for the Florida East Coast Railway (FECR).³⁸ In 2007, Fortress Investment Group (Fortress) acquired FECI.³⁹ All Aboard Florida (AAF) is part of FECI.⁴⁰ In 2017, Japanese-based SoftBank agreed to purchase Fortress, and Grupo Mexico acquired the FECR.⁴¹

AAF is an express train service, called “Brightline,”⁴² which uses the existing FECR corridor between Miami and Cocoa. AAF will build new track along State Road 528 between Cocoa and Orlando.⁴³ Brightline recently announced a partnership and trademark licensing agreement with the Virgin Group, under which Brightline has been renamed to Virgin Trains USA.⁴⁴ Currently, the service operates with three stations, one each in Miami, Fort Lauderdale, and West Palm

³⁴ See s. 20.23(4)(a), F.S.

³⁵ Section 341.822, F.S.

³⁶ Chapter 2014-223, L.O.F.

³⁷ Defined in s. 341.8203(4), F.S., to mean any high-speed fixed guideway system for transporting people or goods, which system is, by definition of the United States Department of Transportation, reasonably expected to reach speeds of at least 110 miles per hour, including but not limited to, a monorail system, dual track rail system, suspended rail system, magnetic levitation system, pneumatic repulsion system, or other system approved by the enterprise. The term is broadly defined and includes a long list of additional items in the definition.

³⁸ See the Florida East Coast Railway website available at: <https://fecrwy.com/history/> (last visited January 17, 2020).

³⁹ See article *Fortress to buy Florida East Coast for \$3.5 billion*, available at: <https://www.reuters.com/article/us-floridaeastcoast-takeover/fortress-to-buy-florida-east-coast-for-3-5-billion-idUSBNG23960820070508> (last visited January 17, 2020).

⁴⁰ See the brightline website available at: <https://www.gobrightline.com/about-us> (last visited January 17, 2020).

⁴¹ See the respective articles, *Fortress Shareholders Approve Proposed Acquisition by SoftBank*, available at: <http://www.4-traders.com/FORTRESS-INVESTMENT-GROUP-42554/news/Fortress-Investment-LLC-07-12-17-Fortress-Shareholders-Approve-Proposed-Acquisition-by-SoftBank-24748345/>, and, *Grupo Mexico Completes Florida East Coast Acquisition*, available at: <http://www.railjournal.com/index.php/north-america/grupo-mexico-completes-florida-east-coast-acquisition.html> (last visited January 17, 2020).

⁴² See the brightline website available at: <https://www.gobrightline.com/routes-stations> (last visited January 18, 2020).

⁴³ *Infra* note 46.

⁴⁴ See the Virgin website available at <https://www.virgin.com/news/virgin-and-brightline-form-strategic-partnership> (last visited January 17, 2020).

Beach, with future plans for an additional station in Orlando.⁴⁵ Brightline also submitted an unsolicited proposal to the FDOT for a high-speed rail connection from Orlando to Tampa.⁴⁶

According to AAF, Brightline will travel at speeds between 79 and 125 miles per hour. Between Miami and West Palm, the trains will travel up to 79 mph; between West Palm to Cocoa, up to 110 mph; and from Cocoa to Orlando, up to 125 mph, with actual speed varying depending on corridor conditions and configurations.⁴⁷

Cities and counties along Florida's east coast reportedly have existing crossing agreements with Florida East Coast Railway. Under those agreements, the local governments usually have financial responsibility for crossing signal installations, capital improvements for track beds and roadway surfaces, crossing maintenance costs, and pedestrian gates and sidewalks.⁴⁸ AAF reportedly wishes to be named a third-party beneficiary in those agreements already in place⁴⁹ and reportedly has accomplished that goal, at least in some cases.⁵⁰ At least one local government has reportedly entered into new agreements with AAF identifying responsibility for safety upgrades and maintenance.⁵¹

OPPAGA Study - Florida Passenger Rail System Study

The 2018 General Appropriations Act directed the Office of Program Policy Analysis and Government Accountability (OPPAGA) to contract with an independent consultant to study existing and planned passenger rail, including high speed passenger rail, in the state.⁵² To complete this study, OPPAGA contracted with CPCS Transcom Inc., a company that provides consulting services in the areas of transportation and infrastructure, including rail operations and safety. The study examined both various aspects of Florida's passenger rail systems and the FDOT's role in oversight of passenger rail with respect to maintenance, safety, revitalization, and expansion.

⁴⁵ See the brightline website available at: <https://www.gobrightline.com/routes-stations> (last visited January 14, 2020).

⁴⁶ See *FDOT begins process for privately funded Orlando-to-Tampa high-speed rail*, available at: <https://csengineermag.com/fdot-begins-process-for-privately-funded-orlando-to-tampa-high-speed-rail/> (last visited January 17, 2020).

⁴⁷ See video of the House Transportation & Infrastructure Subcommittee workshop on high-speed passenger rail, February 22, 2017, available at:

http://www.myfloridahouse.gov/VideoPlayer.aspx?eventID=2443575804_2017021306&committeeID=2914 (last visited January 17, 2020).

⁴⁸ See Martin County document, *Direct Costs to Treasure Coast from High-Speed Rail* (on file in the Senate Infrastructure and Security Committee).

⁴⁹ See article, *Two votes today could clear way for All Aboard Florida*, available at:

<http://realtime.blog.palmbeachpost.com/2014/10/21/does-all-aboard-floridas-fate-hinge-on-brevard-county-vote/> (last visited January 17, 2020). See also article *Boynton May Sign Agreement With All Aboard*, available at:

<https://www.citizensagainsthetrain.com/content/boynton-may-sign-agreement-all-aboard> (last visited January 17, 2020).

⁵⁰ See article, *Miami Certain, Brevard Skeptical but both give approval to fund bonds to advance rail project*, available at: <http://www.floridanotallaboard.net/news/miami-certain-brevard-skeptical-but-both-counties-give-approval-to-fund-bonds-to-advance-rail-project/> (last visited January 17, 2020).

⁵¹ See article, *Boynton signs All Aboard Florida agreement against residents' wishes*, available at:

<http://spbc.blog.palmbeachpost.com/2014/10/08/boynton-signs-all-aboard-florida-agreement-against-residents-wishes/> (last visited January 17, 2020).

⁵² See proviso under specific appropriation 2673 of Chapter 2018-9, Laws of Florida, pp. 356-357, available at: <http://laws.flrules.org/2018/9> (last visited January 17, 2020).

The OPPAGA study examined passenger rail systems in Florida under the jurisdiction of the Federal Railroad Administration, including Amtrak, Brightline, SunRail, and Tri-Rail.⁵³ The study included three components:

- A detailed inventory and description of the Florida Passenger Rail System focusing on operating passenger railroad companies and planned passenger rail projects.
- An analysis of incident data involving passenger rail operations and grade crossings.
- An overview of jurisdictions that regulate passenger rail operations on a federal, state, regional and local level, including the establishment and expansion of services; reporting of railroad incidents and rectification of safety issues; and maintenance of tracks, crossing and safety equipment.

The report contained various broad recommendations related to passenger rail operations, safety, and railroad policy in Florida with accompanying legislative and FDOT considerations that are summarized in the report, under six categories:

- Updating FDOT's Mandate,
- Setting New Regulations for Higher Speed Rail,
- Implementing State of the Art Practices,
- Enforcing Railroad Trespass Violations,
- Reviewing Rail Safety Funding Resources, and
- Continuing Research to Promote Public Safety Along Railroads.⁵⁴

The report additionally focuses on specific “gaps” in existing regulations with respect to certain aspects of operation of passenger service at speeds between 81 and 125 mph. Noting that responsibility for the gaps does or could rest with the FDOT, the report identifies those gaps as follows:

- Grade crossing minimum design standards,
- Certification of new passenger rail lines,
- Fencing,
- Sealed corridor regulations, and
- Railroad noise and quiet zones.⁵⁵

III. Effect of Proposed Changes:

The bill implements some, but not all of the OPPAGA rail study recommendations for filling in the regulatory “gaps” identified in the report, along with related provisions. The bill creates the Florida High-Speed Passenger Rail Safety Act, requiring the FDOT to regulate railroad companies within the state to the extent that such authority is not preempted by federal law or regulation. Generally, the bill requires the FDOT to adopt certain minimum standards or criteria for regulation in specified areas and authorizes the FDOT to impose up to a \$10,000 administrative penalty for each violation of the required rules. The bill assigns various duties to

⁵³ The complete study is available at: <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/18-RAILrpt.pdf> (last visited January 17, 2020)

⁵⁴ *Id* at pp. x-xi

⁵⁵ *Id.* at p. 78.

railroad companies, the FDOT, and the FDEM related to certain privately owned high-speed passenger rail (HSPR) operations.

Short Title, Definitions, Legislative Intent, and Applicability (Sections 1-4)

Present Situation

While Florida law does contain definitions relating to a publicly funded passenger rail system and a number of provisions relating to high-speed rail, Florida law currently does not specifically contain a “High-Speed Passenger Rail Safety Act” nor any definitions, Legislative intent, or applicability provisions specific to such an act.

Effect of Proposed Changes

Section 1 of the bill creates s. 341.601, F.S., providing a short title for the act, the “Florida High-Speed Passenger Rail Safety Act,” including ss. 341.601 through 341.611, F.S.

Section 2 of the bill creates s. 341.602, F.S., providing the following definitions as used in the act:

- “Department” means the Department of Transportation;
- “Freight railroad carrier” means any person, railroad corporation, or other legal entity in the business of providing freight rail transportation;
- “Governmental entity” means the state, any of its agencies, or any of its political subdivisions;
- “Hazardous materials” includes all materials, wastes, or substances designated or defined as hazardous by 49 C.F.R. parts 100-199 and their implementing regulations, by 42 U.S.C. s. 9601, or in any state law, rule, or program that regulates handling or transporting of such materials, wastes, or substances;
- “High-speed passenger rail system” (HSPR system) means any intrastate passenger rail system that operates or proposes to operate its passenger trains at a maximum speed in excess of 80 miles per hour.
- “Public railroad-highway grade crossing” means a location at which a railroad track is crossed at grade by a public road.
- “Rail corridor” means a linear, continuous strip of real property that is used for rail service. The term includes the corridor and structures essential to railroad operations, including the land, buildings, improvements, rights-of-way, easements, rail lines, roadbeds, guideway structures, switches, yards, parking facilities, power relays, switching houses, rail stations, any ancillary developments, and any other facilities or equipment used for the purposes of construction, operation, or maintenance of a railroad that provides rail service.
- “Railroad company” means any individual, partnership, association, corporation, or company and its respective lessees, trustees, or court-appointed receivers which develops or provides ground transportation that runs on rails, including, but not limited to, any of the following:
 - A HSPR system;
 - A freight railroad carrier; or
 - A company that owns a rail corridor.
- “Sealed corridor” means a railroad corridor that uses safety measures to block all lanes of travel where a roadway crosses a railroad track and that uses pedestrian treatments at grade crossings and controls between crossings to prevent trespassing.

Section 3 of the bill creates s. 341.603, F.S., expressing the Legislature's intent to encourage the creation of safe and economical transportation options for this state's residents and visitors, including HSPR systems; and to promote and enhance the safe operation of HSPR systems within the state to protect the health, safety, and welfare of the public.

Section 4 of the bill creates s. 341.604, F.S., applying the act to any railroad company that operates a HSPR system and any railroad company that allows a HSPR system to operate on or within its rail corridor.

FDOT Powers, Duties, and Rulemaking (Section 5)

Present Situation

FDOT Authority to Regulate Railroad Companies/Obtain Information/Keep Records: Except for specific areas referred to in state law (such as rail crossings and federally delegated safety inspections), the FDOT's regulatory authority over railroad companies is limited in scope. Under the federal regulatory scheme, state or local attempts to regulate railroad companies, including obligating a railroad to provide information and requiring a railroad to keep records, may or may not be preempted under one or more federal laws.

Whether federal preemption applies is dependent upon the particular regulation, the information sought, and the record-keeping requirement. For example, if the regulation or requirement is already addressed in one or more federal provisions, an analysis under those provisions must be conducted to determine whether preemption, or any exception to preemption, applies. Research reveals numerous examples of litigation involving such questions, with results turning on the specific words of, and sometimes their placement in, any given regulation. To the extent that any state regulation or record-keeping requirement is not preempted, and the FDOT has state-granted legal authority, the FDOT may exercise such authority. The same analysis would apply to any FDOT rule adopted pursuant to the bill's rulemaking requirements.

Railroad-Highway Grade Crossing Responsibility: The FDOT is granted regulatory authority over all public railroad-highway grade crossings in the state, including issuance of permits required to open and close any such crossing.⁵⁶ The FDOT is directed, in cooperation with railroads operating in the state, to develop and adopt a program for the expenditure of funds available for the construction of projects to reduce hazards at public railroad-highway grade crossings. Section 335.141(2)(b), F.S., requires every railroad company maintaining a public railroad-highway grade crossing, upon reasonable notice from the FDOT, to install, maintain, and operate at such crossing traffic control devices to provide motorists with warning of the approach of trains. The FDOT's notice must be based on its adopted hazard reduction program and on construction efficiency considerations relating to the geographical proximity of crossings included in the program. The FDOT must approve the design of the traffic control devices, and the costs of purchase and installation must be paid from the funds in the adopted program.

A railroad company must maintain at its own expense any public railroad crossing opened prior to July 1, 1972, unless the maintenance has been provided for through a contractual agreement

⁵⁶ Section 335.141, F.S.

entered into prior to October 1, 1982. If the railroad fails to maintain a crossing, the governmental entity with jurisdiction, after notice to the railroad of needed repairs and 30 days after the railroad's receipt of the notice, is required to make the repairs. The repair cost becomes a lien on the railroad and its rolling stock, enforceable by filing suit, and any judgment includes a reasonable attorney's fee.⁵⁷

Pursuant to 23 U.S.C. 130, federal funds are available to states for projects that eliminate rail-highway crossing hazards to both vehicles and pedestrians. State laws requiring railroads to share in the cost of work for the elimination of hazards at rail-highway crossings do not apply to projects using federal funds.⁵⁸ The applicable regulation sets out a railroad's required share of costs in such projects and, in many cases, the railroad has no required share. If a project is not funded through the federal hazard reduction program, it appears state laws requiring a railroad's participation in the cost of rail-highway grade crossing improvements may be permissible, in the absence of any applicable contractual agreement otherwise providing for such costs.

Chapter 351, F.S., contains additional relevant provisions:

- Every railroad company is responsible for erecting and maintaining crossbuck warning signs at all public or private crossings in accordance with the Manual on Uniform Traffic Control Devices (MUTCD).^{59, 60}
- The governmental entity with jurisdiction or maintenance responsibility must install and maintain advance railroad warning signs and pavement markings at public crossings in accordance with the MUTCD.⁶¹

Prior to the work on the grade or the highway approaches at a public railroad-highway crossing, the railroad or the governmental entity initiating the work must notify the other party to promote coordination and ensure a safe crossing with smooth pavement transitions from the grade of the railroad to the highway approaches.⁶²

Remote Health Monitoring (RHM): RHM systems provide a variety of uses and are designed to monitor various functions of railroad operations. They generate data related to fuel consumption; engineer compliance with train operation protocols; train speeds, locations, and direction; control system fault detection; and more. These systems can be customized to fit specific requirements.⁶³ In its diagnostic safety review of the FECR grade crossings for the All Aboard Florida project in Brevard and Indian River Counties, the FRA recommended that “four-quadrant gate systems

⁵⁷ Section 335.141(2)(c), F.S.

⁵⁸ 23 C.F.R. 646.210.

⁵⁹ Section 351.03(1), F.S.

⁶⁰ The MUTCD is the national standard for all traffic control devices installed on any street, highway, bikeway, or private road open to travel and is intended to obtain basic uniformity of traffic control devices. The FDOT has adopted the MUTCD as directed by s. 316.0745, F.S. Per guidance in the manual, “The appropriate traffic control system to be used at a highway-rail grade crossing should be determined by an engineering study involving both the highway agency and the railroad company.” See the MUTCD introduction, p. 748, available at: <https://mutcd.fhwa.dot.gov/pdfs/2009r1r2/part8.pdf> (last visited January 17, 2020).

⁶¹ Section 351.03(2), F.S.

⁶² Section 351.141(2)(d), F.S.

⁶³ See article *Multi-Purpose Monitoring Technology*, October 6, 2014, available at: <http://www.railwayage.com/index.php/communications/multi-purpose-monitoring-technology.html> (last visited January 17, 2020).

should include remote health (status) monitoring capable of automatically notifying railroad or signal maintenance personnel when anomalies have occurred within the system.”⁶⁴ The MUTCD similarly provides that four-quadrant gate systems *should* include RHM but it does not *mandate* RHM inclusion.⁶⁵

Traffic Signal Preemption Systems: The MUTCD, among other relevant provisions, contains an entire Part 8 dedicated to traffic control for railroad and light rail transit grade crossings, including numerous provisions relating to traffic signal preemption, along with supporting references to industry publications.

Sealed Corridors: According to the FRA, it has “advocated for a minimum of active warning systems with gates, controlled by constant warning time circuitry, on rail lines with speeds of 80 mph and greater,” but new developments have pointed to additional strategies. “The State of North Carolina has pioneered many of the subsequent advances on the North Carolina Railroad under the concept of a ‘sealed corridor.’” According to the FRA, sealed corridor treatment provides an additional layer of safety by blocking all lanes of travel, preventing left turns from parallel roadways that inadvertently result in driving around the tip of the gate arm, and by discouraging those who might attempt to go around the lowered gate. Blocking travel lanes can be accomplished by using one or more of the following:

- Four-quadrant gates,
- Median arrangements, and
- Paired one-way streets with gate arms extending across all lanes of travel.⁶⁶

These improvements “can be paired with selective use of barrier gates at particularly troublesome crossings.” Further, “It should be noted that sealed corridor treatments are also appropriate at crossings with more than two tracks, regardless of speed, and particularly near passenger stations. Additional warning time will be required at these locations to ensure that all road traffic clears the crossing. Pedestrian gates and effective channelization should be provided.”⁶⁷

Crossing Gate Installation Maintenance of Roadbed/Track/Culverts/Streets/Sidewalks: Cities and counties along Florida’s east coast reportedly have existing crossing agreements with Florida East Coast Railway. Under those agreements, the local governments usually have financial responsibility for crossing signal installations, capital improvements for track beds and roadway surfaces, crossing maintenance costs, and pedestrian gates and sidewalks.⁶⁸

⁶⁴ See the FRA *On-Site Engineering Field Report – Part 2*. (on file in the Senate Infrastructure and Security Committee.)

⁶⁵ See the MUTCD, Part 8, s. 8C.06, available at: <https://mutcd.fhwa.dot.gov/pdfs/2009r1r2/part8.pdf> (last visited January 17, 2020).

⁶⁶ See the FRA *Highway-Rail Grade Crossing Guidelines for High-Speed Passenger Rail*, Version 1.0, November 2009 pp. 8-9, available at: <https://cms8.fra.dot.gov/elibrary/highway-rail-grade-crossing-guidelines-high-speed-passenger-rail> (last visited January 20, 2020).

⁶⁷ *Id.* As noted in the preface, the FRA Guidelines are *not* regulations and do not establish a standard of care; *i.e.*, compliance with the guidelines is *not* required. For more information on North Carolina’s sealed corridor program, see the North Carolina Department of Transportation website available at <https://www.ncdot.gov/divisions/rail/projects/Pages/sealed-corridor-program.aspx> (last visited January 17, 2020).

⁶⁸ *Supra* note 48.

Fencing Requirements: Research reveals that while the federal government has studied the use of fencing to restrict access to railroad right-of-way by pedestrians, federal law apparently does not require railroads to install such fencing. A 2014 U.S.D.O.T. technical report expresses the view that fencing along an entire railroad right-of-way would not be reasonable due to the size of the U.S. rail system and necessary access points. The report notes that targeting high-risk areas for fencing may be possible and acknowledges an ongoing debate as to the effectiveness of fencing as a method for increasing rail safety.⁶⁹

Other state jurisdictions do have laws relating to fencing of railroad right-of-way and making railroads liable for damages resulting from the failure to do so. For example, Minnesota requires every railroad company to build and maintain fences on each side of all lines of its railroad, with certain exceptions.⁷⁰ New York requires every railroad to erect and maintain a fence along the boundary line of its right-of-way if, after a hearing, a determination is made that fencing is necessary. The New York transportation commissioner is authorized to prescribe by order the height, length, materials and design of the fencing.⁷¹ Research reveals no challenge to these state requirements.

Effect of Proposed Changes

Section 5 of the bill creates s. 341.605, F.S., providing the FDOT shall, *to the extent that such authority is not preempted by federal law or regulation*:

- Regulate railroad companies in this state;
- Obtain from any party all information necessary to enable it to perform its duties and carry out the act's requirements;
- Keep a record of all its findings, decisions, and determinations made, and investigations conducted, under the act; and
- By January 1, 2021, adopt rules to administer the act, which rules must include minimum standards or criteria for:
 - Public railroad-highway grade crossing design, including, but not limited to, installation of appropriate safety equipment, such as remote health monitoring and traffic signal preemption systems;
 - Implementation of sealed corridors and of safety measures to be used at sealed corridors;
 - Installation or realignment of crossing gates at severely skewed, acute-angled grade crossings along the rail corridor; and
 - Field surveys of the rail corridor to be conducted for the purpose of identifying areas where fencing is necessary to protect the health, safety, and welfare of the public, including, but not limited to, minimum requirements for construction and materials.

Railroad-Highway Grade Crossing Responsibility: The rulemaking requirements address the regulatory “gaps” identified in the OPPAGA report and recommended as considerations for the FDOT to consider under authority the department does or could have; *i.e.*, setting minimum grade crossing design standards, setting requirements for fencing along railroad corridors, and

⁶⁹ See the report, *Countermeasure to Mitigate Intentional Deaths on Railroad Rights-of-Way; Lessons Learned and Next Steps*, available at: <https://cms8.fra.dot.gov/elibrary/countermeasures-mitigate-intentional-deaths-railroad-rights-way-lessons-learned-and-next> (last visited January 17, 2020).

