

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: March 3, 1998 Revised: _____

Subject: Commercial Motor Vehicles

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>McAuliffe</u>	<u>Johnson</u>	<u>TR</u>	<u>Favorable/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This CS provides that a commercial motor vehicle or combination of vehicles with a gross vehicle weight of 26,001 pounds or more or having 3 axles or more may only be driven in the two right through lanes when being driven on a limited access facility with six or more lanes.

The CS updates references in statute to federal trucking regulations, and provides that penalties imposed for registration violations by commercial motor vehicles may not exceed \$1,000. The CS authorizes the Department of Transportation to conduct terminal audits for compliance with hours of service regulations.

The CS provides for the registration of fleet vehicles. The Department of Highway Safety and Motor Vehicles will set the number of vehicles which comprise a fleet. The CS further provides fees for fleet registration and penalties for late registration.

This CS substantially amends sections 316.091, 316.302, 316.545, 320.01, 320.055, and 320.0657, and repeals section 320.065 of the Florida Statutes.

II. Present Situation:

Section 316.091, F.S., provides restrictions for the use of limited access highways. The section provides that persons may only enter or exit such highways using exits and entrances established by public authority. Further, no person may ride a bicycle, motor driven cycle, or any animal upon any portion of a limited access highway.

Section 316.302, F.S., adopts chapter 49 of the Code of Federal Regulations which applies to all interstate and intrastate motor carriers. Not all parts of the federal code have been specifically

adopted in Florida law, such as commercial driver's license standards, minimum insurance levels for motor carriers, and alcohol and drug testing procedures. Therefore, enforcement personnel are unable to cite violations. Further, current law adopts the Code of Federal Regulations as they existed on March 1, 1997 which would exclude any changes which have been made at the federal level since that date.

The section further authorizes the Department of Transportation to conduct terminal audits. Terminal audits are onsite investigations at a motor carrier's terminal or carrier office, of records of maintenance and inspection, driver qualification, commercial drivers license requirements, financial responsibility, accidents and other safety and business records to determine compliance with applicable laws and regulations. Currently, the Department of Transportation may not review hours of service compliance as part of a terminal audit, but must submit a separate report of its findings to the audited company. When assessed, penalties are \$100 for each violation except the penalty for drug and alcohol violations which are \$250. The aggregate of all penalties assessed during any one terminal audit or compliance review may not exceed \$5,000.

Section 316.545, F.S., imposes penalties for the operation of a motor vehicle in violation of Florida's motor vehicle registration laws. The penalty for exceeding the registered gross weight of a vehicle is 5 cents per pound assessed on the difference between the registered weight and the actual weight; or, if a vehicle is operating with no registration, an expired registration, or is improperly registered pursuant the Florida registration requirements, the penalty is assessed at 5 cents per pound over 35,000 pounds on laden truck tractor-semitrailer combinations or tandem trailer truck combinations; or, 5 cents per pound over 10,000 pounds on laden straight trucks or straight truck-trailer combinations, or on any unladen commercial motor vehicle. There is currently no maximum penalty for unregistered or improperly registered commercial motor vehicles.

Section 320.065, F.S., provides for the permanent registration of certain vehicles which haul agricultural products.

Section 320.0657, F.S., provides that the owner or lessee of 250 or more nonapportioned commercial motor vehicles licensed as passenger vehicles, light trucks, gross vehicle weight trucks, semitrailers, special purpose vehicles or trailers, may register such vehicles as a fleet. Fleet registration offers businesses the convenience of an exemption from carrying a certificate of registration and validation sticker for each vehicle. Currently, to register a fleet of vehicles the owner of the fleet must pay the required regular registration fee for each vehicle plus an annual fee of \$6.

The section further provides that recipients of fleet licence plates must submit an annual audit, prepared by a certified public accountant at the recipients expense, to the Department of Highway Safety and Motor Vehicles. The audit has been a disincentive for companies to join the fleet registration program because the costs for the audit is prohibitive. Further, the department has never found a case of fraud in any fleet audit.

III. Effect of Proposed Changes:

Section 316.091, F.S., is amended to provide that a commercial motor vehicle or combination of vehicles with a gross vehicle weight of 26,001 pounds or more or having 3 axles or more, may only be driven in the two right through lanes when being driven on a limited access facility with six or more lanes. The vehicles may operate in other lanes when exiting the facility. The CS provides an exemption to allow commercial motor vehicles to use additional lanes in congested urban areas where the department feels it is necessary for the safe flow of traffic.

Section 316.302, F.S., is amended to specifically adopt Code of Federal Regulations, parts 40 (alcohol and drug testing procedures), 383 (commercial driver's license standards), and 387 (minimum insurance levels for carriers), and to update the state reference to adopt the Code of Federal Regulations as they exist on March 1, 1998. Changes which have been made at the federal level include: allowing an 18 percent overload on manufactured housing tires; allowing windshield and window tinting; lowering the random alcohol testing rate from 25 percent to 10 percent; and, other technical changes.

The section is further amended to authorize the Department of Transportation to conduct terminal audits for compliance with hours of service regulations.

Section 316.545, F.S., is amended to provide a maximum penalty of \$1,000 for improperly registered commercial motor vehicles.

Section 320.01, F.S., is amended to provide that "agricultural product" means any food product; agricultural, horticultural, or livestock product; any raw material used in plant food formulation; any plant food used to produce food and fiber. This definition is currently in s. 320.065, F.S., relating to permanent trailer registration and must be moved to the definition section for purposes of fleet registration.

Section 320.055, F.S., is amended to provide that the Department of Highway Safety and Motor Vehicles will implement a system that distributes the fleet registration renewal process throughout the year.

The CS repeals s. 320.065, F.S., dealing with permanent registration for certain trucks which carry agricultural products. The CS provides that these trucks may register for fleet license plates.

Section 320.0657, F.S., is amended to provide that "fleet" means non-apportioned motor vehicles owned or leased by a company and used for business purposes. The number of vehicles comprising a fleet will be established by the Department of Highway Safety and Motor Vehicles.

The CS provides that, in addition to the applicable license tax prescribed for the particular vehicle, the owner or lessee of a fleet of motor vehicles must pay an annual fleet management fee of \$2 per vehicle and a one time license plate manufacturing fee of \$1.50 for each vehicle. If the cost to

manufacture the license plate increases the department may increase the fee to recoup its costs. If the size of the fleet increases, a \$20 per vehicle issuance fee will be charged which includes the license plate manufacturing fee. Vehicles registered as a fleet are exempt from carrying a certificate of registration, and no annual validation sticker is required.

The section is further amended to delete the requirement for annual audits by recipients of fleet licence plates. However, all recipients of fleet license plates must provide the Department of Highway Safety and Motor Vehicles with an annual vehicle reconciliation and must annually surrender all unassigned license plates. Failure to comply may result in fines of up to \$1,000 for each occurrence, or suspension or termination from the fleet program.

The section is amended to provide that if the recipient of fleet license plates fails to properly and timely renew or initially register vehicles in its fleet the Department of Highway Safety and Motor Vehicles may impose a delinquency penalty of \$50 or 10 percent of the delinquent taxes due, whichever is greater, if the failure is for not more than 30 days. An additional 10 percent penalty is assessed for each additional 30 days during the time which the failure continues, not to exceed a total penalty of 100 percent of the registration fee. The penalty may not be less than \$50.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Unknown.

C. Government Sector Impact:

The Department of Transportation reports that the \$1,000 cap on registration violations will have a negative impact on the department of approximately \$800,000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