⁷⁰ Section 219.31, Minnesota Statutes.

⁷¹ RRD, Article 3, s. 52-B, Laws of New York.

creating guidelines for sealed corridor treatment along railroad corridors.⁷² FDOT rules setting minimum standards as required in the bill generally appear to be valid and enforceable under its existing statutory responsibility.

Remote Health Monitoring: While the FRA has recommended RHM for grade crossings that will have four-quadrant gates in Brevard and Indian River Counties, research reveals no federal *requirement* for such monitoring systems as part of warning systems at grade crossings. On the one hand, preemption may not apply under the theory that federal law and regulations have not “covered the subject matter,” thus, allowing a state to enact such a requirement. Additionally, the effect may also turn on whether such installation is funded through the federal hazard reduction program. If not, an FDOT rule containing minimum criteria for installation of RHM may be valid for HSPR systems that are not already covered by a contractual agreement that imposes responsibility for such costs.

Traffic Signal Preemption Systems: As the MUTCD already addresses minimum standards for preemption of traffic signals near railroad crossings and is already incorporated into Florida law under s. 316.0745, F.S.,⁷³ whether the FDOT would need to adopt additional standards is unclear.

Sealed Corridors: While the FRA has published guidelines relating to sealed corridor treatments, it has not mandated any such requirements and points to the State of North Carolina as an example of best practices. An FDOT rule including minimum standards for sealed corridor implementation as required in the bill is apparently not preempted by federal law or regulation.

Crossing Gate Installation/Realignment: To the extent that existing contractual agreements place financial responsibility for crossing signal installations, capital improvements for track beds and roadway surfaces, crossing maintenance costs, and pedestrian gates and sidewalks on cities and counties (and to the extent that no such work is a part of the FDOT’s federally-funded grade crossing hazard reduction program), the bill likely has no effect. Those existing contracts remain in place and are not impaired.

To the extent that no agreements are in place covering a HSPR system, the bill may make railroad companies responsible for these costs (unless funded by the federal hazard reduction program, which provides in many cases that railroads do not share in costs).

Fencing Requirements: To the extent that existing contractual agreements do not address costs related to fencing requirements, and given that other states have imposed fencing requirements without challenge, an FDOT rule containing minimum standards for fencing to protect the public health, safety, and welfare, may survive a challenge on grounds of preemption.

⁷² *Id.* at pp. x-xi (Groups 2. and 3.) and p. 78.

⁷³ *Supra* note 60.

Hazardous Materials Training (Section 6)

Present Situation

Hazardous material employers are required to train their hazardous material employees and to keep certain records related to that training.⁷⁴ Federal law allows training to be provided by the hazardous material employer or by other public or private sources.⁷⁵ Computer-based training programs are also available.⁷⁶ Florida law charges the Florida Division of Emergency Management (FDEM) with coordinating federal, state, and local emergency management activities to ensure the availability of adequately trained and equipped forces of emergency management personnel before, during, and after emergencies and disasters. Additionally, the FDEM is responsible for implementing training programs to improve the ability of state and local emergency management personnel to prepare and implement emergency management plans and programs.⁷⁷

Effect of Proposed Changes

Section 6 of the bill creates s. 341.606, F.S., requiring the FDEM, if a HSPR system operates on a rail corridor or on a set of tracks which is also used to transport hazardous materials, to offer the local communities and local agencies located along the corridor training specifically designed to help them respond to an accident involving rail passengers or hazardous materials.

A review of the FDEM's website suggests that similar training may already be available.⁷⁸

Reporting Requirements (Section 7)

Present Situation

Florida law does not currently address railroad company reporting requirements related to accident reports, liquefied natural gas (LNG) shipments, or worst-case LNG release impacts.

Accident Reports: With certain exceptions, each railroad is required to submit to the FRA a monthly report of all railroad accidents or incidents that are:

- Highway-rail grade crossing accidents;
- Rail equipment accidents (collisions, derailments, fires, explosions, acts of God, and other events involving the operation of on-track equipment resulting in specified damages); and
- Death, injury, or occupational illness.⁷⁹

Federal regulations prescribe the forms to be used, which must be completed in accordance with the current FRA Guide and submitted within 30 days after expiration of the month during which

⁷⁴ See 49 C.F.R. 172, Subpart H.

⁷⁵ See 49 C.F.R. 172.702. See also 49 C.F.R. 172.704 for specific training requirements.

⁷⁶ See the U.S.D.O.T. website available at: <https://www.phmsa.dot.gov/training/hazmat/training-modules>. (last visited January 17, 2020).

⁷⁷ Section 252.35(2)(l) and (n), F.S.

⁷⁸ See the FDEM's website available at: <https://floridadisaster.org/dem/about-the-division/> and <https://floridadisaster.org/dem/preparedness/training-and-exercise/> (last visited January 17, 2020).

⁷⁹ 49 C.F.R. 225.11 and 225.19.

the accidents occur.⁸⁰ The FRA Office of Safety Analysis makes available railroad safety information, including accidents and incidents, inventory, and highway-rail crossing data, on a website that allows queries for accident, casualty, and crossing accident data by state.⁸¹ Federal regulation authorizes any state to require railroads, for occurrences within that state, to submit to the state copies of accident/incident and injury/illness reports filed with the FRA.⁸²

LNG Shipment by Rail: LNG is classified as a hazardous material.⁸³ Current federal regulations prohibit transportation of bulk packaging (e.g., portable tanks, intermediate bulk containers, large packaging, cargo tanks, multi-unit tank car tanks) containing a hazardous material in container-on-flatcar (COFC) or trailer-on-flatcar (TOFC) service except as authorized by 49 C.F.R. 174.63⁸⁴ or unless approved for transportation by the FRA Associate Administrator for Safety. The FECR reportedly “has already received approval, and has begun transporting LNG between Port Miami and Port Everglades in Fort Lauderdale.”⁸⁵

Worst-Case Release Calculation: The State of Washington reportedly looked to federal rule making by the Pipeline and Hazardous Materials Safety Administration and the FRA, and to the tank-car derailment and leakage of some 1.6 million gallons of oil in Lac-Megantic, Quebec, in arriving at its regulations with respect to an unplanned crude oil release.⁸⁶ Among other information, the regulations require extensive insurance and financial information sufficient to demonstrate the railroad company’s ability to pay the costs to clean up a reasonable worst-case spill of oil. Research reveals no legal challenge to the Washington regulation. It is therefore unknown whether the regulation would withstand a challenge on grounds it is preempted by federal law. With respect to onshore oil pipelines, 49 C.F.R part 194 requires such pipeline operators to submit a response plan. Each operator is required to determine the worst-case discharge, providing the methodology and calculations used to arrive at the discharge volume.

Effect of Proposed Changes

Section 7 of the bill creates s. 341.607, F.S., requiring the following:

- A railroad company operating a HSPR system must provide to the FDOT copies of accident reports filed with the FRA for each train accident that occurs within the rail corridor;

⁸⁰ 49 C.F.R. 225.11.

⁸¹ See the FRA website available at: <http://safetydata.fra.dot.gov/OfficeofSafety/default.aspx> (Last visited January 17, 2020).

⁸² 49 C.F.R. 225.1.

⁸³ See the Table Of Hazardous Materials, 49 C.F.R. 172.101 available at: <https://www.govinfo.gov/content/pkg/CFR-2019-title49-vol2/pdf/CFR-2019-title49-vol2-part172.pdf> (last visited January 17, 2020).

⁸⁴ This section of the federal regulations lays out very specific conditions under which bulk-packaged hazardous materials may be transported on the specified cars, based on factors such as the type of transport vehicle, restraint system, container support system, and load configuration. However, the Pipeline and Hazardous Materials Safety Administration issued a notice in October of 2019 proposing changes to the regulations to authorize bulk transport of LNG in certain rail tank cars. See the Federal Register, Vol. 84, No. 206, p. 56964, October 24, 2019, available at http://www.puntofocal.gov.ar/notific_otros_miembros/usa1544_t.pdf (last visited January 17, 2020).

⁸⁵ See article available at: <http://www.tcpalm.com/story/news/local/shaping-our-future/all-aboard-florida/2017/10/24/lng-brightline-all-aboard-florida-east-coast-railway-tracks-hazmat-ferromex-grupo-mexico-fortress/791510001/> (last visited January 17, 2020).

⁸⁶ See article, *Washington Asks if Railroads Could Afford \$700M Oil Train Spill*, available at: <http://www.bellinghamherald.com/news/local/article60156446.html> (last visited January 17, 2020).

- The FDOT must annually publish on its website a compendium of the reports that include any fatalities, injuries, and accidents occurring within the reporting timeframe which have occurred within a rail corridor where a HSPR system operates; and
- A railroad company that transports LNG on the same tracks or within the same rail corridor used by a HSPR system must annually submit a report to the FDOT containing the size of the average and largest LNG train, as measured in metric tons, operated in the state by the railroad company in the previous calendar year.

This section of the bill also requires the FDOT, in coordination with the FRA and other public and private entities, as necessary, to adopt by rule criteria to determine a reasonable worst-case unplanned release of LNG.

Additionally, the bill provides that the reporting requirements are for informational purposes only and may not be used to economically regulate the railroad company.

Accident Reports: Requiring a railroad company to furnish to the FDOT copies of accident reports filed with the FRA for each accident occurring within this state is authorized by federal law.⁸⁷ Whether it is permissible under federal law to require the FDOT to take the additional step of *preparing* a compendium of the reports on fatalities, injuries, and accidents during the specified reporting period for publication on the FDOT's website, in addition to simply publishing the FRA-required accident/incident reports on the FDOT website, is unclear.⁸⁸

LNG Annual Disclosure: Whether the bill's provisions that the reporting requirements are for information purposes only and may not be used to economically regulate the railroad company would enable it to withstand a challenge based on preemption is likewise unclear given the absence of any challenge to the Washington statute, which requires extensive financial and insurance information in addition to the more limited disclosure of the size of the average and largest LNG train operated in the previous year, as required by the bill. However, the bill imposes no penalty against a railroad company, even if, for example, a railroad company made no report at all.⁸⁹

Minimum Safety Standards for HSPR Systems (Section 8)

Present Situation

Compliance with Federal Law and Regulation: Railroad companies are currently required to comply with any applicable federal law or regulation.

⁸⁷ *Supra* note 84.

⁸⁸ If these reports contain confidential commercial information as defined under federal law (trade secrets and confidential, privileged, and/or proprietary business or financial information submitted to the [U.S. Department of Transportation] by any person), a Freedom of Information Act request to the FRA may be required. *See* the FDOT 2020 Legislative Bill Analysis for SB 676 available at <http://abar.laspbs.state.fl.us/ABAR/ABAR.aspx> (last visited January 17, 2020). The FDOT may be unable to comply with the bill's requirement in such cases.

⁸⁹ Under the bill, the authorized administrative penalty applies only to violations of the rules adopted under the new s. 341.605, F.S. The bill creates no penalty with respect to the required LNG annual report.

Effect of Proposed Changes

Section 8 of the bill creates s. 341.608, F.S., titled “Minimum safety standards for high-speed passenger rail systems.”

Compliance with Federal Law and Regulation: This section of the bill requires a railroad company operating a HSPR system to comply with federal law and FRA regulations, mirroring current federal law, and additionally requires compliance with the rules adopted by the FDOT pursuant to the bill’s direction.

Section 9 of the bill creates s. 341.609, F.S., to impose the following requirements on a railroad company that constructs or operates a HSPR system:

- If the railroad company is required to install safety improvements that modify the width of a roadbed, the railroad is responsible for ensuring the impacted roadbed meets the FDOT’s transition requirements as set forth in the most recent edition of the FDOT’s Design Standards and the Manual of Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways.⁹⁰

The bill provides that this newly created s. 341.609, F.S., as is the case under current law, may not be construed to impair any existing contractual agreements between the railroad company operating the HSPR system and a governmental entity within the state.

Safety Inspections and Inspectors (Section 10)

Present Situation

Section 341.302(8), F.S., authorizes the FDOT to conduct inspections of track and rolling stock, train signals and related equipment, hazardous materials transportation, and train operating practices.

The federal State Rail Safety Participation program uses state safety inspectors in rail safety inspection disciplines. The program emphasizes routine compliance inspections but authorizes states to undertake additional investigative and surveillance activities under certain circumstances. Each state agency is required to enter into an agreement with the FRA that delegates to the state investigative and surveillance authority for federal railroad safety laws. The program includes federal funding to reimburse states for costs of related rail safety inspector technical training.⁹¹

⁹⁰ The purpose of the manual, adopted by the FDOT as directed in s. 336.045, F.S., “is to provide uniform minimum standards and criteria for the design, construction, and maintenance of public streets, roads, highways, bridges, sidewalks, curbs and curb ramps, cross walks, bicycle facilities, underpasses, and overpasses used by the public for vehicular and pedestrian traffic.” See the FDOT’s website available at: <http://www.fdot.gov/roadway/FloridaGreenbook/FGB.shtm> (last visited January 17, 2020).

⁹¹ See the FRA website available at: <https://railroads.dot.gov/divisions/partnerships-programs/state-rail-safety-participation> (last visited January 17, 2020). See also 49 C.F.R. part 212.

The FDOT has a long-standing agreement with the FRA for participation in the federal program, which is periodically renewed. The agreement lists the FDOT's five certified railroad safety inspectors and their areas of responsibility. The agreement calls for the FRA and the FDOT certified inspectors to singly and jointly conduct investigative, surveillance, and enforcement activities within Florida under the FRSA and sets out the following safety areas or disciplines for surveillance: track, motive power and equipment, signals and train control, operations, and hazardous materials. These inspectors must be capable of composing narrative reports and recording data on standard report forms for submission to the FRA.

Effect of Proposed Changes

Section 10 of the bill creates s. 341.6101, F.S., requiring the FDOT's railroad inspectors to be certified by the FRA in accordance with the State Rail Safety Participation Program. The inspectors must coordinate their activities with those of federal rail inspectors in compliance with 49 C.F.R. part 212 and any other federal regulations governing state safety participation. Unless otherwise confidential under state or federal law, the FDOT inspectors must report in writing the results of their inspections in the manner and on forms prescribed by the FDOT. The reports must be made available on the FDOT's website for the public to access.

Research reveals no provisions of federal or state law that expressly address the confidentiality of rail inspection reports. Under Florida law, these reports appear to fall within the definition in s. 119.07(12), F.S., of "public records."⁹² Such reports may be available from the FRA if requested under the Freedom of Information Act (FOIA).⁹³ The FOIA expressly exempts, for example, trade secrets and commercial or financial information from its application.⁹⁴

The FDOT appears to be in compliance with the requirements of this section of the bill, except that it currently does not publish the reports on its website.⁹⁵ To the extent that federal law prescribes the forms that the FDOT's inspectors must use in completing their inspection reports, any FDOT rule relating to forms may be preempted. Whether publication of the reports on the FDOT's website is permissible under federal law is unclear. See discussion above under the heading, "Accident Reports."

Severability and Effective Date (Sections 11 - 13)

Section 11 creates s. 341.611, F.S., providing for severability of invalid provisions or applications of the act.

Section 12 recites that sections 341.601-341.611 are remedial in nature and apply retroactively.

Section 13 of the bill provides the act take effect on July 1, 2020.

⁹² "All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency."

⁹³ 5 U.S.C. 552.

⁹⁴ *Id.*

⁹⁵ See the FDOT's email to committee staff, January 21, 2020 (on file in the Senate Infrastructure and Security Committee.)

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The fiscal impact to railroads is largely indeterminate, depending on whether given provisions in the bill are federally preempted, or whether existing contractual agreements covering cost allocation apply. Railroads may incur costs associated with the following:

- Compliance with the FDOT rules and potential associated penalties for violations (section 5);
- Reporting requirements (section 7); and
- Railroad-highway grade crossing responsibilities (section 9).

Railroads may experience increased litigation costs related to preemption, regulatory compliance, and impairment of contract issues.

C. Government Sector Impact:

To the extent that sections 5 and 9 allow a local government to avoid future costs that would be incurred for railroad-highway grade crossing construction, maintenance and repairs, the local government would have an indeterminate positive fiscal impact.

An indeterminate negative fiscal impact to the FDOT is expected for expenses associated with:

- Adopting and enforcing rules (sections 5 and 7), and
- Publishing accident and inspection reports (sections 7 and 10).

And indeterminate positive fiscal impact may be realized if violations of the required rules occur and the FDOT imposes the authorized administrative penalties. An indeterminate negative fiscal impact to the FDEM is expected for expenses associated with providing the required hazardous material training (section 6).

To the extent that there is litigation involving any of the regulatory provisions of this bill, governmental entities may experience increased litigation costs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 341.601, 341.602, 341.603, 341.604, 341.605, 341.606, 341.607, 341.608, 341.609, 341.6101, and 341.611, 341.61CS 2.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Infrastructure and Security on January 21, 2020:

The CS substantially revises the original bill as follows:

- Requires the FDOT to adopt minimum standards for public railroad-highway grade crossing design and installation of safety equipment, use of sealed corridors at such crossings, and field surveys for determining areas where fencing is necessary to protect the public, to the extent not prohibited by federal law;
- Authorizes the FDOT to impose against a railroad company an administrative penalty of up to \$10,000 for each violation of the FDOT rules, eliminating reference to enforcement under s. 316.640, F.S., relating to enforcement of the state's traffic laws;
- Eliminates the requirement that railroad companies provide detailed financial information related to ability to respond to a worst-case unplanned release of LNG, leaving only an annual report to the FDOT regarding LNG shipments in the previous calendar year; and
- Narrows the conditions under which a railroad company is assigned responsibility for certain maintenance, repair, or upgrade costs in the absence of a contractual agreement covering such costs

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/22/2020	.	
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The Committee on Infrastructure and Security (Mayfield)
recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 341.601, Florida Statutes, is created to
read:

341.601 Short title.—Sections 341.601-341.611 may be cited
as the "Florida High-Speed Passenger Rail Safety Act."

Section 2. Section 341.602, Florida Statutes, is created to
read:



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341.602 Definitions.—As used in ss. 341.601-341.611, the term:

(1) "Department" means the Department of Transportation.

(2) "Freight railroad carrier" means any person, railroad corporation, or other legal entity engaged in the business of providing freight rail transportation.

(3) "Governmental entity" means the state, any of its agencies, or any of its political subdivisions.

(4) "Hazardous materials" includes all materials, wastes, or substances designated or defined as hazardous by 49 C.F.R. parts 100-199 and their implementing regulations, by 42 U.S.C. s. 9601, or in any state law, rule, or program that regulates the handling or transporting of such materials, wastes, or substances.

(5) "High-speed passenger rail system" means any intrastate passenger rail system that operates or proposes to operate its passenger trains at a maximum speed in excess of 80 miles per hour.

(6) "Public railroad-highway grade crossing" means a location at which a railroad track is crossed at grade by a public road.

(7) "Rail corridor" means a linear, continuous strip of real property that is used for rail service. The term includes the corridor and structures essential to railroad operations, including the land, buildings, improvements, rights-of-way, easements, rail lines, roadbeds, guideway structures, switches, yards, parking facilities, power relays, switching houses, rail stations, any ancillary developments, and any other facilities or equipment used for the purposes of construction, operation,



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or maintenance of a railroad that provides rail service.

(8) "Railroad company" means any individual, partnership, association, corporation, or company and its respective lessees, trustees, or court-appointed receivers which develops or provides ground transportation that runs on rails, and includes, but is not limited to, any of the following:

(a) A high-speed passenger rail system.

(b) A freight railroad carrier.

(c) A company that owns a rail corridor.

(9) "Sealed corridor" means a rail corridor that uses safety measures to block all lanes of travel where a roadway crosses a railroad track and that uses pedestrian treatments at grade crossings and controls between crossings to prevent trespassing.

Section 3. Section 341.603, Florida Statutes, is created to read:

341.603 Legislative intent.—It is the intent of the Legislature to:

(1) Encourage the creation of safe and economical transportation options, including high-speed passenger rail systems, for this state's residents and visitors.

(2) Promote and enhance the safe operation of high-speed passenger rail systems within this state to protect the health, safety, and welfare of the public.

Section 4. Section 341.604, Florida Statutes, is created to read:

341.604 Applicability.—This act applies to any railroad company that operates a high-speed passenger rail system and any railroad company that allows a high-speed passenger rail system



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to operate on or within its rail corridor.

Section 5. Section 341.605, Florida Statutes, is created to read:

341.605 Powers and duties of the department; rules.—

(1) To the extent that such authority is not preempted by federal law or regulation, the department shall:

(a) Regulate railroad companies in this state.

(b) Obtain from any party all necessary information to enable it to perform its duties and carry out the requirements of this act.

(c) Keep a record of its findings, decisions, and determinations made, and investigations conducted, under this act.

(d) Adopt rules by January 1, 2021, to administer this act. Such rules must include minimum standards or criteria for:

1. Public railroad-highway grade crossing design, including, but not limited to, installation of appropriate safety equipment, such as remote health monitoring and traffic signal preemption systems;

2. Implementation of sealed corridors and of safety measures to be used at sealed corridors;

3. Installation or realignment of crossing gates at severely skewed, acute-angled public railroad-highway grade crossings along the rail corridor; and

4. Field surveys of the rail corridor to be conducted for the purpose of identifying areas where fencing is necessary to protect the health, safety, and welfare of the public, including, but not limited to, minimum requirements for construction and materials.



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(2) The department may impose on a railroad company an administrative penalty not exceeding \$10,000 for each violation of the rules adopted by the department as provided in this section. Each violation constitutes a separate violation.

Section 6. Section 341.606, Florida Statutes, is created to read:

341.606 Training for local communities and local agencies.—
If a high-speed passenger rail system operates on a rail corridor or on a set of tracks which is also used to transport hazardous materials, the Division of Emergency Management must offer the local communities and local agencies located along the rail corridor training specifically designed to help them respond to an accident involving rail passengers or hazardous materials.

Section 7. Section 341.607, Florida Statutes, is created to read:

341.607 Reporting requirements; rulemaking.—

(1) A railroad company that operates a high-speed passenger rail system shall furnish to the department a copy of the accident reports filed with the Federal Railroad Administration for each train accident that occurs within the rail corridor.

(2) The department shall annually publish on its website a compendium of the reports that include any fatalities, injuries, or accidents during the reporting timeframe which occurred within a rail corridor where a high-speed passenger rail system operates, unless notified by the Federal Government that the compendium is inconsistent with federal requirements.

(3) A railroad company that transports liquefied natural gas on the same tracks, or within the same rail corridor, used



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by a high-speed passenger rail system within this state shall submit an annual report to the department containing the size of the average and largest liquefied natural gas train, as measured in metric tons, operated in this state by the railroad company in the previous calendar year.

(4) All reporting requirements are for informational purposes only. The information reported may not be used to economically regulate the railroad company.

(5) The department, in coordination with the Federal Railroad Administration and other public and private entities, as necessary, shall adopt by rule criteria to determine a reasonable worst-case unplanned release of liquefied natural gas.

Section 8. Section 341.608, Florida Statutes, is created to read:

341.608 Minimum safety standards for high-speed passenger rail systems.—In addition to complying with federal law, Federal Railroad Administration regulations, and other applicable federal regulations, a railroad company operating a high-speed passenger rail system shall comply with the rules adopted by the department pursuant to s. 341.605.

Section 9. Section 341.609, Florida Statutes, is created to read:

341.609 Maintenance and repair of roadbeds, tracks, culverts, and certain streets and sidewalks.—

(1) If the railroad company that constructs or operates a high-speed passenger rail system is required to install safety improvements that modify the width of a roadbed, the company is responsible for ensuring that the impacted roadbed meets the



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department's transition requirements as set forth in the most recent edition of the department's Design Standards and the Manual of Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways.

(2) This section may not be construed to impair any existing contractual agreements between a railroad company operating a high-speed passenger rail system and a governmental entity within the state.

Section 10. Section 341.6101, Florida Statutes, is created to read:

341.6101 Safety inspections and inspectors.-

(1) In accordance with the State Rail Safety Participation Program, which is designed to promote safety in all areas of railroad operations to reduce deaths, injuries, and damage to railroad property, the department's railroad inspectors must be certified by the Federal Railroad Administration and shall coordinate their activities with those of federal inspectors in this state in compliance with 49 C.F.R. part 212 and any other federal regulations governing state safety participation.

(2) Unless the results are otherwise confidential under state or federal law, the department's railroad inspectors shall report in writing the results of their inspections in the manner and on forms prescribed by the department. The department shall make these reports available on its website for the public to access.

Section 11. Section 341.611, Florida Statutes, is created to read:

341.611 Severability.-If any provision of this act or its application to any person or circumstance is held invalid, the



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invalidity does not affect other provisions or applications of
this act which can be given effect without the invalid provision
or application, and to this end, the provisions of this act are
severable.

Section 12. Sections 341.601-341.611 are remedial in nature
and shall apply retroactively.

Section 13. This act shall take effect July 1, 2020.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to high-speed passenger rail safety;
creating s. 341.601, F.S.; providing a short title;
creating s. 341.602, F.S.; defining terms; creating s.
341.603, F.S.; providing legislative intent; creating
s. 341.604, F.S.; providing applicability; creating s.
341.605, F.S.; requiring the Department of
Transportation to regulate railroad companies when
that authority is not federally preempted; requiring
the department to obtain information necessary to
perform its duties; requiring the department to keep
certain records; requiring the department to adopt
rules; providing requirements for such rules;
authorizing the department to impose administrative
penalties; creating s. 341.606, F.S.; requiring the
Division of Emergency Management to offer accident
response training to certain local communities and



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local agencies under certain circumstances; creating
s. 341.607, F.S.; requiring certain railroad companies
to furnish copies of federal accident reports to the
department; requiring the department to annually
publish certain information on its website; requiring
railroad companies that transport liquefied natural
gas on or within certain tracks or corridors to submit
an annual report to the department containing
specified information; prohibiting the use of reported
information for the purpose of economically regulating
railroad companies; requiring the department, in
coordination with the Federal Railroad Administration
and other necessary entities, to adopt certain
criteria by rule; creating s. 341.608, F.S.; requiring
certain railroad companies to comply with federal law
and certain regulations; creating s. 341.609, F.S.;
providing that certain railroad companies are
responsible for ensuring that impacted roadbeds meet
specified transition requirements under certain
circumstances; providing construction; creating s.
341.6101, F.S.; requiring the department's railroad
inspectors, in accordance with a specified program, to
meet certain certification requirements and to
coordinate their activities with those of federal
inspectors in this state in compliance with certain
federal regulations; requiring the department's
inspectors to report the results of their inspections
to the department, subject to certain requirements,
unless the results are confidential under state or



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243 federal law; requiring the department to make the
244 reports available on its website; creating s. 341.611,
245 F.S.; providing severability; providing for
246 retroactive application; providing an effective date.

By Senator Mayfield

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1 A bill to be entitled
 2 An act relating to high-speed passenger rail safety;
 3 creating s. 341.601, F.S.; providing a short title;
 4 creating s. 341.602, F.S.; defining terms; creating s.
 5 341.603, F.S.; providing legislative intent; creating
 6 s. 341.604, F.S.; providing applicability; creating s.
 7 341.605, F.S.; requiring the Department of
 8 Transportation to regulate railroads when that
 9 authority is not federally preempted; requiring the
 10 department to obtain certain information from parties;
 11 requiring the department to keep certain records;
 12 requiring the department to adopt rules; creating s.
 13 341.606, F.S.; requiring the Division of Emergency
 14 Management to offer accident response training to
 15 certain local communities and local agencies; creating
 16 s. 341.607, F.S.; requiring certain railroad companies
 17 to furnish copies of federal accident reports to the
 18 department; requiring the department to annually
 19 publish certain information on its website; requiring
 20 railroad companies that transport liquefied natural
 21 gas on or within certain tracks or corridors to submit
 22 an annual report to the department containing
 23 specified information; prohibiting the use of reported
 24 information for the purpose of economically regulating
 25 railroad companies; requiring the department, in
 26 coordination with the Federal Railroad Administration
 27 and other necessary entities, to adopt certain rules;
 28 creating s. 341.608, F.S.; requiring certain railroad
 29 companies to comply with federal law and certain

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30 regulations and install certain safety equipment;
 31 requiring railroad companies to meet specified
 32 requirements before operating a high-speed passenger
 33 rail system; requiring sealed corridors at certain at-
 34 grade crossings; providing safety measure requirements
 35 for sealed corridors; creating s. 341.609, F.S.;
 36 requiring railroad companies to be responsible for
 37 ensuring that impacted roadbed meets specified
 38 transition requirements under certain circumstances;
 39 providing construction; creating s. 341.6101, F.S.;
 40 requiring the department's railroad inspectors, in
 41 accordance with a specified program, to meet certain
 42 certification requirements and to coordinate their
 43 activities with those of federal inspectors in the
 44 state in compliance with certain federal regulations;
 45 requiring the department's inspectors to report the
 46 results of their inspections to the department,
 47 subject to certain requirements, unless the results
 48 are confidential under law; requiring the department
 49 to make the reports available on its website; creating
 50 s. 341.611, F.S.; requiring the department to adopt by
 51 rule standards to be used in conducting field surveys
 52 of certain rail corridors; providing minimum
 53 requirements for the field surveys; requiring the
 54 department to hold certain public meetings; requiring
 55 certain railroad companies to construct and maintain
 56 fences under certain circumstances; providing fencing
 57 requirements; specifying that a railroad company
 58 operating a high-speed passenger rail system is liable

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for all damages arising from its failure to construct or maintain the fence, under certain circumstances; creating s. 341.612, F.S.; establishing jurisdiction for the state to enforce specified provisions; requiring penalties for violations of specified provisions to be imposed upon the railroad company that commits such violations; creating s. 341.613, F.S.; providing severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 341.601, Florida Statutes, is created to read:

341.601 Short title.—Sections 341.601-341.613 may be cited as the “Florida High-Speed Passenger Rail Safety Act.”

Section 2. Section 341.602, Florida Statutes, is created to read:

341.602 Definitions.—As used in ss. 341.601-341.613, the term:

(1) “Department” means the Department of Transportation.

(2) “Freight railroad carrier” means any person, railroad corporation, or other legal entity engaged in the business of providing freight rail transportation.

(3) “Governmental entity” means the state, any of its agencies, or any of its political subdivisions.

(4) “Hazardous materials” includes all materials, wastes, or substances designated or defined as hazardous by 49 C.F.R. parts 100-199 and their implementing regulations, by 42 U.S.C.

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s. 9601, or in any state law, rule, or program that regulates handling or transporting of such materials, wastes, or substances.

(5) “High-speed passenger rail system” means any intrastate passenger rail system that operates or proposes to operate its passenger trains at a maximum speed in excess of 80 miles per hour and that was not carrying passengers before January 1, 2017.

(6) “Public railroad-highway grade crossing” means a location at which a railroad track is crossed at grade by a public road.

(7) “Rail corridor” means a linear, continuous strip of real property that is used for rail service. The term includes the corridor and structures essential to railroad operations, including the land, buildings, improvements, rights-of-way, easements, rail lines, roadbeds, guideway structures, switches, yards, parking facilities, power relays, switching houses, rail stations, any ancillary developments, and any other facilities or equipment used for the purposes of construction, operation, or maintenance of a railroad that provides rail service.

(8) “Railroad company” means any individual, partnership, association, corporation, or company and its respective lessees, trustees, or court-appointed receivers which develops or provides ground transportation that runs on rails, and includes, but is not limited to, any of the following:

(a) A high-speed passenger rail system.

(b) A freight railroad carrier.

(c) A company that owns a rail corridor.

(9) “Sealed corridor” means a rail corridor that uses

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117 safety measures to block all lanes of travel where a roadway
 118 crosses a railroad track and that uses pedestrian treatments at
 119 grade crossings and controls between crossings to prevent
 120 trespassing.

121 Section 3. Section 341.603, Florida Statutes, is created to
 122 read:

123 341.603 Legislative intent.—It is the intent of the
 124 Legislature to:

125 (1) Encourage the creation of safe and economical
 126 transportation options, including high-speed passenger rail
 127 systems, for this state's residents and visitors.

128 (2) Promote and enhance the safe operation of high-speed
 129 passenger rail systems within the state to protect the health,
 130 safety, and welfare of the public.

131 Section 4. Section 341.604, Florida Statutes, is created to
 132 read:

133 341.604 Applicability.—This act applies to any railroad
 134 company that operates a high-speed passenger rail system and any
 135 railroad company that allows a high-speed passenger rail system
 136 to operate on or within its rail corridor.

137 Section 5. Section 341.605, Florida Statutes, is created to
 138 read:

139 341.605 Powers and duties of the department; rules.—

140 (1) The department shall regulate railroad companies in
 141 this state to the extent that such authority is not preempted by
 142 federal law or regulation.

143 (2) The department shall obtain from any party all
 144 necessary information to enable it to perform its duties and
 145 carry out the requirements of this act.

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146 (3) The department shall keep a record of its findings,
 147 decisions, and determinations made, and investigations
 148 conducted, under this act.

149 (4) The department shall adopt rules to administer this
 150 act.

151 Section 6. Section 341.606, Florida Statutes, is created to
 152 read:

153 341.606 Training for local communities and local agencies.—
 154 If a high-speed passenger rail system operates on a rail
 155 corridor or on a set of tracks which is also used to transport
 156 hazardous materials, the Division of Emergency Management must
 157 offer the local communities and local agencies located along the
 158 rail corridor training specifically designed to help them
 159 respond to an accident involving rail passengers or hazardous
 160 materials.

161 Section 7. Section 341.607, Florida Statutes, is created to
 162 read:

163 341.607 Reporting requirements; rulemaking.—

164 (1) A railroad company that operates a high-speed passenger
 165 rail system shall furnish to the department a copy of the
 166 accident reports filed with the Federal Railroad Administration
 167 for each train accident that occurs within the rail corridor.

168 (2) The department shall annually publish on its website a
 169 compendium of the reports that include any fatalities, injuries,
 170 or accidents during the reporting timeframe which occurred
 171 within a rail corridor where a high-speed passenger rail system
 172 operates.

173 (3) A railroad company that transports liquefied natural
 174 gas on the same tracks, or within the same rail corridor, used

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by a high-speed passenger rail system within the state shall submit an annual report to the department containing:

(a) All insurance carried by the railroad company which covers any losses resulting from a reasonable worst-case unplanned release of liquefied natural gas.

(b) Coverage amounts, limitations, and other conditions of such insurance.

(c) The size of the average and largest liquefied natural gas train, as measured in metric tons, operated in the state by the railroad company in the previous calendar year.

(d) Information sufficient to demonstrate the railroad company's ability to remediate a reasonable worst-case unplanned release of liquefied natural gas, including, but not limited to, insurance coverage, reserve accounts, letters of credit, or other financial instruments or resources on which the company can rely for such remediation.

(4) All reporting requirements are for informational purposes only. The information reported may not be used to economically regulate the railroad company.

(5) The department, in coordination with the Federal Railroad Administration and other public and private entities, as necessary, shall adopt by rule criteria to determine a reasonable worst-case unplanned release of liquefied natural gas.

Section 8. Section 341.608, Florida Statutes, is created to read:

341.608 Minimum safety standards for high-speed passenger rail systems.

(1) In addition to complying with federal law and with

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Federal Railroad Administration regulations, a railroad company operating a high-speed passenger rail system shall install safety equipment that has been approved by the Federal Railroad Administration and include, at a minimum, positive train control systems as provided in 49 C.F.R. part 236.

(2) Before operating a high-speed passenger rail system, a railroad company shall also:

(a) Install or realign crossing gates, including those at severely skewed, acute-angled locations as identified by either the department or the Federal Railroad Administration, so that the gates are parallel to the tracks and in accordance with the most recent edition of the Manual on Uniform Traffic Control Devices published by the Federal Highway Administration and adopted by the department pursuant to s. 316.0745.

(b) Equip all automatic public railroad-highway grade crossing warning systems with remote health monitoring technology capable of constantly monitoring the highway-railroad crossing to:

1. Detect false activations;

2. Detect other crossing signal malfunctions; and

3. Notify the train dispatcher and railroad maintenance personnel whenever such a malfunction is detected.

(c) Construct and maintain fencing in accordance with s. 341.611.

(3) (a) Sealed corridors must be required at any at-grade crossing where a high-speed passenger rail system operates on tracks that are also used to transport hazardous materials, regardless of the speed at which the high-speed passenger rail system is operating on such at-grade crossing.

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(b) Safety measures that must be used at a sealed corridor include, but are not limited to, the following:

1. A four-quadrant gate system with separate pedestrian crossing gates on the two-way streets;

2. Gate arms extending across all lanes of travel on paired one-way streets; and

3. Median arrangements.

Section 9. Section 341.609, Florida Statutes, is created to read:

341.609 Maintenance and repair of roadbeds, tracks, culverts, and certain streets and sidewalks.-

(1) If the railroad company that constructs or operates a high-speed passenger rail system is required to install safety improvements that modify the width of a roadbed, the company is responsible for ensuring that the impacted roadbed meets the department's transition requirements as set forth in the most recent edition of the department's Design Standards and the Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways.

(2) This section does not impair any existing contractual agreements between a railroad company operating a high-speed passenger rail system and a governmental entity within the state.

Section 10. Section 341.6101, Florida Statutes, is created to read:

341.6101 Safety inspections and inspectors.-

(1) In accordance with the State Rail Safety Participation Program, which is designed to promote safety in all areas of railroad operations to reduce deaths, injuries, and damage to

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railroad property, the department's railroad inspectors must be certified by the Federal Railroad Administration and shall coordinate their activities with those of federal inspectors in the state in compliance with 49 C.F.R. part 212 and any other federal regulations governing state safety participation.

(2) Unless the results are otherwise confidential under state or federal law, the department's railroad inspectors shall report in writing the results of their inspections in the manner and on forms prescribed by the department. The department must make these reports available on its website for the public to access.

Section 11. Section 341.611, Florida Statutes, is created to read:

341.611 Fencing and separation requirements to protect the public.-

(1) The department shall adopt by rule standards to be used by the department in conducting field surveys of the rail corridor being used by a high-speed passenger rail system. The field surveys must indicate areas where fencing is necessary to protect the health, safety, and welfare of the public.

(2) At a minimum, the field surveys must identify pedestrian traffic generators, such as nearby schools and parks, and signs of current pedestrian traffic that crosses the railroad tracks. The department shall hold at least one public meeting in each community in which new or substantially modified fencing is proposed before designs and plans for such fencing are finalized.

(3) Once it has been determined that a fence is necessary, a railroad company operating a high-speed passenger rail system

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291 shall construct and maintain the fence on both sides of its
 292 railroad tracks in a manner sufficient to prevent intrusion. The
 293 fencing must be:

294 (a) Placed 1 foot inside the edge of the railroad company's
 295 right-of-way.

296 (b) At least 4 1/2 feet in height. Ornamental fencing must
 297 be used within urban areas. Chain-link fencing may be used in
 298 locations outside of urban areas.

299 (c) Maintained by the railroad company operating a high-
 300 speed passenger rail system, unless a governmental entity has
 301 contractually consented to undertake the responsibility for
 302 maintaining the fence within its jurisdiction.

303 (4) If a railroad company operating a high-speed passenger
 304 rail system does not construct or maintain a fence as required
 305 under subsection (3), the railroad company is liable for all
 306 damages arising from its failure to construct or maintain such
 307 fence unless another entity is responsible for maintenance as
 308 provided by paragraph (3)(c).

309 Section 12. Section 341.612, Florida Statutes, is created
 310 to read:

311 341.612 Enforcement.—Jurisdiction to enforce ss. 341.601-
 312 341.613 is as provided in s. 316.640, and any penalty for a
 313 violation of ss. 341.601-341.613 must be imposed upon the
 314 railroad company that commits such violation.

315 Section 13. Section 341.613, Florida Statutes, is created
 316 to read:

317 341.613 Severability.—If any provision of this act or its
 318 application to any person or circumstance is held invalid, the
 319 invalidity does not affect other provisions or applications of

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320 this act which can be given effect without the invalid provision
 321 or application, and to this end the provisions of this act are
 322 severable.

323 Section 14. This act shall take effect July 1, 2020.

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From: Jacobs, Kevin <KevinJacobs@flhsmv.gov>

Sent: Friday, January 17, 2020 11:02 AM

To: Price, Cindy <PRICE.CINDY@flsenate.gov>

Cc: Miller, Phillip <Miller.Phillip@flsenate.gov>; Langston, Jennifer <JenniferLangston@flhsmv.gov>

Subject: RE: [EXT] RE: Question, please?

Cindy,

Below are a few updates from the draft 2018 crash facts, as well as preliminary crash data for 2019 (as of 1/16/2020).

Let me know if you have any questions

Florida Motor Vehicle Crashes			
Calendar Year	Total Crashes	Injury Crashes	Fatalities
2016	395,785	165,940	3,176 ^[1]
2017	402,385	166,612	3,116 ^[2]
2018 Crash Facts	402,592 403,626	166,881 167,219	3,174 ^[3] 3,135
2019*	198,313 399,087	82,773 158,999	1,643 ^[4] 3,137

Best,
Kevin

^[1] See the Florida Department of Highway Safety and Motor Vehicles *Traffic Crash Facts Annual Report 2017*, available at https://flhsmv.gov/pdf/crashreports/crash_facts_2017.pdf (last visited January 16, 2020).

^[2] *Id.*

^[3] See the Florida Department of Highway Safety and Motor Vehicles *Crash Dashboard* available at <https://www.flhsmv.gov/traffic-crash-reports/crash-dashboard/> (last visited January 16, 2020).

^[4] *Id.*

Price, Cindy

From: Kotyk, John <John.Kotyk@dot.state.fl.us>
Sent: Tuesday, January 21, 2020 12:35 PM
To: Price, Cindy
Subject: Re: SB 572

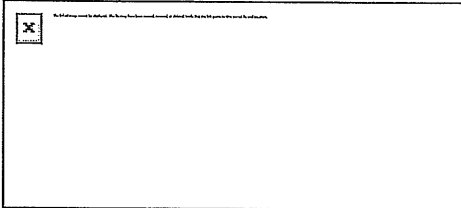
Cindy,

Yes, that is still correct.

Thank you,

John Kotyk

Deputy Legislative Affairs Director
Florida Department of Transportation
Office: (850)414-4575
Direct: (850)414-4147
John.Kotyk@dot.state.fl.us



On Jan 21, 2020, at 12:33 PM, Price, Cindy <Price.Cindy@flsenate.gov> wrote:

EXTERNAL SENDER: Use caution with links and attachments.

John: Please see below. For this year's SB 676, still accurate?

Thank you!

Cindy

From: Schuessler, Shannan <Shannan.Schuessler@dot.state.fl.us>
Sent: Monday, October 30, 2017 1:13 PM
To: Price, Cindy <PRICE.CINDY@flsenate.gov>; Farrill, Cody <Cody.Farrill@dot.state.fl.us>; Marsh, Amanda <Amanda.Marsh@dot.state.fl.us>
Subject: RE: SB 572

Cindy - That's still an accurate statement.

Thanks!
Shannan

From: Price, Cindy [<mailto:PRICE.CINDY@flsenate.gov>]
Sent: Monday, October 30, 2017 9:29 AM
To: Schuessler, Shannan; Farrill, Cody; Marsh, Amanda
Subject: SB 572

Hi, all: Hope you had a great weekend. Quick question, please? For last year's SB 386, you all advised that the FDOT currently does not publish rail inspection reports on its website. Is that still an accurate statement?

Thanks!

Cindy



DIRECT COSTS TO TREASURE COAST FROM HIGH-SPEED RAIL*

BACKGROUND

All Aboard Florida (AAF), a privately owned company, proposes to construct and operate an intrastate high-speed passenger railroad system from Miami to Orlando, going through the heart of Florida's Treasure Coast. However, the project is heavily reliant on local governments and taxpayer dollars. In fact, AAF cannot move forward without federal subsidies call Private Activity Bonds which they have been unsuccessful in selling thus far.

- Stops: MIAMI, FT. LAUDERDALE, WEST PALM BEACH, ORLANDO
 - Phase I (Miami to West Palm Beach) scheduled to begin in 2017
 - Phase II will include direct travel from West Palm Beach to Orlando Intl. Airport
- Currently there are approximately 14 freight trains per day
 - **The project is expected to allow at least 52 total trains per day**
 - 32 will be high-speed passenger and at least 20 will be freight
- Maximum train speeds over the 159 at-grade road crossings
- **In phase II maximum speeds will INCREASE FROM 60 MPH TO 110 mph**
- The trains will travel through pedestrian downtown areas adjacent to parks, shops, and restaurants and near school walking routes.
- First responders continue to voice concerns as trains and additional traffic will create obstacles near hospitals, fire stations and for law enforcement.
- Currently areas near the tracks are open and accessible to pedestrians not accustomed to high speed rail forcing counties to potentially absorb the additional costs to ensure safety of residents.

CROSSINGS

- **Total of 349 at-grade crossings** (28 in Martin County and 31 in Indian River County)

COST RESPONSIBILITY

- Cities and counties along Florida's east coast have existing crossing agreements with Florida East Coast Railway which require the local governments to carry the financial burden for the following:
 - Crossing signal installations
 - Capital improvements for track beds and roadway surfaces
 - Crossing Maintenance Cost
 - Pedestrian gates and sidewalks

ESTIMATED COSTS OF AAF

Installation Costs for Signal Upgrades and Pedestrian Gates**

Indian River County: **\$11.5m to \$13.8m**

Martin County: **\$8.6m to \$10.3m**

Additional Costs based on FRA and county safety recommendations which are not being considered or funded by AAF.

Indian River County: **\$1.4m to \$1.7m**

Martin County: **\$1.7m to \$2.1m**

Crossing Maintenance Costs

2019 Crossing Rehabilitation

Indian River County: **\$546,000 to \$1.1m**

Martin County: **\$413,000 to \$916,000**

2019 – 2030 Wear/Tear Rehabilitation

Indian River County: **\$7.4m to \$15.6m**

Martin County: **\$5.6m to \$12.4m**

*Information Prepared by: Triad Railroad Consulting, LLC

COST CATEGORY I: INSTALLATION COSTS PER FRA REVIEWED PLANS

Costs associated with the initial installation of crossing signals, vehicle presence detection (VPD) technology, sidewalks and sidewalk gates, crossing panels and associated tracks, as per AAF plans reviewed by FRA.

Table - Cost Element	IRC		MC	
	Mid-Range	High-Range	Mid-Range	High-Range
I.2 – Crossing Signal Upgrades	\$8,445,500	\$9,957,500	\$5,850,000	\$6,891,000
1.3 – Pedestrian Gates & Sidewalks	\$245,000	\$294,000	\$292,500	\$351,000
1.4 – New Crossing Panels	\$2,887,500	\$3,553,500	\$2,540,000	\$3,126,500
Total	\$11,578,000	\$13,805,000	\$8,682,500	\$10,368,500

COST CATEGORY II: MAINTENANCE/RENEWAL COSTS PER FRA REVIEWED PLANS

Costs for annual fees the counties are required to pay to the railroad for crossing signal maintenance and are based on an FDOT schedule that is revised every five years. These costs also include periodic crossing rehabilitation costs.

Table - Cost Element	IRC		MC	
	FEC Only	AAF & FEC	FEC Only	AAF & FEC
II.2 – Crossing Rehabilitation 2019	\$546,000	\$1,151,000	\$413,000	\$916,000
II.2 – Crossing Rehabilitation 2019 - 2030	\$7,401,000	\$15,601,000	\$5,597,000	\$12,406,000

COST CATEGORY III: INSTALLATION COSTS PER INDIAN RIVER & MARTIN COUNTY REQUESTS

This Cost Category includes the costs associated with the initial installation of crossing signals, VPD technology, sidewalks and sidewalk gates requested by the counties, but not included in AAF plans.

Table - Cost Element	IRC		MC	
	Mid-Range	High-Range	Mid-Range	High-Range
III.2 – Crossing Signal Upgrades	\$1,075,500	\$1,332,000	\$1,451,000	\$1,797,500
III.3 – Pedestrian Gates & Sidewalks	\$331,500	\$398,000	\$294,000	\$352,500
Total	\$1,407,000	\$1,730,000	\$1,745,000	\$2,150,000



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ON-SITE ENGINEERING FIELD REPORT - Part 1

— All Aboard Florida —

Background:

FRA Headquarters, in conjunction with the Region 3 office, assisted in the diagnostic safety review of the Florida East Coast (FEC) Railway grade crossings between Miami-Dade to St. Lucie counties. This is due to High Speed Passenger Rail service being planned between Miami and Orlando, known as "All Aboard Florida". Beginning February 4, 2014 and ending on March 7, 2014, a total of 263 public and private grade crossings were assessed. Participants included officials from Florida Department of Transportation (FDOT), FEC, All Aboard Florida (AAF); including local city and county officials at some locations.

For the purposes of this report, Part 1 represents the diagnostic review taken place from Miami-Dade to St. Lucie Counties. Part 2 designates the diagnostic review from Indian River County to Cocoa Beach, which is expected to occur in mid-to-late June 2014. There are approximately 90 grade crossings in Part 2. The segment between Cocoa Beach and Orlando will be designed for 125 MPH, however, AAF will not be traversing over any at-grade crossings along that rail corridor.

Scope:

Crossing locations between Miami to north of West Palm Beach are being designed for a maximum authorized speed of 79 MPH. The 110 MPH segment begins/ends at 30th Street in West Palm Beach (milepost 297.40), and continues through the Private Road Crossing in Indrio (milepost 233.90). Within the 110 MPH segment, train speeds are lowered to conventional rail limits where civil constraints exist; such as curves or draw bridges, which are noted on the accompanying field design plans.

Currently the design plans are at 30%. The next reiteration will be at 90%. Therefore, the decisions for the grade crossing signaling equipment and warning devices will be determined fairly soon.

The existing crossing signaling equipment contain a mix of signal cases and relay houses, equipped with either Phase Motion Detectors (PMD-1) or HXP 3R2's highway crossing processors.

Each crossing location will eventually consist of relay houses equipped with GE Transportation's ElectroLogIXS XP4 for constant warning time as part of this project. For 110 MPH, the crossing circuits beyond the 79 MPH standard will utilize a GE device linked through the PTC system for the advanced crossing starts. The technology will diagnose a health check to determine whether or not all roadway/pedestrian gates are in the down position.

Results:

Of the 263 grade crossings in Part 1, there are 57 crossing locations affected for Sealed Corridor treatments within the 110 MPH territory. Officials from All Aboard Florida passenger rail project (herein the "Project") have openly expressed that the proposed 110 MPH segment will NOT incorporate the "Sealed Corridor" concept as outlined in FRA's Highway-Rail Grade Crossing Guidelines for High-Speed Passenger Rail, Version 1.0 (*November 2009*). They stated that since these are "guidelines, not regulations" as quoted on page *iii*, in which they are not obligated to incorporate any of the described crossing treatments as illustrated in the document. The Project estimates that in doing so would incur an additional financial burden of about \$47 mil.

In my professional opinion, I respectfully disagree with the Project's approach in that they are not exercising appropriate safety practices and reasonable care when designing for High Speed Passenger Rail service. I explained to the entire diagnostic team how important it was to adopt the principles of the Sealed Corridor approach. However, it was clearly evident that the Project was not pursuing such concept.

As a result, the Project has directed their signaling engineering consultants to design crossings to ONLY accommodate for the additional track while complying with the MUTCD - but not to incorporate any of the Sealed Corridor treatments. Furthermore, since there is a completely different philosophical view towards safety between the Project and I, the accompanying marked-up design plans and field notes are notably different from the Project's design plans; particularly along the 110 MPH segment. The Project has been maintaining a running log noting my Sealed Corridor recommendations.

Officials from FDOT's Rail Office are not taking a position, one way or the other, at this time.

Safety Recommendations:

The following are recommendations made to the Project based upon my on-site field assessments during the diagnostic safety review:

- A. Pedestrian gates** – there are certain locations along the corridor in which sidewalks are present on both sides of the railroad right-of-way, but do not follow through. Some of these sidewalks do not comply with today's ADA's standards, however pedestrian travel is evident due to the worn foot path on the surface, and general witnessing of usage. Typically the roadway gate covers the entrance side of the adjacent sidewalk, but there are no pedestrian gates on the opposite quadrants. The Project stated if there is no agreement with the city or county for the service and maintenance of a pedestrian gate assembly, they will not install them.

Trespassing is an epidemic along this corridor. Rather than encourage it, it is recommended per my field notes at those particular locations to equip sidewalk approaches with a visual and gated barrier. This is to provide safe passage of pedestrians through a very active rail line and prevents those from walking into an open railway corridor; or directing them onto the street – irrespective if there is an agreement or not.

- B. Vehicle Presence Detection** – for those public and private crossings between 80-110 MPH in Part 1 to be equipped with a Vehicle Presence Detection ("VPD") system. The entire FEC corridor is equipped with Cab Signaling control. Presence detection will serve as a long term obstacle system, where the presence of a vehicle within the crossing area for a fixed length of time would be reported as an alarm through the remote monitoring system, irrespective of the approach of a train. Subsequently, for those 3-Quadrant and 4-Quadrant gated grade crossings between 80-110 MPH (as identified further below), it is recommended that either through the activation of a loop detector and/or a vertical exit gate (indicating a roadway vehicle is occupying the crossing) that a vehicle is detected by the train as a "feedback loop" of information; resulting in a loss of cab-signals, thus placing the train in an automatic speed restriction.

Motor vehicles stalled, or trapped on a crossing due to queuing, present a derailment hazard; and in multiple track territory or where freight equipment is standing on adjacent sidings or industry tracks, derailments can result in catastrophic secondary collisions. Therefore, presence detection providing feedback to the train control system to high speed

trains traveling along this FEC corridor be active in order to minimize the possibility of derailments as well.

Recommending a VPD system is due to the following safety reasons:

1. Field observations with vehicular traffic stopping on tracks
2. Safety concerns expressed by city, county and FDOT officials
3. Several crossings with reduced or no vehicle clearance at roadway T-intersections
4. Vehicles yielding to oncoming traffic while on tracks at non-signalized T-intersections
5. Motorists / Commercial Vehicles queuing over tracks due to 4-way stop intersection, and vehicles entering adjacent driveways and parking lots
6. The multiple track surfaces enables motorists to make U-turns or cut thru's easier
7. Severely skewed crossings
8. Acute-angled crossings with main gates perpendicular to the vehicular roadway

C. Sealed Corridor Treatments - the following grade crossing locations are the recommended Sealed Corridor Treatments required by the Project to install:

Four-Quadrant Gates (also referred as exit gates) (41)			
Street Name	City/Town	Milepost	DOT #
30 th Street	West Palm Beach	297.40	272 406 J
Inlet Blvd.	Rivera Beach	295.45	272 400 T
Flagler Street	Rivera Beach	295.15	272 399 B
Silver Beach Road	Lake Park	293.75	272 389 V
Park Ave	Lake Park	293.30	272 387 G
Richard Road	Palm Beach Gardens	292.20	272 385 T
Lighthouse Drive	Palm Beach Gardens	291.70	272 384 L
RCA Blvd.	Palm Beach Gardens	290.30	272 382 X
Fred Small Road	Jupiter	286.20	273 020 P
Toney Penna Dr. *	Jupiter	284.20	272 378 H
Gleason Street	Hobe Sound	274.50	272 367 V
Bridge Road	Hobe Sound	274.10	272 366 N
Pettway Street	Hobe Sound	272.70	272 365 G
Crossrip Street	Salerno	271.40	272 362 L
Osprey Street	Salerno	270.90	272 934 K
Cove Road	Salerno	267.14	272 359 D
Broward Street	Salerno	266.80	272 358 W
Salerno Road	Salerno	266.60	272 357 P
Seaward Street **	Salerno	266.50	272 356 H

Monterey Road	Stuart	263.30	272 353 M
SR A1A	Stuart	262.50	272 350 S
Florida Street	Stuart	262.30	272 349 X
Palmetto Drive	Rio	257.40	272 342 A
Jenson Beach Blvd.	Rio	256.80	272 340 L
Pitchford Land***	Rio	256.20	272 338 K
Skyline Drive	Rio	255.50	272 337 D
County Line Road	Rio	255.30	272 336 W
Walton Road	Walton	252.50	272 332 U
Midway Road	Walton	246.30	272 331 M
Savannah Road	Fort Pierce	243.80	272 330 F
No. Bch. Causeway	Indrio	239.80	272 218 U
Shimoner Ln. ***	Indrio	239.50	272 217 M
Tarmac Road***	Indrio	239.20	272 215 Y
St. Lucie Lane	Indrio	238.80	272 214 S
Chamberlain Blvd.	Indrio	238.40	272 213 K
Milton Road	Indrio	237.80	272 211 W
Torpey Road	Indrio	237.10	272 210 P
Rouse Road	Indrio	236.70	272 209 V
Michigan Street	Indrio	236.10	272 208 N
Wilcox Road	Indrio	235.60	272 207 G
Harbor Branch Rd	Indrio	235.10	272 206 A

* - Last crossing location (northbound) for proposed Tri-Rail service

** - Recommend to be CLOSED

*** - Private Crossing

100-foot Non-traversable Medians * (7)			
Street Name	City/Town	Milepost	DOT #
36 th Street	West Palm Beach	297.10	272 405 C
45 th Street	West Palm Beach	296.65	272 403 N
49 th Street	West Palm Beach	296.30	272 240 G
County Line Road	Hobe Sound	280.90	272 372 S
Park Road	Hobe Sound	277.70	272 370 D
SR A1A **	Salerno	268.65	272 360 X
Avenue A	Fort Pierce	241.30	272 238 F

* **Please note:** if for any reason the Project and the respective municipality cannot agree on the median treatment, then those location(s) be equipped with exit gates.

** Medians to be at least 150-feet each approach due to severe roadway skew.

Three-Quadrant Gates (due to a median present on the opposite side) (6)			
Street Name	City/Town	Milepost	DOT #
Blue Heron Blvd.	Rivera Beach	294.90	272 390 P
Burns Road	Palm Beach Gardens	290.80	272 383 E
Hood Road	Palm Beach Gardens	288.50	272 380 J
Donald Ross Road	Palm Beach Gardens	287.20	272 379 P
Indiantown Road	Jupiter	283.60	272 377 B
Orange Avenue	Fort Pierce	241.50	272 239 M

Private (6 locations within 110 MPH)			
Street Name	City/Town	Milepost	DOT #
Miracle Way *	Rio	257.10	272 341 T
Pitchford Lnd **	Rio	256.20	272 338 K
Shimoner Ln **	Indrio	239.50	272 217 M
Tarmac Road **	Indrio	239.20	272 215 Y
Private Road *	Indrio	234.50	272 205 T
Private Road *	Indrio	233.90	272 204 L

* - Recommend locked gate with procedures seeking permission from R.R. dispatch to cross.

** - Recommend the Project to equip with Four-Quadrant Gates (including VPD)

Closed (17) Please note: Officials from the city or county are not taking a position, one way or the other, at this time.			
Street Name	City/Town	Milepost	DOT #
179 th Street	Aventura	353.60	272 602 R
141 st Street *	North Miami Beach	356.12	272 609 N
Third Street	Hallandale	350.30	272 591 F
Monroe Street	Hollywood	349.03	272 588 X
Fillmore Street	Hollywood	348.52	272 585 C
Garfield Street	Hollywood	348.07	272 582 G
Dania Blvd *	Dania Beach	345.94	272 574 P
First Street *	Dania Beach	345.81	272 573 H
22 nd Street	Fort Lauderdale	342.96	272 566 X
9 th Street	Fort Lauderdale	341.80	272 661 N
6 th Street *	Fort Lauderdale	341.56	272 559 M
5 th Street *	Fort Lauderdale	341.45	272 558 F
2 nd Street	Pompano Beach	333.31	272 534 S
4 th Street	Deerfield Beach	327.41	272 513 Y
2 nd Street	Deerfield Beach	326.81	272 511 K
Hunter Street	West Palm Beach	303.18	272 450 W
Seaward Street **	Salerno	266.50	272 356 H

* - or possible one-way

** - only crossing to be closed along 110 MPH segment

Conclusion:

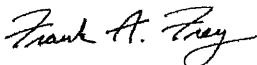
Based upon my professional background and experience in regards to grade crossing safety, I strongly recommend officials from All Aboard Florida to adhere to the principles as outlined in the FRA's guidelines for Emerging High-Speed Rail (80-110 MPH). In doing so incorporates the optimum safety practices in the engineering and design of their crossing locations for the following reasons:

- I. The operating dynamics are significantly changing within the existing environment of the grade crossings, along with an already an active freight operation that will include:
 - The addition of 16 round-trip trains (32 total) at 110 MPH
 - The eventual inclusion of Tri-rail Commuter Rail service, which will add 74 trains.
 - Changing from single track to multiple track configurations.
- II. Densely settled neighborhoods with congested roadways
- III. As many as 5 traffic lanes in the oncoming direction at T-intersections

In summary, as the travelling public begins to assimilate to a substantial increase in railroad operations – by incorporating enhanced railroad signaling technology and increased active highway warning devices are paramount to ensuring safety awareness as both entities interact with one another. Therefore, equipping crossing locations with the recommended actions, as outlined above in this report, will dramatically reduce potential safety hazards and catastrophic events.

Report Respectfully Submitted By:

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March 20, 2014



ON-SITE ENGINEERING FIELD REPORT -- Part 2

— All Aboard Florida —

Background:

This diagnostic safety review of the Florida East Coast (FEC) Railway corridor, in Brevard and Indian River counties, is the second segment that completes the territory of at-grade crossing locations for this high-speed passenger rail project known as "All Aboard Florida". This report is a subsequent to that of Part 1, dated March 20, 2014.

The onsite assessment began on July 15, 2014 and concluded on July 18, 2014. A total of eighty-six (86) public and private grade crossings were evaluated. Participants included officials from Florida Department of Transportation (FDOT), FEC, All Aboard Florida (AAF), and local city and county officials.

As the AAF passenger rail service route traverses through its grade crossing locations, it will begin/end at the Michigan Avenue grade crossing (milepost 170.56) in Cocoa¹. As the route heads northward, it splits from the FEC corridor and veers along Route 528 towards Orlando on a dedicated railroad right-of-way yet to be built. On the existing FEC corridor, there are four additional grade crossings north of the split that will be part of the signaling enhancement program for this project.

Scope:

Train speeds through Brevard and Indian River counties are being designed for 110 MPH. Beginning/ending at Dixon Boulevard² in Cocoa (milepost 171.52), the 110 MPH segment continues through Highland Drive SE in Vero Beach (milepost 232.86). There are two areas along this segment where train speeds are lowered to conventional rail limits due to civil constraints of railroad bridge structures.

As in previous onsite assessments, all of the existing crossing signaling equipment along this segment will be upgraded to the newest technology as described in the Part 1 Report.

¹ The Part 1 report incorrectly references "Cocoa Beach", where it should have stated **Cocoa** instead. Cocoa and Cocoa Beach are two separate municipalities. The FEC corridor traverses through Cocoa, not Cocoa Beach.

² Although Michigan Ave is the last grade crossing along the AAF route, its maximum speed is 60 MPH due to the train slowing down and transitioning to and from the Route 528 corridor.

Currently the engineering design plans are at 30%. The next iteration for this segment will be at 90%, which is anticipated to be furnished within six months. Accordingly, FRA looks forward to reviewing the revised design plans at that time.

Results:

Of all the 86 grade crossings assessed in Brevard and Indian River counties, there are 64 crossing locations affected for Sealed Corridor treatments within the 110 MPH territory. The remaining crossings already have Sealed Corridor design elements in place; such as existing one-way streets, divided roadways, or have medians. In addition to accommodations for the second track, the remaining crossings would require their medians to be adjusted in length and be equipped with a minimum of 100-feet of non-traversable curbing for each approach.

As mentioned in the Part 1 Report, officials from All Aboard Florida passenger rail project (herein the "Project") did not initially adopt the "Sealed Corridor" concept as outlined in FRA's Highway-Rail Grade Crossing Guidelines for High-Speed Passenger Rail, Version 1.0 (November 2009). However, in a letter dated June 4, 2014 to the Treasure Coast Regional Planning Council, Florida Secretary of Transportation Ananth Prasad, P.E., stated that AAF will be required *"to comply with the Federal Railroad Administration's guidelines for rail crossing safety as specified for higher speed passenger rail services."* As a result of Secretary Prasad's letter, the Project has since directed its signals consultants to incorporate all of the Sealed Corridor design treatments where applicable along the entire AAF service route. The diagnostic team may have to re-visit the previous 57 grade crossings identified in the Part 1 Report to validate and verify compliance.

Safety Recommendations:

The following are recommendations made to the Project as a result of the on-site field assessments during the diagnostic safety review:

- A. Pedestrian gates** – there are several locations along the corridor at which sidewalks are present on both sides of the railroad right-of-way, but do not continue through the grade crossing. However, there is active collaboration between the Project and the respective municipality within Brevard and Indian River counties to correct the sidewalk continuity problems. There is a commitment on both sides to equip the existing sidewalks with pedestrian gate assemblies. Their partnership will also target existing and planned roadway

enhancement projects with adjacent sidewalks, including to pre-wire quadrants for roadway projects commencing at a later date.

FRA suggests that consideration be given to the installation of pedestrian swing gates. This would enable pedestrians on the crossing a means of egress to exit the crossing. In order to increase the effectiveness of pedestrian gates, the installation of fencing or other means of channelization should also be considered to deter pedestrians from circumventing the gates. At Four-Quadrant Gate locations, utilizing the vehicular exiting gate as a pedestrian function for sidewalks is not recommended. Separate pedestrian gates should be installed at those respective quadrants, and lowered simultaneously with the entrance gates.

- B. Vehicle Presence Detection** – as referenced in the Part 1 Report, Vehicle Presence Detection (“VPD”) is a critical safety component for those Three-Quadrant and Four-Quadrant gated grade crossings for train speeds between 80-110 MPH. Recommending the installation of a VPD system along the FEC Railway corridor in Brevard and Indian River counties is necessary for the same safety reasons as outlined in the Part 1 Report.
- C. Traffic Signal Preemption** – throughout the entire diagnostic safety review for this corridor, it has been noted that Traffic Signal Preemption (*herein* “Preemption”) will require extensive study prior to finalization of the railroad’s signal plans for this project. Preemption has become an issue of significant concern to FRA resulting in the publication of Safety Advisory SA-2010-02 and Technical Bulletin S-12-01. The following is quoted from the Technical Bulletin:

“Highway traffic signal pre-emption interconnections play a critical role in the overall proper functioning of a highway-rail grade crossing active warning system where such interconnections exist. There are two basic types of preemption: **Simultaneous** and **Advanced**. **Simultaneous Preemption** is that which results in the initiation of the traffic signal cycle at the same time the highway-rail grade crossing warning system is activated. **Advanced Preemption** results in initiation of the traffic signal cycle prior to the grade crossing warning system being activated. The type of pre-emption installed, and any additional time required for pre-emption operation, will be determined and specified by the public agency responsible for the highway traffic signal in accordance with Section 8C.09 of the Manual on Uniform Traffic Control Devices.”

In addition to the requisite for the proper design of both the crossing warning signal system and the traffic signal in terms of Preemption provisions, the FRA Safety Advisory states the need for on-going monitoring and review of grade crossings with Preemption. The Safety Advisory is grounded by two recommendations made by the National Transportation Safety Board, identified as I-96-10 and I-96-11, regarding a collision between a commuter train and a school bus in Fox River Grove, IL in 1995. The Safety Advisory makes four specific recommendations to provide for safety at Preempted locations, which can be found accompanying this report.

Due to the fact that a number of grade crossings along the corridor are proposed to be equipped with Four-Quadrant Gate warning systems, it is important to point out that the Manual on Uniform Traffic Control Devices (MUTCD) sets forth additional requirements for Preemption where Four-Quadrant Gates are installed. As outlined in Part 8C.06 of the MUTCD, it states the following:

"If a Four-Quadrant Gate system is used at a location that is adjacent to an intersection that could cause highway vehicles to queue within the minimum track clearance distance, the Dynamic Exit Gate Operating Mode should be used unless an engineering study indicates otherwise."

"If a Four-Quadrant Gate system is interconnected with a highway traffic signal, backup or standby power should be considered for the highway traffic signal. Also, circuitry should be installed to prevent the highway traffic signal from leaving the track clearance green interval until all of the gates are lowered."

"Four-Quadrant Gate systems should include remote health (status) monitoring capable of automatically notifying railroad or LRT signal maintenance personnel when anomalies have occurred within the system."

FRA encourages reference to Part 3.1.10 of the American Railway Engineering and Maintenance-of-Way Association (AREMA) guidelines. The information provides recommended design practices of interconnection between highway traffic signals and grade crossing warning systems. This is especially important where station stops or railroad interlockings exist within the approaches to Preempted locations.

FRA recognizes that the design and operation of preemption interconnections, from a traffic signal perspective, are outside the scope of the railroad's direct responsibility. Yet, the safety of the railroad, its employees, and the public both on the roadway and on the train are directly impacted by these systems and their potential failure to provide sufficient time to permit a vehicle or pedestrian to clear the path of an approaching train. Therefore, FRA recommends that thorough coordination take place between the public authority responsible for the operation of the traffic signals and the railroad (which in this case is FEC/AAF).

In summary, due to the inclusion of additional tracks, increase in train speeds, station stops and restarts from sidings within approaches to traffic signal interconnected grade crossings; it is recommended that a thorough evaluation be made of the Preemption needs to determine whether Simultaneous or Advanced Preemption is required at each grade crossing location along the entire AAF service route (Miami through Cocoa). FRA also recommends that an independent consulting firm with extensive expertise in the field of Preemption be part of the assessment in all of the Preempted grade crossing locations. The consultant should have expertise in both traffic signal design and operation, as well as grade crossing signal design and operation. The consultant must also be knowledgeable in the evolving changes to both the MUTCD, and the AREMA Communication & Signal Manual of Recommended Practice.

- D. 100-foot Non-traversable Medians** – for the purposes of the overall diagnostic assessment, non-traversable medians are also referred as FDOT'S "non-mountable traffic separators". In particular, there are two State design standards; Type F which channelizes storm water runoff, and Type D which has no gutter function. Either design is acceptable as long as the curb meets the State's minimum 6" vertical profile design to prevent motorists from driving over the median. The 100-foot minimum length is measured from the tip of the railroad gate arm and extends along the vehicular travel lane. It is recommended that "no left turn" signs (or other means of notification) are posted to advise motorists that are exiting driveways, parking lots or streets within 100 feet of the gate arm not to travel against the flow of traffic to circumvent the purpose of the median and drive around lowered gates.

E. Sealed Corridor Treatments - the following grade crossing recommended Sealed Corridor treatments were collectively agreed upon by the Diagnostic Team. Please note that further engineering may require a Four-Quadrant location become a Three-Quadrant layout with a median (and *vice-versa*); however, the Sealed Corridor design element will remain.

Four-Quadrant Gates (also referred as exit gates) (22)			
Street Name	City/Town	Milepost	DOT #
4 th Street	Vero Beach	229.75	272 198 K
Glendale Road	Vero Beach	229.19	272 197 D
12 th Street	Vero Beach	228.66	272 196 W
23 rd Street	Vero Beach	227.31	272 191 M
26 th Street	Vero Beach	227.06	272 189 L
43 rd Street	Vero Beach	225.12	272 179 F
49 th Street	Vero Beach	224.42	272 177 S
69 th Street	Winter Beach	221.80	272 172 H
Hobart Road	Winter Beach	220.70	272 170 U
Old Dixie Hwy	Sebastian	216.00	272 163 J
Malabar Road	Malabar	199.94	272 149 N
Palm Bay Road	Palm Bay	197.46	272 147 A
Lincoln Avenue *	Melbourne	194.07	272 136 M
Silver Palm Ave	Melbourne	193.83	272 133 S
Eau Galle Blvd.	Melbourne	190.10	272 112 T
Creel Street **	Melbourne	189.92	272 123 L
Aurora Road	Melbourne	189.68	272 122 E
Masterson Street	Melbourne	189.32	272 121 X
Lake Washington	Melbourne	188.70	272 926 T
Post Road	Pineda	186.86	272 117 H
Eyster Blvd.	Rockledge	175.57	272 908 V
Peachtree Street	Cocoa	172.90	272 096 S

* - Possible one-way street, to be determined by the city's re-evaluation of a traffic study.

** - Possible Closure

100-foot Non-traversable Medians * (15)			
Street Name	City/Town	Milepost	DOT #
Highlands Drive SE	Vero Beach	232.86	272 201 R
Oslo Road	Vero Beach	231.31	272 200 J
16 th Street	Vero Beach	228.02	272 195 P
Barber Street	Sebastian	218.03	272 974 H
Senne Road	Grant Valkaria	208.13	272 154 K
Valkaria Road	Grant Valkaria	203.00	272 151 P
Jordan Blvd.	Malabar	201.50	272 150 H

University Blvd.	Melbourne	195.34	272 144 E
Strawbridge Ave	Melbourne	194.19	272 138 B
Palmetto Ave	Melbourne	194.13	272 137 U
Hibiscus Ave	Melbourne	193.75	272 132 K
So. Babcock St.	Melbourne	192.39	272 128 V
Parkway Avenue	Melbourne	187.91	272 118 P
Suntree Blvd.	Pineda	182.65	272 115 U
Rosa Jones Blvd.	Cocoa	173.51	272 099 M

*** Please note:** if for any reason the Project and the respective municipality cannot agree on the median treatment, then those location(s) are to be equipped with either a Three-Quadrant Gate with Median or a Four Quadrant Gate system.

Three-Quadrant Gates (due to a median present on the opposite side) (26)			
Street Name	City/Town	Milepost	DOT #
1 st Street	Vero Beach	230.15	272 199 S
21 st Street *	Vero Beach	227.48	272 192 U
32 nd Street	Vero Beach	226.65	273 047 Y
41 st Street	Vero Beach	225.46	272 180 A
45 th Street	Vero Beach	224.94	272 178 Y
53 rd Street	Vero Beach	223.90	273 108 M
Winter Beach Rd.	Winter Beach	222.32	272 173 P
Wabasso Road	Winter Beach	219.58	272 168 T
99 th Street	Sebastian	217.61	272 165 X
Schumann Drive	Sebastian	216.59	272 164 R
Main Street	Sebastian	214.42	272 161 V
Micco Road	Micco	209.23	272 156 Y
Barefoot Blvd.	Micco	208.99	272 155 S
Shell Pit Road	Grant Valkaria	207.13	272 153 D
1 st Street	Grant Valkaria	205.61	272 152 W
Hessey Avenue *	Palm Bay	197.36	272 146 T
East Fee Avenue	Melbourne	194.00	272 135 F
Seminole Ave **	Melbourne	193.89	272 134 Y
Sarno Road	Melbourne	190.58	272 125 A
Viera Blvd.	Bonaventure	180.28	272 976 W
Ansin Road	Bonaventure	179.40	272 110 K
Carver Road	Bonaventure	179.14	272 109 R
Gus Hipp Blvd	Rockledge	177.13	272 926 T
Barton Blvd.	Rockledge	175.02	272 101 L
Highland Drive	Cocoa	172.45	272 866 L
Dixon Blvd.	Cocoa	171.52	272 095 K

* - Possible Closure

** - Possible one-way street, to be determined by the city's re-evaluation of a traffic study.

Closed (5) <i>Please note: Officials from the city and county are considering closure.</i>			
Street Name	City/Town	Milepost	DOT #
21 st Street *	Vero Beach	227.48	272 192 U
14 th Avenue	Vero Beach	227.14	272 190 F
Hessey Avenue *	Palm Bay	197.36	272 146 T
Jernigan Avenue	Melbourne	195.02	272 143 X
Creel Street **	Melbourne	189.92	272 123 L

* - Three-Quadrant Gate with Median if unable to close

** - Four-Quadrant Gate layout if unable to close

Private (2 locations within 110 MPH)			
Street Name	City/Town	Milepost	DOT #
Hawks Nest	Vero Beach	223.18	272 175 D
Rinker Way *	Rockledge	176.10	272 908 V

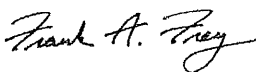
* - Recommend locked gate with procedures seeking permission from the railroad's Operations Dispatcher to enter.

Conclusion:

Once the construction of the grade crossings are completed, FEC and FDOT must immediately update the existing U.S. DOT Crossing Inventory record for each location to reflect the updated train counts, increased train speeds, additional signage, new ADDT numbers, etc., where applicable. FRA will continue to provide ongoing support and guidance while the Project looks towards achieving its goals relating to safe and reliable high-speed passenger rail service.

Report Respectfully Submitted By:

Frank A. Frey, Gen. Engineer-HSR
 Federal Railroad Administration | U.S. DOT
 1200 New Jersey Avenue, SE
 RRS-23 | W33-447
 Washington, DC 20590
 (202) 493-0130
 frank.frey@dot.gov



September 23, 2014

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/21/2020
Meeting Date

676
Bill Number (if applicable)

Topic High Speed Rail Safety

Amendment Barcode (if applicable)

Name Mindy Gibson

Job Title Vice - Mayor City of Satellite Bch

Address 110 Sherwood Ave
Street

Phone 321-960-0328

Satellite Bch FL 32937
City State Zip

Email mgibson@satellitebeach.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing City of Satellite Bch

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-21-20

Meeting Date

676

Bill Number (if applicable)

Topic HIGH SPEED RAIL

Amendment Barcode (if applicable)

Name RONALD ROSE

Job Title CEO

Address 636 SW BRYANT AVE

Phone 772-341-6772

Street

STUART

City

State

Zip

FL 34994

Email verose2@cloudeon

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing JENSEN BEACH CHAMBER OF COMMERCE

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

1-21-2020

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

676

Meeting Date

Bill Number (if applicable)

Topic High Speed Rail

Amendment Barcode (if applicable)

Name JOE CATRAMBOWIE

Job Title CEO

Address 1650 S KENNEDY HWY

Phone 272-287-1088

Street

STUART

FL

34994

Email joec@stuartfl.com

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing STUART MANUFACTURING CO

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/20

Meeting Date

674

Bill Number (if applicable)

Topic Passenger Rail Safety

Amendment Barcode (if applicable)

Name Chris Emmanuel

Job Title Policy Director

Address 136 S Bronough St

Street

Phone 521-1200

Tallahassee

City

FL

State

32301

Zip

Email cemmanuel@flchamber.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FL Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date _____

676
Bill Number (if applicable) _____

Topic High Speed Passenger Rail

Amendment Barcode (if applicable) _____

Name ROBERT LEDOUX

Job Title SENIOR VICE PRESIDENT FEE

Address 7150 PHILIPS Highway

Phone 904 779 3111

Street

JACKSONVILLE FL 32256

City

State

Zip

Email ROBERT.LEDOUX@fee.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing FLORIDA EAST COAST RAILWAY

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/2020
Meeting Date

676
Bill Number (if applicable)

Topic High Speed Rail Safety

Amendment Barcode (if applicable)

Name ~~Sr. Mortgage Loan Officer~~ Neal Johnson

Job Title Sr. Mtg. Loan Officer

Address 113 Mar Brisa Ct

Phone 321-698-7274

Satellite Bch FL 32937
City State Zip

Email neal.johnson@usbank.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Melbourne Regional Chamber

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

1/21/2020

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

6076

Bill Number (if applicable)

Topic High Speed Rail Safety

Amendment Barcode (if applicable)

Name Courtney Barker

Job Title City Manager

Address 565 Cassia Blvd.

Phone 321-773-4407

Street Satellite Beach FL 32937

Email cbarker@satellitebeach.org

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing City of Satellite Beach

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/2020
Meeting Date

SB 676
Bill Number (if applicable)

Topic SB 676 High Speed Rail Safety

Amendment Barcode (if applicable)

Name Leesa Souto

Job Title Exec Director, Marine Resources Council

Address 3275 Dixie Hwy, NE
Street

Phone 321-725-7775

Palm Bay FL 32905
City State Zip

Email Leesa@mrcirl.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Marine Resources Council

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/2020

Meeting Date

SB-676

Bill Number (if applicable)

Topic HIGH SPEED RAIL

Amendment Barcode (if applicable)

Name DOMINICK MONTANARO

Job Title COUNCILMAN

Address 565 CASSIA BLVD

Street

Phone 321-501-4316

SATELLITE BEACH FL 32937

City

State

Zip

Email DMONTANARO@SATELLITEBEACH.ORG

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing CITY OF SATELLITE BEACH

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/2020

Meeting Date

SB 676

Bill Number (if applicable)

Topic

SB 676 High Speed Rail Safety

Amendment Barcode (if applicable)

Name

Mark Ryan

Job Title

City Manager

Address

2055 South Patrick Dr.

Phone

321 773-3181

Street

Indian Harbour Beach FL 32937

Email

mryan@indianharbour.org

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

City of Indian Harbour Beach

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-21-20

Meeting Date

SB 676

Bill Number (if applicable)

Topic High Speed Passenger Rail (SB 676)

Amendment Barcode (if applicable)

Name Commissioner Peter O'Bryan

Job Title County Commissioner

Address 1801 27th Street

Phone

Street

Vero Beach

FL

32690

City

State

Zip

Email

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Indian River County

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-21-2020

Meeting Date

SB 676

Bill Number (if applicable)

Topic High speed passenger Rail

Amendment Barcode (if applicable)

Name Allan Rutter

Job Title Freight mobility and Investment Analysis Division Head

Address 12700 Park Central Dr #1000

Phone 972 994 2205

Street

Dallas TX

75231

City

State

Zip

Email arutter@hitemu.edu

Speaking: ☐ For ☐ Against ☒ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Brightline Trains

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-21-20

Meeting Date

SB 676

Bill Number (if applicable)

Topic High Speed Passenger Rail

Amendment Barcode (if applicable)

Name Rusty Roberts

Job Title Vice President Govt Affairs - Brightline

Address 161 NW 6TH Street
Street

Phone 202-604-5952

Miami FL 33136
City State Zip

Email rusty.roberts@gbrightline.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Brightline/Virgin Trains

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

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 Infrastructure and Security

BILL: SB 966

INTRODUCER: Senator Gainer

SUBJECT: Public Records/Disaster Recovery Assistance

DATE: January 22, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Miller	IS	Favorable
2.			GO	
3.			RC	

I. Summary:

SB 966 contains public record exemptions for records and information related to property photographs, financial documents, or financial information provided for participation in a federal, state, or local housing assistance program for the purpose of disaster recovery assistance to:

- The Department of Economic Opportunity (DEO);
- The Florida Housing Finance Corporation (FHFC);
- A county;
- A municipality; or
- A local housing finance agency.

The bill is subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2025, unless reviewed and reenacted by the Legislature. The bill contains a public necessity statement as required by the Florida Constitution. Because this bill creates a new public records exemption, a two-thirds vote of the members present and voting in each house of the Legislature is required for passage.

The bill has an effective date of July 1, 2020.

II. Present Situation:

Access to Public Records - Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three

¹ FLA. CONST. art. I, s. 24(a).

branches of state government, local governmental entities, and any person acting on behalf of the government.²

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, section 11.0431, Florida Statutes (F.S.), provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and the statutory provisions are adopted in the rules of each house of the legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, chapter 119, F.S., provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

Chapter 119, F.S., known as the Public Records Act, provides that all state, county and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.⁵

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted the statutory definition of “public record” to include “material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”⁷

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁸ A violation of the Public Records Act may result in civil or criminal liability.⁹

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.¹⁰ The exemption must state

² *Id.*

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2018-2020) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2018-2020)

⁴ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁵ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁸ Section 119.07(1)(a), F.S.

⁹ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹⁰ FLA. CONST. art. I, s. 24(c).

with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹

General exemptions from the public records requirements are contained in the Public Records Act.¹² Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹³

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” Custodians of records designated as “exempt” are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled to disclose the record.¹⁴ Custodians of records designated as “confidential and exempt” may not disclose the record except under circumstances specifically defined by the Legislature.¹⁵

Open Government Sunset Review Act

The Open Government Sunset Review Act¹⁶ (the Act) prescribes a legislative review process for newly created or substantially amended¹⁷ public records or open meetings exemptions, with specified exceptions.¹⁸ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁹

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.²⁰ An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;²¹

¹¹ *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

¹² *See, e.g., s. 119.071(1)(a), F.S.* (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

¹³ *See, e.g., s. 213.053(2)(a), F.S.* (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

¹⁴ *See Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991).

¹⁵ *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

¹⁶ Section 119.15, F.S.

¹⁷ An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

¹⁸ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(b), F.S.

²¹ Section 119.15(6)(b)1., F.S.

- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²² or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²³

The Act also requires specified questions to be considered during the review process.²⁴ In examining an exemption, the Act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁵ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.²⁶

Disaster Recovery Housing Assistance Programs

The DEO, FHFC, counties, municipalities, and local housing finance agencies have various housing programs that are designed to assist those who have been impacted by a disaster. One such program through the DEO's Office of Disaster Recovery supports communities following disasters by addressing long-term recovery needs through the Community Development Block Grant - Disaster Recovery Program (CDBG-DR). CDBG-DR is a federally funded program designed to address housing, infrastructure, economic development and mitigation needs that remain after other assistance has been exhausted, including federal assistance as well as private insurance.²⁷

III. Effect of Proposed Changes:

The bill amends s. 119.071, F.S., creating public record exemptions for records and information related to property photographs, financial documents, or financial information provided for

²² Section 119.15(6)(b)2., F.S.

²³ Section 119.15(6)(b)3., F.S.

²⁴ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²⁵ See generally s. 119.15, F.S.

²⁶ Section 119.15(7), F.S.

²⁷ The Department of Economic Opportunity, *Office of Disaster Recovery*, available at <http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative> (last visited January 17, 2020).

participation in a federal, state, or local housing assistance program for the purpose of disaster recovery assistance to:

- DEO;
- FHFC;
- A county;
- A municipality; or
- A local housing finance agency.

Federal, state, or local housing assistance programs for the purpose of disaster recovery assistance are not enumerated in the bill; however it appears they may include programs such as:

- Community Development Block Grant - Disaster Recovery Program;²⁸
- Hurricane Housing Recovery Program;²⁹ and
- Rental Recovery Loan Program.³⁰

The bill is subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2025, unless reviewed and reenacted by the Legislature. The bill contains a public necessity statement as required by the Florida Constitution. Because this bill creates a new public records exemption, a two-thirds vote of the members present and voting in each house of the Legislature is required for passage.

The bill contains a statement of public necessity, which includes:

- The Legislature finds that it is a public necessity that records and information related to property photographs, financial documents, or financial information of an applicant for or a participant in a federal, state, or local housing assistance program provided to the Department of Economic Opportunity, the Florida Housing Finance Corporation, a county, a municipality, or a local housing finance agency for the purpose of disaster recovery assistance should be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24 (a), Article I of the State Constitution; and
- In response to a disaster, in an effort to determine storm damage and ascertain the estimated cost of rehabilitation, an agency may conduct a property inspection to observe and record the presence of damage. The damage assessment data collected may include interior and exterior photographs of such individual's residence. This information may be used to locate the damaged property and identify and contact the property owner or tenant. If released, this information may be used by fraudulent contractors, predatory lenders, thieves, or individuals seeking to impose on the vulnerability of a distressed property owner or tenant following a disaster. Therefore, it is necessary to protect this information to ensure that sensitive information of people impacted by a disaster is not released.

The bill has an effective date of July 1, 2020.

²⁸ Section 290.044, F.S.

²⁹ Chapter 2019-115, Laws of Fla.

³⁰ *Id.*

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

None.

B. Public Records/Open Meetings Issues:**Vote Requirement**

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill enacts a new exemption for records and information related to property photographs, financial documents, or financial information provided for participation in a federal, state, or local housing assistance program for the purpose of disaster recovery assistance to the DEO, FHFC, a county, a municipality, or a local housing finance agency, thus, the bill requires a two-thirds vote to be enacted.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. Section 2 of the bill contains a statement of public necessity for the exemption.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect records and information related to property photographs, financial documents, or financial information provided for participation in a federal, state, or local housing assistance program for the purpose of disaster recovery assistance to the DEO, FHFC, a county, a municipality, or a local housing finance agency. This bill exempts only records and information related to property photographs, financial documents, or financial information provided for participation in a federal, state, or local housing assistance program for the purpose of disaster recovery assistance to the DEO, FHFC, a county, a municipality, or a local housing finance agency. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 119.071

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.

By Senator Gainer

2-00631B-20

2020966__

A bill to be entitled

An act relating to public records; amending s. 119.071, F.S.; providing an exemption from public records requirements for certain records and information provided to the Department of Economic Opportunity, the Florida Housing Finance Corporation, a county, a municipality, or a local housing finance agency by or on behalf of an applicant for or a participant in a federal, state, or local housing assistance program for the purpose of disaster recovery assistance; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (f) of subsection (5) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(5) OTHER PERSONAL INFORMATION.—

(f) 1. Medical history records and information related to health or property insurance provided to the Department of Economic Opportunity, the Florida Housing Finance Corporation, a county, a municipality, or a local housing finance agency by an applicant for or a participant in a federal, state, or local housing assistance program are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

Page 1 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

2-00631B-20

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2. Records and information related to property photographs, financial documents, or financial information provided to the Department of Economic Opportunity, the Florida Housing Finance Corporation, a county, a municipality, or a local housing finance agency by or on behalf of an applicant for or a participant in a federal, state, or local housing assistance program for the purpose of disaster recovery assistance are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2025, unless reviewed and saved from repeal through reenactment by the Legislature.

3. Governmental entities or their agents shall have access to such confidential and exempt records and information for the purpose of auditing federal, state, or local housing programs or housing assistance programs. Such confidential and exempt records and information may be used in any administrative or judicial proceeding, provided such records are kept confidential and exempt unless otherwise ordered by a court.

Section 2. (1) The Legislature finds that it is a public necessity that records and information related to property photographs, financial documents, or financial information of an applicant for or a participant in a federal, state, or local housing assistance program provided to the Department of Economic Opportunity, the Florida Housing Finance Corporation, a county, a municipality, or a local housing finance agency for the purpose of disaster recovery assistance should be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24 (a), Article I of the State Constitution.

Page 2 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

2-00631B-20

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59 (2) In response to a disaster, in an effort to determine
60 storm damage and ascertain the estimated cost of rehabilitation,
61 an agency may conduct a property inspection to observe and
62 record the presence of damage. The damage assessment data
63 collected may include interior and exterior photographs of such
64 individual's residence. This information may be used to locate
65 the damaged property and identify and contact the property owner
66 or tenant. If released, this information may be used by
67 fraudulent contractors, predatory lenders, thieves, or
68 individuals seeking to impose on the vulnerability of a
69 distressed property owner or tenant following a disaster.
70 Therefore, it is necessary to protect this information to ensure
71 that sensitive information of people impacted by a disaster is
72 not released.

73 Section 3. This act shall take effect July 1, 2020.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/21/20

Meeting Date

SB 966

Bill Number (if applicable)

Topic Public Records/Disaster Recovery

Amendment Barcode (if applicable)

Name Nicholas Alvarez

Job Title Director of Legislative Affairs

Address 107 E. Madison St.

Phone 850-294-3053

Street

Tallahassee

FL

32399

Email nicholas.alvarez@deo.myflorida.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Department of Economic Opportunity

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1.21.2020

Meeting Date

SB 944

Bill Number (if applicable)

Topic Public Records

Amendment Barcode (if applicable)

Name Laura Youmans

Job Title Legislative Counsel

Address 100 S. Monroe Street

Phone 850-922-4300

Tallahassee, FL 32301

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FL Association of Counties

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

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 Infrastructure and Security

BILL: CS/SB 1030

INTRODUCER: Senator Stargel

SUBJECT: Public Records/Vessel Title or Registration/Department of Highway Safety and Motor Vehicles

DATE: January 22, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Miller	IS	FAV/CS
2.			GO	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1030 is a bill relating the Department of Highway Safety and Motor Vehicles (DHSMV), which contains public record exemptions for:

- Personal information, including highly restricted personal information, contained in any record that pertains to a vessel title or vessel registration issued by the DHSMV; and
- Electronic mail addresses and cellular telephone numbers collected by the DHSMV or its agent tax collectors.

The CS requires the DHSMV to disclose electronic mail addresses or cellular telephone numbers to its tax collector agents to send electronic communications for the purpose of providing information.

The CS is subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2025, unless reviewed and reenacted by the Legislature. The CS contains a public necessity statement as required by the Florida Constitution. Because this CS creates a new public records exemption, a two-thirds vote of the members present and voting in each house of the Legislature is required for passage.

The CS has an effective date of July 1, 2020.

II. Present Situation:

Access to Public Records - Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, section 11.0431, Florida Statutes (F.S.), provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and the statutory provisions are adopted in the rules of each house of the legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, chapter 119, F.S., provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

Chapter 119, F.S., known as the Public Records Act, provides that all state, county and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.⁵

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted the statutory definition of “public record” to include “material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”⁷

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2018-2020) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2018-2020)

⁴ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁵ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

custodian of the public record.⁸ A violation of the Public Records Act may result in civil or criminal liability.⁹

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.¹⁰ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹

General exemptions from the public records requirements are contained in the Public Records Act.¹² Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹³

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” Custodians of records designated as “exempt” are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled to disclose the record.¹⁴ Custodians of records designated as “confidential and exempt” may not disclose the record except under circumstances specifically defined by the Legislature.¹⁵

Open Government Sunset Review Act

The Open Government Sunset Review Act¹⁶ (the Act) prescribes a legislative review process for newly created or substantially amended¹⁷ public records or open meetings exemptions, with specified exceptions.¹⁸ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁹

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.²⁰

⁸ Section 119.07(1)(a), F.S.

⁹ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹⁰ FLA. CONST. art. I, s. 24(c).

¹¹ *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

¹² *See, e.g., s. 119.071(1)(a), F.S.* (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

¹³ *See, e.g., s. 213.053(2)(a), F.S.* (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

¹⁴ *See Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991).

¹⁵ *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

¹⁶ Section 119.15, F.S.

¹⁷ An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

¹⁸ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(b), F.S.

An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;²¹
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²² or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²³

The Act also requires specified questions to be considered during the review process.²⁴ In examining an exemption, the Act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁵ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.²⁶

Driver Privacy Protection Act of 1994

Motorist personal information, when held by the DHSMV in motor vehicle records, is confidential pursuant to the Driver's Privacy Protection Act (DPPA) of 1994.²⁷ These restrictions on the disclosure of motorist personal information do not apply to vessel titles or vessel registrations. Because the personal information in vessel records comprises much of the same information contained in motor vehicle records, when personal information revealed in vessel records is made available to the public, the protections afforded by the DPPA are undermined, eroding the privacy of motorist personal information.

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

²³ Section 119.15(6)(b)3., F.S.

²⁴ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means?
If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²⁵ See generally s. 119.15, F.S.

²⁶ Section 119.15(7), F.S.

²⁷ 18 U.S.C. ss. 2721 et seq., and s. 119.0712(2), F.S.

Personal information covered by the DPPA includes: access to your social security number, driver license or identification card number, name, address, telephone number and medical or disability information, contained in your motor vehicle and driver license records. Additionally, emergency contact information and email addresses are restricted pursuant to section 119.0712(2), F.S.²⁸

Information that is not covered by the DPPA is non-personal information contained in motor vehicle and driver license records such as vehicular crash records, driving violations and driver status information, and are considered public information.²⁹

Personal information in motor vehicle and driver license records can be released for the following purposes:^{30, 31}

- For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a Federal, State, or local agency in carrying out its functions;
- For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research activities, including survey research; and removal of non-owner records from the original owner records of motor vehicle manufacturers;
- For use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only -
 - to verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and
 - if such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual;
- For use in connection with any civil, criminal, administrative, or arbitral proceeding in any Federal, State, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a Federal, State, or local court;
- For use in research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals;
- For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, antifraud activities, rating or underwriting;
- For use in providing notice to the owners of towed or impounded vehicles;
- For use by any licensed private investigative agency or licensed security service for any purpose permitted under this subsection;

²⁸ Florida Department of Highway Safety and Motor Vehicles, *Privacy Statement Driver Privacy Protection Act*, available at <https://www.flhsmv.gov/privacy-statement/driver-privacy-protection-act/> (last visited on January 16, 2020).

²⁹ *Id.*

³⁰ *Supra*, note 27.

³¹ Florida Department of Highway Safety and Motor Vehicles forms HSMV 90511 (Revised 11/19) available at <https://www.flhsmv.gov/pdf/forms/90511.pdf> (last visited January 16, 2020) and HSMV 90510 (Revised 03/19) available at <https://www.flhsmv.gov/pdf/forms/90510.pdf> (last visited January 16, 2020).

- For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license;
- For use in connection with the operation of private toll transportation facilities;
- For any other use in response to requests for individual motor vehicle records if the State has obtained the express consent of the person to whom such personal information pertains;
- For bulk distribution for surveys, marketing or solicitations if the State has obtained the express consent of the person to whom such personal information pertains;
- For use by any requester, if the requester demonstrates it has obtained the written consent of the individual to whom the information pertains; and
- For any other use specifically authorized under the law of the State that holds the record, if such use is related to the operation of a motor vehicle or public safety.

III. Effect of Proposed Changes:

The CS amends s. 119.0712, F.S., creating public record exemptions for:

- Personal information, including highly restricted personal information, contained in any record that pertains to a vessel title or vessel registration issued by the DHSMV. Personal information in a vessel record may be released only in the same manner provided for a motor vehicle record pursuant to the DPPA of 1994, 18 U.S.C. ss. 2721 et seq. The exemption applies to vessel records held on or after the effective date of the CS; and
- Electronic mail addresses and cellular telephone numbers collected by the DHSMV or its agent tax collectors pursuant to chapter 319, chapter 320, chapter 322, chapter 324, or chapter 328. The exemption applies to electronic mail addresses and cellular telephone numbers held before, on, or after the effective date of the CS.

The CS requires the DHSMV to disclose electronic mail addresses or cellular telephone numbers to its tax collector agents to send electronic communications to such electronic mail addresses or cellular telephone numbers for the purpose of providing information about the issuance of titles, registrations, disabled parking permits, driver licenses, and identification cards; renewal notices; or the tax collector's office locations, hours of operation, contact information, driving skills testing locations, appointment scheduling information, or website information.

The CS is subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2025, unless reviewed and reenacted by the Legislature. The CS contains a public necessity statement as required by the Florida Constitution. Because this CS creates a new public records exemption, a two-thirds vote of the members present and voting in each house of the Legislature is required for passage.

The CS contains a statement of public necessity, which includes:

- The Legislature finds that it is a public necessity that personal information, including highly restricted personal information, contained in any record that pertains to a vessel title or vessel registration issued by the DHSMV be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution.
- Motorist personal information, when held by the DHSMV in motor vehicle records, is confidential pursuant to the DPPA of 1994, 18 U.S.C. ss. 2721 et seq., and s. 119.0712(2), Florida Statutes. These restrictions on the disclosure of motorist personal information do not apply to vessel titles or vessel registrations. Because the personal information in vessel

records comprises much of the same information contained in motor vehicle records, when personal information revealed in vessel records is made available to the public, the protections afforded by the DPPA of 1994, 18 U.S.C. ss. 2721 et seq., are significantly undermined, eroding the privacy and safety of motorists.

- The Legislature finds that it is a public necessity to make personal information contained in such vessel records confidential and exempt from public records requirements.
- The Legislature finds that it is a public necessity that electronic mail addresses and cellular telephone numbers collected by the DHSMV and its tax collector agents pursuant to chapter 319, chapter 320, chapter 322, chapter 324, or chapter 328, Florida Statutes, be made confidential and exempt from s. 119.07(1), Florida Statutes, and section 24(a), Article I of the State Constitution.
- In order to communicate more effectively with motorists through enhancements in information technology, including efforts of the Motorist Modernization project, the DHSMV seeks to increase communications with motorists through electronic mail and text messaging.
- If the electronic mail addresses or cellular telephone numbers of motorists are made available to the public, the impact on motorist privacy and risk of unsolicited commercial solicitation by electronic mail or text message would have an undesirable chilling effect on motorists' voluntary use of electronic portals to communicate with the department, thereby undermining the effective use of these enhancements in information technology.
- The Legislature finds that it is a public necessity to make such electronic mail addresses and cellular telephone numbers collected by the DHSMV confidential and exempt from public records requirements.
- The Legislature further finds that the public record exemptions for electronic mail addresses and cellular telephone numbers must be given retroactive application because it is remedial in nature.

The CS has an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This CS enacts a new exemption for personal information, including highly restricted personal information, contained in any record that pertains to a vessel title or vessel registration issued by the DHSMV, and electronic mail addresses and cellular telephone numbers collected by the DHSMV or its agent tax collectors, thus, the CS requires a two-thirds vote to be enacted.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. Section 2 of the CS contains a statement of public necessity for the exemption.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect personal information, including highly restricted personal information, contained in any record that pertains to a vessel title or vessel registration issued by the DHSMV, and electronic mail addresses and cellular telephone numbers collected by the DHSMV or its agent tax collectors. This CS exempts only personal information, including highly restricted personal information, contained in any record that pertains to a vessel title or vessel registration issued by the DHSMV, and electronic mail addresses and cellular telephone numbers collected by the DHSMV or its agent tax collectors from the public records requirements. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This CS substantially amends the following sections of the Florida Statutes: 119.0712

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

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

CS by Infrastructure and Security on January 21, 2020:

- Changes the term “e-mail” to “electronic mail”; and
- Personal information, including highly restricted personal information, contained in any record that pertains to a vessel title or vessel registration issued by the DHSMV before the effective date of the CS is not covered by the public records exemption.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/22/2020	.	
	.	
	.	
	.	

The Committee on Infrastructure and Security (Stargel)
recommended the following:

Senate Amendment (with title amendment)

Delete lines 45 - 125
and insert:
records held on or after the effective date of this exemption.

2. This paragraph is subject to the Open Government Sunset
Review Act in accordance with s. 119.15 and shall stand repealed
on October 2, 2025, unless reviewed and saved from repeal
through reenactment by the Legislature.

(d)1. Electronic mail ~~E-mail~~ addresses and cellular



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11 telephone numbers collected by the Department of Highway Safety
12 and Motor Vehicles or its agent tax collectors pursuant to
13 chapter 319, chapter 320, chapter 322, chapter 324, or chapter
14 328 s. 319.40(3), s. 320.95(2), or s. 322.08(9) are exempt from
15 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
16 This exemption applies to electronic mail addresses and cellular
17 telephone numbers held before, on, or after the effective date
18 of this exemption retroactively.

19 2. The department shall disclose such electronic mail
20 addresses or cellular telephone numbers to its tax collector
21 agents to send electronic communications to such electronic mail
22 addresses or cellular telephone numbers for the purpose of
23 providing information, including, but not limited to, the
24 issuance of titles, registrations, disabled parking permits,
25 driver licenses, and identification cards; renewal notices; or
26 the tax collector's office locations, hours of operation,
27 contact information, driving skills testing locations,
28 appointment scheduling information, or website information.

29 3. This paragraph is subject to the Open Government Sunset
30 Review Act in accordance with s. 119.15 and shall stand repealed
31 on October 2, 2025 2020, unless reviewed and saved from repeal
32 through reenactment by the Legislature.

33 (e)-(d)1. Emergency contact information contained in a motor
34 vehicle record is confidential and exempt from s. 119.07(1) and
35 s. 24(a), Art. I of the State Constitution.

36 2. Without the express consent of the person to whom such
37 emergency contact information applies, the emergency contact
38 information contained in a motor vehicle record may be released
39 only to law enforcement agencies for purposes of contacting



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those listed in the event of an emergency.

Section 2. (1) The Legislature finds that it is a public necessity that personal information, including highly restricted personal information, contained in any record that pertains to a vessel title or vessel registration issued by the Department of Highway Safety and Motor Vehicles be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. Motorist personal information, when held by the Department of Highway Safety and Motor Vehicles in motor vehicle records, is confidential pursuant to the Driver's Privacy Protection Act of 1994, 18 U.S.C. ss. 2721 et seq., and s. 119.0712(2), Florida Statutes. These restrictions on the disclosure of motorist personal information do not apply to vessel titles or vessel registrations. Because the personal information in vessel records comprises much of the same information contained in motor vehicle records, when personal information revealed in vessel records is made available to the public, the protections afforded by the Driver's Privacy Protection Act of 1994, 18 U.S.C. ss. 2721 et seq., are significantly undermined, eroding the privacy and safety of motorists. Therefore, the Legislature finds that it is a public necessity to make personal information contained in such vessel records confidential and exempt from public records requirements.

(2) The Legislature finds that it is a public necessity that electronic mail addresses and cellular telephone numbers collected by the Department of Highway Safety and Motor Vehicles and its tax collector agents pursuant to chapter 319, chapter 320, chapter 322, chapter 324, or chapter 328, Florida Statutes,



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be made confidential and exempt from s. 119.07(1), Florida
Statutes, and section 24(a), Article I of the State
Constitution. In order to communicate more effectively with
motorists through enhancements in information technology,
including efforts of the Motorist Modernization project, the
Department of Highway Safety and Motor Vehicles seeks to
increase communications with motorists through electronic mail
and text messaging. If the electronic mail addresses or cellular
telephone numbers of motorists are made available to the public,
the impact on motorist privacy and risk of unsolicited
commercial solicitation by electronic mail or text message would
have an undesirable chilling effect on motorists' voluntary use
of electronic portals to communicate with the department,
thereby undermining the effective use of these enhancements in
information technology. Therefore, the Legislature finds that it
is a public necessity to make such electronic mail addresses and
cellular telephone numbers

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 8

and insert:

requirements for electronic mail addresses and
cellular

By Senator Stargel

22-01276-20

20201030__

A bill to be entitled

An act relating to public records; amending s. 119.0712, F.S.; creating public records exemptions for certain information contained in any record that pertains to a vessel title or vessel registration issued by the Department of Highway Safety and Motor Vehicles; providing exemptions from public records requirements for e-mail addresses and cellular telephone numbers collected by the department; providing for retroactive application; requiring disclosure of confidential information under certain circumstances; providing for future legislative review and repeal of the exemptions; providing statements of public necessity; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (2) of section 119.0712, Florida Statutes, is amended to read:

119.0712 Executive branch agency-specific exemptions from inspection or copying of public records.—

(2) DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES.—

(a) For purposes of this subsection, the term "motor vehicle record" means any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration, or identification card issued by the Department of Highway Safety and Motor Vehicles.

(b) Personal information, including highly restricted personal information as defined in 18 U.S.C. s. 2725, contained

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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in a motor vehicle record is confidential pursuant to the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. ss. 2721 et seq. Such information may be released only as authorized by that act; however, information received pursuant to that act may not be used for mass commercial solicitation of clients for litigation against motor vehicle dealers.

(c)1. Personal information, including highly restricted personal information, contained in any record that pertains to a vessel title or vessel registration issued by the Department of Highway Safety and Motor Vehicles is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such information in a vessel record may be released only in the same manner provided for a motor vehicle record pursuant to the Driver's Privacy Protection Act of 1994, 18 U.S.C. ss. 2721 et seq. This exemption applies to vessel records held before, on, or after the effective date of this exemption.

2. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2025, unless reviewed and saved from repeal through reenactment by the Legislature.

(d)1. E-mail addresses and cellular telephone numbers collected by the Department of Highway Safety and Motor Vehicles or its agent tax collectors pursuant to chapter 319, chapter 320, chapter 322, chapter 324, or chapter 328 s. 319.40(3), s. 320.95(2), or s. 322.08(9) are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to e-mail addresses and cellular telephone numbers held before, on, or after the effective date of this exemption retroactively.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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2. The department shall disclose such e-mail addresses or cellular telephone numbers to its tax collector agents to send electronic communications to such e-mail addresses or cellular telephone numbers for the purpose of providing information about the issuance of titles, registrations, disabled parking permits, driver licenses, and identification cards; renewal notices; or the tax collector's office locations, hours of operation, contact information, driving skills testing locations, appointment scheduling information, or website information.

3. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2025 ~~2020~~, unless reviewed and saved from repeal through reenactment by the Legislature.

(e) ~~(d)~~1. Emergency contact information contained in a motor vehicle record is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2. Without the express consent of the person to whom such emergency contact information applies, the emergency contact information contained in a motor vehicle record may be released only to law enforcement agencies for purposes of contacting those listed in the event of an emergency.

Section 2. (1) The Legislature finds that it is a public necessity that personal information, including highly restricted personal information, contained in any record that pertains to a vessel title or vessel registration issued by the Department of Highway Safety and Motor Vehicles be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. Motorist personal information, when held by the Department of Highway Safety and

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Motor Vehicles in motor vehicle records, is confidential pursuant to the Driver's Privacy Protection Act of 1994, 18 U.S.C. ss. 2721 et seq., and s. 119.0712(2), Florida Statutes. These restrictions on the disclosure of motorist personal information do not apply to vessel titles or vessel registrations. Because the personal information in vessel records comprises much of the same information contained in motor vehicle records, when personal information revealed in vessel records is made available to the public, the protections afforded by the Driver's Privacy Protection Act of 1994, 18 U.S.C. ss. 2721 et seq., are significantly undermined, eroding the privacy and safety of motorists. Therefore, the Legislature finds that it is a public necessity to make personal information contained in such vessel records confidential and exempt from public records requirements. The Legislature further finds that this public records exemption must be given retroactive application because it is remedial in nature.

(2) The Legislature finds that it is a public necessity that e-mail addresses and cellular telephone numbers collected by the Department of Highway Safety and Motor Vehicles and its tax collector agents pursuant to chapter 319, chapter 320, chapter 322, chapter 324, or chapter 328, Florida Statutes, be made confidential and exempt from s. 119.07(1), Florida Statutes, and section 24(a), Article I of the State Constitution. In order to communicate more effectively with motorists through enhancements in information technology, including efforts of the Motorist Modernization project, the Department of Highway Safety and Motor Vehicles seeks to increase communications with motorists through e-mail and text

22-01276-20

20201030__

117 messaging. If the e-mail addresses or cellular telephone numbers
118 of motorists are made available to the public, the impact on
119 motorist privacy and risk of unsolicited commercial solicitation
120 by e-mail or text message would have an undesirable chilling
121 effect on motorists' voluntary use of electronic portals to
122 communicate with the department, thereby undermining the
123 effective use of these enhancements in information technology.
124 Therefore, the Legislature finds that it is a public necessity
125 to make such e-mail addresses and cellular telephone numbers
126 collected by the Department of Highway Safety and Motor Vehicles
127 confidential and exempt from public records requirements. The
128 Legislature further finds that this public records exemption
129 must be given retroactive application because it is remedial in
130 nature.

131 Section 3. This act shall take effect July 1, 2020.

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 Infrastructure and Security

BILL: CS/SB 1086

INTRODUCER: Senator Diaz

SUBJECT: Vehicle and Vessel Registration Data and Functionality

DATE: January 22, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Miller	IS	FAV/CS
2.			ATD	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1086 requires the Department of Highway Safety and Motor Vehicles (DHSMV) to provide tax collectors and their approved agents¹ and vendors² with real-time access to data that other third parties receive from the DHSMV related to motor vehicle and mobile home registration certificates, registration license plates, validation stickers, and vessel registration certificates and vessel numbers and decals, including, but not limited to, the most current address information and electronic mail addresses of applicants.

The CS has an effective date of July 1, 2020.

II. Present Situation:

Florida Real Time Vehicle Information System

The DHSMV maintains the Florida Real Time Vehicle Information System (FRVIS) that facilitates the collection of taxes and fees for tags, titles, and registrations associated with motor

¹ Highway Safety and Motor Vehicles, *Senate Bill 1086 Bill Analysis* (January 13, 2020) (on file with the Senate Committee on Infrastructure and Security). “Agents are License Plate Agents who contract (MOU) with county Tax Collector offices to conduct driver and vehicle transactions.”

² *Id.* “The department interprets vendors and 3rd Party providers to be interchangeable terms (external contracted entities).”

vehicles and vessels.³ Local tax collector and tag agent offices throughout the state process tag, title, and registration transactions through FRVIS.⁴ According to the DHSMV, FRVIS processed approximately 413.1 million transactions for the collection of approximately \$3.091 billion in revenue from taxes and fees associated with tags, titles, and registrations for motor vehicles and vessels during fiscal year 2018-19, including amounts retained by local tax collector and tag agent offices.⁵ These funds, together with all other sources of the DHSMV's revenue, are distributed through FRVIS to various state agencies, including the DHSMV, and non-state entities in accordance with governing Florida Statutes.⁶

FRVIS is composed of two processing environments. The first is a distributed environment that consists of the servers at local tax collector and tag agent offices that process tag, title, and registration transactions throughout the state. The second environment is the host portion that consists of the back-end processing that is conducted centrally at the DHSMV's primary data center.⁷

In addition to residential street addresses, the DHSMV is authorized to collect and store (in FRVIS) e-mail addresses. E-mail addresses may be used, 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.^{8, 9, 10, 11, 12}

Registration Duties of Tax Collectors

Motor Vehicles

Tax collectors are authorized agents of the DHSMV that issue registration certificates, registration license plates, validation stickers, and mobile home stickers to applicants.¹³ The DHSMV may require each tax collector to give a bond, payable to the DHSMV, conditioned that the tax collector faithfully and truly perform the duties imposed upon him or her according to the requirements of law and the rules and regulations of the DHSMV.¹⁴ Each tax collector must keep a full and complete record and account of all validation stickers, mobile home stickers, or other properties received by him or her from the DHSMV.¹⁵ FRVIS must be installed in every tax collector's and license tag agent's office in accordance with a schedule established by the

³ Department of Highway Safety and Motor Vehicles, *Florida Real Time Vehicle Information System (FRVIS): Information Technology Operational Audit*, at 1 (April 2014), available at https://flauditor.gov/pages/pdf_files/2014-183.pdf (last visited January 16, 2020).

⁴ *Id.* at 1-2.

⁵ Email from Kevin Jacobs, Deputy Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, RE: FRVIS, (January 16, 2020).

⁶ *Supra*, note 17.

⁷ *Id.*

⁸ Section 319.40, F.S.

⁹ Section 320.95, F.S.

¹⁰ Section 322.08(10), F.S.

¹¹ Section 328.30, F.S.

¹² Section 328.80, F.S.

¹³ Section 320.03(1), F.S.

¹⁴ Section 320.03(2), F.S.

¹⁵ Section 320.03(3), F.S.

DHSMV in consultation with the tax collectors and contingent upon funds being made available for the system by the state.¹⁶

Vessels

Tax collectors must issue registration certificates and vessel numbers and decals to applicants, subject to the requirements of law and in accordance with the rules of the DHSMV.¹⁷ Each tax collector must keep a full and complete record and account of all vessel decals or other properties received by him or her from the DHSMV and must make prompt remittance of moneys collected by them at the times and in the manner prescribed by law.¹⁸

Registration Data Access Concerns

The DHSMV provides tax collectors (and the tax collectors' third-party agents) with most, but not all, access to customer data available through FRVIS. For example, tax collectors are unable to run searches on real-time bulk data in FRVIS because they are only authorized to look up customer vehicle or vessel data individually in real-time data. Tax Collectors must therefore run any bulk data searches on batched bulk data from the previous business day. This limits the tax collectors' ability to analyze the data.

III. Effect of Proposed Changes:

The CS amends ss. 320.03 and 328.73, F.S., requiring the DHSMV, for the purpose of enhancing customer services provided by tax collectors on behalf of the DHSMV, to provide tax collectors acting on behalf of the DHSMV, and tax collector-approved agents and vendors real-time access to the same data and functionality that other third parties receive from the DHSMV related to motor vehicle and mobile home registration certificates, registration license plates, validation stickers, and vessel registration certificates and vessel numbers and decals, including, but not limited to, the most current address information and electronic mail addresses of applicants.

The CS has an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁶ Section 320.03(4)(b), F.S.

¹⁷ Section 328.73(1), F.S.

¹⁸ Section 328.73(2), F.S.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Tax collectors, and tax collector-approved agents and vendors, may see a positive indeterminate fiscal impact as a result of having real-time access to data and thus being able to provide more efficient service to customers.

The DHSMV may incur an indeterminate programming cost implementing real-time data access to tax collectors, and tax collector-approved agents and vendors.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The DHSMV provided the following comments regarding the bill as originally filed:

The DHSMV does not need any further statutory authority to provide data or functionality to tax collector agents or vendors.¹⁹

The bill is written broadly and requires the DHSMV to provide tax collectors, tax collector agents, and tax collector vendors with access to the same data and functionality that all other third parties receive from the DHSMV related to motor vehicle and vessel registration. The bill also requires the DHSMV to provide customers' residential and email addresses to tax collectors and their approved agents and vendors, which is not something the DHSMV currently does.

Based on the broad language of the bill, the DHSMV requests clarification of the following:

- 1) Would the personal identifying information ("PII") provided to the agents and vendors of a specific tax collector be limited to data relating to customers residing in that tax collector's county? For example, if an agent or vendor does business on behalf of the Leon County Tax

¹⁹ Section 320.03(4), F.S.

Collector, would the DHSMV be required to provide the agent or vendor with the PII of citizens in other counties if requested?

- 2) Could the DHSMV continue the practice of data minimization with respect to providing PII to agents and vendors? In other words, could the DHSMV refuse to provide PII to a tax collector's agent or vendor unless it is directly relevant and necessary to accomplish a specified purpose related to carrying out the statutorily mandated functions of the tax collector?
- 3) As a follow-up to question two above, could the DHSMV also limit the agent or vendor's use of the data and functionality to services provided on behalf of the tax collector, or would the vendor be free to use the data or functionality for any lawful commercial purpose?
- 4) Could the DHSMV limit the data released based on a business use case provided by the tax collector?

VIII. Statutes Affected:

This CS substantially amends the following sections of the Florida Statutes: 320.03 and 328.73

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Infrastructure and Security on January 21, 2020:

- Removes the ability of DHSMV to require a tax collector's approved agent or vendor that requests real-time access to DHSMV data to enter into a memorandum of understanding, which may not be more restrictive than any memorandum of understanding between the department and any other third-party vendor; and
- Requires the DHSMV to provide tax collectors acting on behalf of the DHSMV, and tax collector-approved agents and vendors real-time access to both the same data and functionality that all other third parties receive from the department related to motor vehicle and mobile home registration certificates, registration license plates, validation stickers, and vessel registration certificates and vessel numbers and decals, including, but not limited to, the most current address information and electronic mail addresses of applicants.

B. Amendments:

None.



541098

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/22/2020	.	
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The Committee on Infrastructure and Security (Diaz) recommended the following:

Senate Amendment (with title amendment)

Delete lines 34 - 60
and insert:
pursuant to s. 320.95.

Section 2. Subsection (1) of section 328.73, Florida Statutes, is amended to read:

328.73 Registration; duties of tax collectors.—

(1) The tax collectors in the counties of the state, as authorized agents of the department, shall issue registration



541098

certificates and vessel numbers and decals to applicants,
subject to the requirements of law and in accordance with rules
of the department. For the purpose of enhancing customer
services provided by tax collectors on behalf of the department,
the department shall provide tax collectors and their approved
agents and vendors with real-time access to the same data and
functionality that all other third parties receive from the
department related to vessel registration certificates and
vessel numbers and decals, including, but not limited to, each
applicant's current residential address and each applicant's
current electronic mail address collected pursuant to s. 328.30.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 9 - 10

and insert:

other third parties; providing an

By Senator Diaz

36-01596-20

20201086__

A bill to be entitled

An act relating to vehicle and vessel registration data and functionality; amending ss. 320.03 and 328.73, F.S.; requiring the Department of Highway Safety and Motor Vehicles to provide tax collectors and their approved agents and vendors with real-time access to certain vehicle and vessel registration data and functionality in the same manner as provided to other third parties; authorizing the department to require a memorandum of understanding; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (b) of subsection (4) of section 320.03, Florida Statutes, is amended to read:

320.03 Registration; duties of tax collectors; International Registration Plan.—

(4)

(b) The Florida Real Time Vehicle Information System shall be installed in every tax collector's and license tag agent's office in accordance with a schedule established by the department in consultation with the tax collectors and contingent upon funds being made available for the system by the state. For the purpose of enhancing customer services provided by tax collectors on behalf of the department, the department shall provide tax collectors and their approved agents and vendors with real-time access to the same data and functionality that all other third parties receive from the department related

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20201086__

to motor vehicle and mobile home registration certificates, registration license plates, and validation stickers, including, but not limited to, each applicant's current residential address and each applicant's current electronic mail address collected pursuant to s. 320.95. The department may require a tax collector's approved agent or vendor that requests data or functionality pursuant to this paragraph to enter into a memorandum of understanding, which may not be more restrictive than any memorandum of understanding between the department and any other third-party vendor.

Section 2. Subsection (1) of section 328.73, Florida Statutes, is amended to read:

328.73 Registration; duties of tax collectors.—

(1) The tax collectors in the counties of the state, as authorized agents of the department, shall issue registration certificates and vessel numbers and decals to applicants, subject to the requirements of law and in accordance with rules of the department. For the purpose of enhancing customer services provided by tax collectors on behalf of the department, the department shall provide tax collectors and their approved agents and vendors with real-time access to the same data and functionality that all other third parties receive from the department related to vessel registration certificates and vessel numbers and decals, including, but not limited to, each applicant's current residential address and each applicant's current electronic mail address collected pursuant to s. 328.30. The department may require a tax collector's approved agent or vendor that requests data or functionality pursuant to this subsection to enter into a memorandum of understanding, which

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36-01596-20

20201086__

59 may not be more restrictive than any memorandum of understanding
60 between the department and any other third-party vendor.
61 Section 3. This act shall take effect July 1, 2020.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-21-2020

Meeting Date

1086

Bill Number (if applicable)

Topic Vehicle & Vessel Registration Data

Amendment Barcode (if applicable)

Name CAROLE JEAN JORDAN

FUNCTIONALITY

Job Title Tax Collector

Address 1855 - 34 AVENUE

Phone 772-473-3733

Street

VERO BEACH FL 32960

City

State

Zip

Email CJORDAN@IROUTAX

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing INDIAN RIVER COUNTY TAX COLLECTOR

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

01-21-2020

Meeting Date

1086

Bill Number (if applicable)

Topic Vehicle and Vessel Registration Data Functionality

Amendment Barcode (if applicable)

Name Lisa Cullen

Job Title Tax Collector

Address 400 South St, 6th Floor

Phone 321-264-6930

Street

Titusville

City

FL

State

32927

Zip

Email Lisa.Cullen@Brevardtc.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Brevard County Tax Collectors Office

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

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 Infrastructure and Security

BILL: CS/SB 1500

INTRODUCER: Senator Broxson

SUBJECT: Specialty License Plate Fees

DATE: January 22, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Miller	IS	FAV/CS
2.			ATD	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1500 establishes a uniform annual use fee of \$25 per plate for all specialty license plates created in statute after July 1, 2020, except for specialty license plates for motorcycles.

The CS also provides an annual use fee of \$25 for the Blue Angels license plate.

The CS has an effective date of July 1, 2020.

II. Present Situation:

Specialty License Plates

Presently, there are over 120 specialty license plates available for purchase in Florida.¹ Specialty license plates are available to an owner or lessee of a motor vehicle who is willing to pay an annual use fee, ranging from \$15 to \$25, paid in addition to required license taxes and service fees.² The annual use fees are distributed to an organization or organizations in support of a particular cause or charity signified on the plate's design and designated in statute.³

¹ A list of Florida's specialty license plates is available on the DHSMV website at <http://www.flhsmv.gov/dmv/specialtytags/> (last visited January 16, 2020).

² Section 320.08056, F.S.

³ Section 320.08058, F.S.

The annual use fees collected by an organization and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of specified United States Armed Forces and veterans-related specialty plates.⁴ Additionally, organizations must adhere to certain accountability requirements, including an annual audit or attestation document affirming that funds received have been spent in accordance with applicable statutes.⁵

During the 2019 Legislative Session a Blue Angels license plate was established.⁶ However, the development of the license plate was contingent upon the enactment of legislation creating an annual use fee under s. 320.08056 for the Blue Angels license plate.⁷

DHSMV Costs Defrayed

The DHSMV is authorized to retain a sufficient portion of annual use fees collected from the sale of specialty plates to defray its costs for inventory, distribution, and other direct costs associated with the specialty license plate program. The remainder of the proceeds collected are distributed as provided by law.⁸

III. Effect of Proposed Changes:

The CS amends s. 320.08056, F.S., to establish a uniform annual use fee of \$25 per plate for all specialty license plates created in statute after July 1, 2020. The CS does not impact the \$20 uniform fee for motorcycle specialty license plates that is established in s. 320.08068, F.S.

The CS also provides an annual use fee of \$25 for the Blue Angels license plate.

The CS has an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁴ Section 320.08056(10)(a), F.S.

⁵ Section 320.08062, F.S.

⁶ Ch. 2019-144, s. 3, Laws of Fla.

⁷ *Id.*

⁸ Section 320.08056(7), F.S.

D. State Tax or Fee Increases:

Section 19, Art. VII of the Florida Constitution requires “a supermajority vote” of two-thirds of the membership of each house to pass legislation which will impose or authorize a new state tax or fee.⁹ A “fee” is defined as “any charge or payment required by law, including any fee for service, fee or cost for licenses, and charge for service.”¹⁰ A state tax or fee imposed or authorized must be contained in a separate bill that contains no other subject.¹¹

The \$25 annual use fee charged for a specialty license plate may be a new state fee subject to the constitutional requirements since it establishes a \$25 annual use fee for all specialty license plates created in statute after July 1, 2020, as well as for the Blue Angels license plate.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Those who wish to purchase a Blue Angels license plate will have to pay a \$25 annual use fee.

The Naval Aviation Museum Foundation may receive an indeterminate amount of revenue from the annual use fees from the sale of any Blue Angels license plate.

C. Government Sector Impact:

There may be an indeterminate negative fiscal impact to the DHSMV to establish the \$25 annual use fee for the Blue Angels license plate due to programming requirements.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁹ FLA. CONST. art. VII, s. 19(a).

¹⁰ FLA. CONST. art. VII, s. 19(d)(1).

¹¹ FLA. CONST. art. VII, s. 19(e).

VIII. Statutes Affected:

This CS substantially amends the following sections of the Florida Statutes: 320.08056 and 320.06

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

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

CS by Infrastructure and Security on January 21, 2020:

- Provides a \$25 annual use fee for the Blue Angels license plate; and
- Provides that the license plate annual use fee for a specialty license plate created or established after July 1, 2020, will be \$25.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.



204018

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/22/2020	.	
	.	
	.	
	.	

The Committee on Infrastructure and Security (Broxson)
recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (4) of section 320.08056, Florida
Statutes, is amended, and paragraph (d) of subsection (3) of
that section is republished, to read:

320.08056 Specialty license plates.—

(3) Each request must be made annually to the department or
an authorized agent serving on behalf of the department,



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accompanied by the following tax and fees:

(d) A license plate annual use fee as required in subsection (4).

A request may be made any time during a registration period. If a request is made for a specialty license plate to replace a current valid license plate, the specialty license plate must be issued with appropriate decals attached at no tax for the plate, but all fees and service charges must be paid. If a request is made for a specialty license plate at the beginning of the registration period, the tax, together with all applicable fees and service charges, must be paid.

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

(a) Manatee license plate, \$25.

(b) Challenger/Columbia license plate, \$25, except that a person that purchases 1,000 or more of such license plates shall pay an annual use fee of \$15 per plate.

(c) Collegiate license plate, \$25.

(d) Florida Salutes Veterans license plate, \$15.

(e) Florida panther license plate, \$25.

(f) Florida United States Olympic Committee license plate, \$15.

(g) Florida Special Olympics license plate, \$15.

(h) Florida educational license plate, \$20.

(i) Florida Professional Sports Team license plate, \$25.

(j) Florida Indian River Lagoon license plate, \$15.

(k) Invest in Children license plate, \$20.

(l) Florida arts license plate, \$20.



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- 40 (m) Bethune-Cookman University license plate, \$25.
- 41 (n) Florida Agricultural license plate, \$20.
- 42 (o) Police Athletic League license plate, \$20.
- 43 (p) Boy Scouts of America license plate, \$20.
- 44 (q) Largemouth Bass license plate, \$25.
- 45 (r) Sea Turtle license plate, \$23.
- 46 (s) Protect Wild Dolphins license plate, \$20.
- 47 (t) Barry University license plate, \$25.
- 48 (u) Everglades River of Grass license plate, \$20.
- 49 (v) Keep Kids Drug-Free license plate, \$25.
- 50 (w) Florida Sheriffs Youth Ranches license plate, \$25.
- 51 (x) Conserve Wildlife license plate, \$25.
- 52 (y) Florida Memorial University license plate, \$25.
- 53 (z) Tampa Bay Estuary license plate, \$15.
- 54 (aa) Florida Wildflower license plate, \$15.
- 55 (bb) United States Marine Corps license plate, \$15.
- 56 (cc) Choose Life license plate, \$20.
- 57 (dd) Share the Road license plate, \$15.
- 58 (ee) American Red Cross license plate, \$25.
- 59 (ff) United We Stand license plate, \$25.
- 60 (gg) Breast Cancer Research license plate, \$25.
- 61 (hh) Protect Florida Whales license plate, \$25.
- 62 (ii) Florida Golf license plate, \$25.
- 63 (jj) Florida Firefighters license plate, \$20.
- 64 (kk) Police Benevolent Association license plate, \$20.
- 65 (ll) Military Services license plate, \$15.
- 66 (mm) Protect Our Reefs license plate, \$25.
- 67 (nn) Fish Florida license plate, \$22.
- 68 (oo) Child Abuse Prevention and Intervention license plate,



204018

\$25.

(pp) Hospice license plate, \$25.

(qq) Stop Heart Disease license plate, \$25.

(rr) Save Our Seas license plate, \$25, except that for an owner purchasing the specialty license plate for more than 10 vehicles registered to that owner, the annual use fee shall be \$10 per plate.

(ss) Aquaculture license plate, \$25, except that for an owner purchasing the specialty license plate for more than 10 vehicles registered to that owner, the annual use fee shall be \$10 per plate.

(tt) Family First license plate, \$25.

(uu) Wildlife Foundation of Florida license plate, \$25.

(vv) Live the Dream license plate, \$25.

(ww) Florida Food Banks license plate, \$25.

(xx) Discover Florida's Oceans license plate, \$25.

(yy) Family Values license plate, \$25.

(zz) Parents Make A Difference license plate, \$25.

(aaa) Support Soccer license plate, \$25.

(bbb) Kids Deserve Justice license plate, \$25.

(ccc) Animal Friend license plate, \$25.

(ddd) Future Farmers of America license plate, \$25.

(eee) Donate Organs-Pass It On license plate, \$25.

(fff) A State of Vision license plate, \$25.

(ggg) Homeownership For All license plate, \$25.

(hhh) Florida NASCAR license plate, \$25.

(iii) Protect Florida Springs license plate, \$25.

(jjj) Trees Are Cool license plate, \$25.

(kkk) Support Our Troops license plate, \$25.



204018

(lll) Florida Tennis license plate, \$25.
(mmm) Lighthouse Association license plate, \$25.
(nnn) In God We Trust license plate, \$25.
(ooo) Horse Country license plate, \$25.
(ppp) Autism license plate, \$25.
(qqq) St. Johns River license plate, \$25.
(rrr) Hispanic Achievers license plate, \$25.
(sss) Endless Summer license plate, \$25.
(ttt) Fraternal Order of Police license plate, \$25.
(uuu) Protect Our Oceans license plate, \$25.
(vvv) Florida Horse Park license plate, \$25.
(www) Florida Biodiversity Foundation license plate, \$25.
(xxx) Freemasonry license plate, \$25.
(yyy) American Legion license plate, \$25.
(zzz) Lauren's Kids license plate, \$25.
(aaaa) Big Brothers Big Sisters license plate, \$25.
(bbbb) Fallen Law Enforcement Officers license plate, \$25.
(cccc) Florida Sheriffs Association license plate, \$25.
(dddd) Keiser University license plate, \$25.
(eeee) Moffitt Cancer Center license plate, \$25.

The license plate annual use fee for a specialty license plate
created or established after July 1, 2020, is \$25.

Section 2. This act shall take effect July 1, 2020.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:



204018

127 A bill to be entitled
128 An act relating to specialty license plate fees;
129 amending s. 320.08056, F.S.; providing a license plate
130 annual use fee to be collected for specialty license
131 plates created or established after a specified date;
132 providing an effective date.



188528

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/22/2020	.	
	.	
	.	
	.	

The Committee on Infrastructure and Security (Broxson)
recommended the following:

**Senate Amendment to Amendment (204018) (with title
amendment)**

Between lines 117 and 118
insert:

(ffff) Blue Angels license plate, \$25

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete line 129



188528

11 and insert:
12 amending s. 320.08056, F.S.; providing a license plate
13 annual use fee for the Blue Angels license plate;
14 providing a license plate

By Senator Broxson

1-01340-20

20201500__

1 A bill to be entitled
 2 An act relating to specialty license plate fees;
 3 amending s. 320.08056, F.S.; creating a uniform annual
 4 use fee collected for a specialty license plate;
 5 conforming provisions to changes made by the act;
 6 amending s. 320.06, F.S.; conforming a cross-
 7 reference; providing an effective date.
 8
 9 Be It Enacted by the Legislature of the State of Florida:
 10
 11 Section 1. Paragraph (d) of subsection (3) and subsections
 12 (4) and (10) of section 320.08056, Florida Statutes, are amended
 13 to read:
 14 320.08056 Specialty license plates.—
 15 (3) Each request must be made annually to the department or
 16 an authorized agent serving on behalf of the department,
 17 accompanied by the following tax and fees:
 18 (d) A license plate annual use fee of \$25 ~~as required in~~
 19 ~~subsection (4).~~
 20
 21 A request may be made any time during a registration period. If
 22 a request is made for a specialty license plate to replace a
 23 current valid license plate, the specialty license plate must be
 24 issued with appropriate decals attached at no tax for the plate,
 25 but all fees and service charges must be paid. If a request is
 26 made for a specialty license plate at the beginning of the
 27 registration period, the tax, together with all applicable fees
 28 and service charges, must be paid.
 29 ~~(4) The following license plate annual use fees shall be~~

Page 1 of 7

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 ~~collected for the appropriate specialty license plates:~~
 31 ~~(a) Manatee license plate, \$25.~~
 32 ~~(b) Challenger/Columbia license plate, \$25, except that a~~
 33 ~~person that purchases 1,000 or more of such license plates shall~~
 34 ~~pay an annual use fee of \$15 per plate.~~
 35 ~~(c) Collegiate license plate, \$25.~~
 36 ~~(d) Florida Salutes Veterans license plate, \$15.~~
 37 ~~(e) Florida panther license plate, \$25.~~
 38 ~~(f) Florida United States Olympic Committee license plate,~~
 39 ~~\$15.~~
 40 ~~(g) Florida Special Olympics license plate, \$15.~~
 41 ~~(h) Florida educational license plate, \$20.~~
 42 ~~(i) Florida Professional Sports Team license plate, \$25.~~
 43 ~~(j) Florida Indian River Lagoon license plate, \$15.~~
 44 ~~(k) Invest in Children license plate, \$20.~~
 45 ~~(l) Florida arts license plate, \$20.~~
 46 ~~(m) Bethune-Cookman University license plate, \$25.~~
 47 ~~(n) Florida Agricultural license plate, \$20.~~
 48 ~~(o) Police Athletic League license plate, \$20.~~
 49 ~~(p) Boy Scouts of America license plate, \$20.~~
 50 ~~(q) Largemouth Bass license plate, \$25.~~
 51 ~~(r) Sea Turtle license plate, \$23.~~
 52 ~~(s) Protect Wild Dolphins license plate, \$20.~~
 53 ~~(t) Barry University license plate, \$25.~~
 54 ~~(u) Everglades River of Grass license plate, \$20.~~
 55 ~~(v) Keep Kids Drug-Free license plate, \$25.~~
 56 ~~(w) Florida Sheriffs Youth Ranches license plate, \$25.~~
 57 ~~(x) Conserve Wildlife license plate, \$25.~~
 58 ~~(y) Florida Memorial University license plate, \$25.~~

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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59 ~~(z) Tampa Bay Estuary license plate, \$15.~~
 60 ~~(aa) Florida Wildflower license plate, \$15.~~
 61 ~~(bb) United States Marine Corps license plate, \$15.~~
 62 ~~(cc) Choose Life license plate, \$20.~~
 63 ~~(dd) Share the Road license plate, \$15.~~
 64 ~~(ee) American Red Cross license plate, \$25.~~
 65 ~~(ff) United We Stand license plate, \$25.~~
 66 ~~(gg) Breast Cancer Research license plate, \$25.~~
 67 ~~(hh) Protect Florida Whales license plate, \$25.~~
 68 ~~(ii) Florida Golf license plate, \$25.~~
 69 ~~(jj) Florida Firefighters license plate, \$20.~~
 70 ~~(kk) Police Benevolent Association license plate, \$20.~~
 71 ~~(ll) Military Services license plate, \$15.~~
 72 ~~(mm) Protect Our Reefs license plate, \$25.~~
 73 ~~(nn) Fish Florida license plate, \$22.~~
 74 ~~(oo) Child Abuse Prevention and Intervention license plate,~~
 75 ~~\$25.~~
 76 ~~(pp) Hospice license plate, \$25.~~
 77 ~~(qq) Stop Heart Disease license plate, \$25.~~
 78 ~~(rr) Save Our Seas license plate, \$25, except that for an~~
 79 ~~owner purchasing the specialty license plate for more than 10~~
 80 ~~vehicles registered to that owner, the annual use fee shall be~~
 81 ~~\$10 per plate.~~
 82 ~~(ss) Aquaculture license plate, \$25, except that for an~~
 83 ~~owner purchasing the specialty license plate for more than 10~~
 84 ~~vehicles registered to that owner, the annual use fee shall be~~
 85 ~~\$10 per plate.~~
 86 ~~(tt) Family First license plate, \$25.~~
 87 ~~(uu) Wildlife Foundation of Florida license plate, \$25.~~

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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88 ~~(vv) Live the Dream license plate, \$25.~~
 89 ~~(ww) Florida Food Banks license plate, \$25.~~
 90 ~~(xx) Discover Florida's Oceans license plate, \$25.~~
 91 ~~(yy) Family Values license plate, \$25.~~
 92 ~~(zz) Parents Make A Difference license plate, \$25.~~
 93 ~~(aaa) Support Soccer license plate, \$25.~~
 94 ~~(bbb) Kids Deserve Justice license plate, \$25.~~
 95 ~~(ccc) Animal Friend license plate, \$25.~~
 96 ~~(ddd) Future Farmers of America license plate, \$25.~~
 97 ~~(eee) Donate Organs Pass It On license plate, \$25.~~
 98 ~~(fff) A State of Vision license plate, \$25.~~
 99 ~~(ggg) Homeownership For All license plate, \$25.~~
 100 ~~(hhh) Florida NASCAR license plate, \$25.~~
 101 ~~(iii) Protect Florida Springs license plate, \$25.~~
 102 ~~(jjj) Trees Are Cool license plate, \$25.~~
 103 ~~(kkk) Support Our Troops license plate, \$25.~~
 104 ~~(lll) Florida Tennis license plate, \$25.~~
 105 ~~(mmm) Lighthouse Association license plate, \$25.~~
 106 ~~(nnn) In God We Trust license plate, \$25.~~
 107 ~~(ooo) Horse Country license plate, \$25.~~
 108 ~~(ppp) Autism license plate, \$25.~~
 109 ~~(qqq) St. Johns River license plate, \$25.~~
 110 ~~(rrr) Hispanic Achievers license plate, \$25.~~
 111 ~~(sss) Endless Summer license plate, \$25.~~
 112 ~~(ttt) Fraternal Order of Police license plate, \$25.~~
 113 ~~(uuu) Protect Our Oceans license plate, \$25.~~
 114 ~~(vvv) Florida Horse Park license plate, \$25.~~
 115 ~~(www) Florida Biodiversity Foundation license plate, \$25.~~
 116 ~~(xxx) Freemasonry license plate, \$25.~~

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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~~(yyy) American Legion license plate, \$25.~~
~~(zzz) Lauren's Kids license plate, \$25.~~
~~(aaaa) Big Brothers Big Sisters license plate, \$25.~~
~~(bbbb) Fallen Law Enforcement Officers license plate, \$25.~~
~~(cccc) Florida Sheriffs Association license plate, \$25.~~
~~(dddd) Keiser University license plate, \$25.~~
~~(eeee) Moffitt Cancer Center license plate, \$25.~~
 (9)(10) (a) A specialty license plate annual use fee collected and distributed under this chapter, or any interest earned from those fees, may not be used for commercial or for-profit activities nor for general or administrative expenses, except as authorized by s. 320.08058 or to pay the cost of the audit or report required by s. 320.08062(1). The fees and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of United States Armed Forces and veterans-related specialty license plates, including the Florida Salutes Veterans license plate, the United States Marine Corps license plate, the Military Services license plate, the Support Our Troops license plate, and the American Legion license plate as provided under s. 320.08058 and the U.S. Paratroopers license plate as provided under pursuant to paragraphs (4)(d), (bb), (ll), (kkk), and (yyy) and s. 320.0891.

Section 2. Paragraph (b) of subsection (1) of section 320.06, Florida Statutes, is amended to read:

320.06 Registration certificates, license plates, and validation stickers generally.—

(1)

(b)1. Registration license plates bearing a graphic symbol

1-01340-20

20201500

and the alphanumeric system of identification shall be issued for a 10-year period. At the end of the 10-year period, upon renewal, the plate shall be replaced. The department shall extend the scheduled license plate replacement date from a 6-year period to a 10-year period. The fee for such replacement is \$28, \$2.80 of which shall be paid each year before the plate is replaced, to be credited toward the next \$28 replacement fee. The fees shall be deposited into the Highway Safety Operating Trust Fund. A credit or refund may not be given for any prior years' payments of the prorated replacement fee if the plate is replaced or surrendered before the end of the 10-year period, except that a credit may be given if a registrant is required by the department to replace a license plate under s. 320.08056(7)(a) ~~s. 320.08056(8)(a)~~. With each license plate, a validation sticker shall 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 validation sticker shall be placed on the upper right corner of the license plate. The license plate and validation sticker shall be issued based on the applicant's appropriate renewal period. The registration period is 12 months, the extended registration period is 24 months, and all expirations occur based on the applicant's appropriate registration period. A vehicle that has an apportioned registration shall be issued an annual license plate and a cab card that denote the declared gross vehicle weight for each apportioned jurisdiction in which the vehicle is authorized to operate.

2. In order to retain the efficient administration of the taxes and fees imposed by this chapter, the 80-cent fee increase

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20201500__

175 in the replacement fee imposed by chapter 2009-71, Laws of
176 Florida, is negated as provided in s. 320.0804.

177 Section 3. This act shall take effect July 1, 2020.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-21-2020

Meeting Date

SB1500

Bill Number (if applicable)

Topic License Plates

Amendment Barcode (if applicable)

Name Anna Higgins

Job Title lobbyist / attny

Address 226 S. Palafox Pl., 4th floor

Phone 202-384-6657

Street

Pensacola

FL

32502

City

State

Zip

Email ahiggins@walkerfl.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Naval Aviation Museum Foundation

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Transportation,
Tourism, and Economic Development, *Chair*
Appropriations
Appropriations Subcommittee on Agriculture,
Environment, and General Government
Commerce and Tourism
Infrastructure and Security
Innovation, Industry, and Technology
Judiciary
Rules

SENATOR TRAVIS HUTSON

7th District

January 16, 2020

The Honorable Tom Lee
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Lee,

I am writing to request to be excused from the Infrastructure and Security meeting on January 21st, 2020 at 4:30pm due to the birth of my child. Thank you for your consideration of this request.

Respectfully,

A handwritten signature in black ink that reads "Travis J. Hutson". The signature is written in a cursive, flowing style.

Travis Hutson

REPLY TO:

- ☐ 4875 Palm Coast Parkway, NW, Suite 5, Palm Coast, Florida 32137 (386) 446-7610 FAX: (888) 263-3475
- ☐ 314 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5007

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

CourtSmart Tag Report

Room: EL 110
Caption: Senate Infrastructure and Security Committee

Case No.:

Type:
Judge:

Started: 1/21/2020 4:33:36 PM

Ends: 1/21/2020 5:54:41 PM

Length: 01:21:06

4:33:34 PM Meeting called to order by Chair Lee
4:33:44 PM Roll call by CAA Marilyn Hudson
4:33:54 PM Quorum present
4:34:07 PM Comments from Senator Cruz
4:34:37 PM Comments from Chair Lee
4:35:16 PM Introduction of Tab 8 by Chair Lee
4:35:27 PM Explanation of SB 966, Public Records/ Disasters Recovery Assistance by Senator Gainer
4:37:30 PM Comments by Chair Lee
4:37:41 PM Response by Senator Gainer
4:37:54 PM Nicholas Alvarez, Department of Economic Opportunity waives in support
4:38:03 PM Laura Youmans, Florida Association of Counties waives in support
4:38:13 PM Closure waived
4:38:19 PM Roll call be AA
4:38:27 PM SB 966 reported favorably
4:38:48 PM Introduction of Tab 1 by Chair Lee
4:38:59 PM Explanation of SB 88, Child Care Facilities by Senator Stewart
4:39:32 PM Andrew Kolel, Office of Criminal Conflict and Civil Regional Counsel waives in support
4:39:52 PM Closure waived
4:40:08 PM Roll call by AA
4:40:14 PM SB 88 reported favorably
4:40:22 PM Introduction of Tab 2 by Chair Lee
4:40:28 PM Explanation of SB 158, Child Restraint Requirements by Senator Perry
4:41:34 PM Theresa Bulger waives in support
4:41:53 PM Mary-Lynn Cullen, Advocacy Institute for Children waives in support
4:41:58 PM Amy Datz, Environmental Caucus of Florida waives in support
4:42:07 PM Hannah Parker McCabe, The Junior League of Tampa waives in support
4:42:18 PM April Tisher, The Junior League of Gainesville waives in support
4:42:27 PM Speaker Becker Holland, The Junior League of Gainesville in support
4:44:35 PM Sara Johnson, The Junior League of Ocala waives in support
4:44:42 PM Doug Bell, Florida Chapter of the American Academy of Pediatrics waives in support
4:44:58 PM Nancy Lawthers, Florida PTA waives in support
4:45:20 PM Senator Perry in closure
4:45:30 PM Roll call by AA
4:45:41 PM SB158 reported favorably
4:45:57 PM Introduction of Tab 11 by Chair Lee
4:46:18 PM Explanation of SB 1500, Specialty License Plate Fees by Senator Broxson
4:47:03 PM Introduction of Late-filed Amendment Barcode Number 188528
4:47:23 PM Explanation of Amendment
4:49:00 PM Question by Chair Lee
4:49:07 PM Response by Senator Broxson
4:49:38 PM Amendment to Amendment adopted
4:50:11 PM Anna Higgins, Naval Aviation Museum Foundation waives in support
4:50:24 PM Closure waived
4:50:32 PM Roll call by AA
4:50:42 PM CS/SB 1500 reported favorably
4:50:54 PM Chair pass to Senator Perry
4:51:07 PM Introduction of Tab 4 by Chair Perry
4:51:23 PM Explanation of SB 378, Motor Vehicle Insurance by Senator Lee
4:53:59 PM Paul Lambert, Florida Chiropractic Association in opposition
4:57:01 PM Bonny Gordon, Geico in opposition
4:57:11 PM Speaker Gary Guzzo, The Florida Insurance Council in opposition
4:58:30 PM Dale Swope, Florida Justice Association waives in support

4:58:36 PM Rick Parker, Florida Justice Reform Institute
4:58:39 PM Greg Black, R Street Institute waives in support
4:59:29 PM Speaker Rick Parker, Florida Justice Reform Institute in opposition
4:59:40 PM Senator Bean in debate
5:00:37 PM Senator Stewart in debate
5:01:17 PM Senator Cruz in debate
5:02:35 PM Closure by Senator Lee
5:04:11 PM Roll call by AA
5:05:12 PM SB 378 reported favorably
5:05:31 PM Chair returned to Chair
5:05:40 PM Introduction of Tab 7 by Chair Lee
5:06:33 PM Explanation of SB 676, High- Speed Passenger Rail Safety by Senator Mayfield
5:07:26 PM Introduction of the Strike-all Amendment Barcode Number 950826 by Chair Lee
5:07:34 PM Explanation of Amendment by Senator Mayfield
5:11:25 PM Comments from Chair Lee
5:12:35 PM Closure waived
5:12:39 PM Amendment adopted
5:12:53 PM Mendy Gibson, City of Satellite Beach waives in support
5:13:14 PM Speaker Rolland Rose, Jensen Beach Chamber of Commerce in opposition
5:14:18 PM Question from Chair Lee
5:14:52 PM Response from Mr. Rose
5:15:13 PM Speaker Joe Catrambone, Stewart Martin County COC in opposition
5:16:29 PM Speaker Chris Emmanuel, Florida Chamber of Commerce in opposition
5:17:31 PM Comments by Chair Lee
5:17:38 PM Response by Mr. Emmanuel
5:17:54 PM Robert Lennox, Florida East Coast Railway waives in opposition
5:18:04 PM Neal Johnson, Melbourne Regional Chamber waives in support
5:18:16 PM Speaker Courtney Barker, City of Satellite Beach in support
5:19:25 PM Leesa Souto, Marine Resources Council waives in support
5:19:37 PM Speaker Dominick Montanaro, City of Satellite Beach in support
5:22:08 PM Mark Ryan, City of Indian Harbour Beach waives in support
5:22:25 PM Speaker Commissioner Peter O'Bryan, Indian River County in support
5:24:40 PM Allan Butter, Brightline Trains
5:24:54 PM Question by Senator Bean
5:25:07 PM Response by Mr. Butter
5:25:29 PM Speaker Rusty Roberts, Brightline/ Virgin Trains in opposition
5:32:14 PM Question from Senator Taddeo
5:32:33 PM Response from Mr. Roberts
5:34:04 PM Follow up question from Senator Taddeo
5:34:23 PM Comments from Chair Lee
5:34:31 PM Response from Mr. Roberts
5:34:43 PM Question from Senator Stewart
5:34:55 PM Response from Mr. Roberts
5:38:18 PM Comments from Chair Lee
5:38:32 PM Closure by Senator Mayfield
5:41:03 PM Roll call by AA
5:42:06 PM CS/SB 676 reported favorably
5:42:25 PM Introduction of Tab 6 by Chair Lee
5:42:37 PM Explanation of SB 636 Department of Highway Safety and Motor Vehicles by Senator Stargel
5:42:46 PM Introduction of Amendment Barcode Number 725100 by Chair Lee
5:42:57 PM Explanation of Amendment
5:43:31 PM Chuck Purdue, Florida Tax Collector Association waives in support
5:43:42 PM Anne Gannon, Florida Tax Collectors Association waives in support
5:43:59 PM Closure by Senator Stargel
5:44:15 PM Roll call by AA
5:44:20 PM CS/SC 636 reported favorably
5:44:31 PM Introduction of Tab 9 by Chair Lee
5:44:38 PM Explanation of SB 1030, Public Records/ Vessel Title or Registration/ Department of Highway Safety and Motor Vehicles by Senator Stargel
5:44:59 PM Introduction of Amendment Barcode Number 740764 by Chair Lee
5:45:01 PM Explanation of Amendment by Senator Stargel
5:45:30 PM Closure waived

5:45:35 PM Roll Call by AA
5:45:38 PM CS/SB1030 reported favorably
5:45:59 PM Introduction of Tab 10 by Chair Lee
5:46:11 PM Introduction of Late-filed Amendment Barcode Number 541098 by Chair Lee
5:46:24 PM Explanation of Amendment by Senator Diaz
5:46:54 PM Question from Chair Lee
5:47:03 PM Response from Senator Diaz
5:47:50 PM Amendment adopted
5:48:06 PM Carol Jean Jordan, Indian River County Tax Collector in support
5:48:11 PM Lisa Cullen, Brevard County Tax Collectors Office waives in support
5:48:32 PM Closure waived
5:48:42 PM Roll call by AA
5:48:49 PM CS/SB 1086 reported favorably
5:49:04 PM Introduction of Tab 5 by Chair Lee
5:49:11 PM Explanation of SB 538, Emergency Reporting by Senator Diaz
5:49:26 PM Introduction of Amendment Barcode Number 784498 by Chair Lee
5:49:44 PM Explanation of Amendment by Senator Diaz
5:50:41 PM Jared Rosenstein, FDEM waives in support
5:50:50 PM Amendment adopted
5:50:57 PM Jared Moshowi, FDEM waives in support
5:51:34 PM Closure waived
5:51:41 PM Roll call by AA
5:51:46 PM CS/SB 538 reported favorably
5:52:02 PM Introduction Tab 3 by Chair Lee
5:52:12 PM Explanation of SB 290, School Bus Safety by Senator Hooper
5:52:54 PM Gary W. Hester, Florida Police Chiefs Association waives in support
5:52:57 PM Mary-Lynn Cullen, Advocacy Institute for Children in support
5:53:06 PM Chase Daniels, Pasco Sheriff's Office waives in support
5:53:12 PM Wayne Bertsch waives in support
5:53:22 PM Nancy Lawther waives in support
5:53:34 PM Comments by Chair Lee
5:53:52 PM Closure waived
5:54:02 PM Roll call by AA
5:54:06 PM SB 290 reported favorably
5:54:18 PM Senator Hooper moves to adjourn, meeting adjourned