

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Transportation

BILL: SB 1184

INTRODUCER: Senator Brandes

SUBJECT: Department of Highway Safety and Motor Vehicles

DATE: March 3, 2015

REVISED: _____

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

I. Summary:

SB 1184 revises multiple laws administered by the Department of Highway Safety and Motor Vehicles (DHSMV). More specifically, the bill:

- Allows an employing state agency to pay up to \$5,000 directly to a venue to cover funeral and burial expenses for full-time law enforcement, correctional, or correctional probation officers killed in the line of duty;
- Revises the size of required red hazard flags on projecting loads from 12-inches square to 18-inches square to comply with federal regulations;
- Amends the definition of ancient and antique motor vehicles by requiring the use of the model date of the vehicle to determine its age rather than the manufacture date of a vehicle's engine; and
- Allows disclosure of confidential insurance policy numbers to DHSMV-approved third parties and governmental entities, if required to perform its duties.

II. Present Situation:

Due to the disparate issues addressed in the bill, the present situation for each section is discussed below in Effect of Proposed Changes.

III. Effect of Proposed Changes:

Funeral Expenses of Law Enforcement, Correctional, or Correctional Probation Officers (Section 1)

Current Situation

Section 112.19, F.S., provides supplemental death benefits for law enforcement officers, correctional officers, and correctional probation officers.¹ If a full-time law enforcement, correctional, or correctional probation officer who is employed by a state agency is killed in the line of duty², \$1,000 will be paid toward the funeral and burial expenses of such officer.³ This is in addition to the benefits provided under the provisions of the Workers' Compensation Law, including up to \$7,500 for actual funeral expenses to be paid for by the employer within 14 days after receiving the bill.⁴

The \$1,000 funeral and burial expense benefit is paid to the beneficiary designated by the officer to the employer in writing. If no designation has been made, the benefit is paid, in equal parts, to the officer's surviving children or spouse. If the officer has no surviving child or spouse, the benefit will be paid to the officer's parents or parent. In the event there is no surviving beneficiary, the benefit is paid to the officer's estate.⁵

In the past five years, the state has paid out funeral expense claims for 20 full-time state employees killed in the line of duty.⁶

As of 2012, the median cost of a funeral in the United States was \$7,045.⁷ However, DHSMV estimates funerals for state officers killed in the line of duty generally require a larger venue and therefore often cost more than the current benefit provided by the State.

Effect of Proposed Changes

Section 1 of the bill allows the employing state agency of a full-time law enforcement, correctional, or correctional probation officer who is killed in the line of duty to pay up to \$5,000 *directly to a venue* to cover funeral and burial expenses.

¹ Section 112.19(1)(b), F.S., the term "law enforcement, correctional, or correctional probation officer" means any officer as defined by s. 943.10(14) or any employee of the state or any political subdivision of the state, including any state attorney investigator or public defender investigator whose duties require such officer or employee to investigate, pursue, apprehend, arrest, transport, or maintain custody of persons who are charged with, suspected of committing, or convicted of a crime; any member of a bomb disposal unit whose primary responsibility is the location, handling, and disposal of explosive devices; and any full-time officer or employee of the state or any political subdivision of the state, certified pursuant to chapter 943, whose duties require such officer to serve process or to attend a session of a circuit or county court as bailiff.

² Section 112.19(2)(f), F.S., "as a result of an act of violence inflicted by another person while the officer is engaged in the performance of law enforcement duties or as a result of an assault against the officer under riot conditions."

³ Section 112.19(2)(f), F.S.

⁴ Section 440.16(1)(a), F.S.

⁵ Section 112.19(2)(d), F.S.

⁶ E-mail from Tod Stupski, Bureau Chief, Division of Risk Management, Department of Financial Services (Feb. 24, 2015) (on file with the Senate Committee on Transportation).

⁷ National Funeral Directors Association, *About Funeral Service: 2012 Funeral Costs*, April 2013, (<http://nfd.org/about-funeral-service/-trends-and-statistics.html>) (Last visited Feb. 18, 2015.)

This change provides greater flexibility for an employing state agency to cover funeral and burial expenses by allowing direct payment to a venue, as well as providing additional funds for funeral expenses.

Section 1 also removes the provision that the officer was killed “as a result of an act of violence inflicted by another person.”⁸ This change expands these additional funeral benefits to officers killed in the line of duty while performing law enforcement duties, even if it was not as a result of an act of violence inflicted by another person.

Hazard Flags on Projecting Loads (Section 2)

Current Situation

Section 316.228, F.S., requires red hazard flags on any vehicle having a load which extends beyond its sides or more than four feet beyond its rear. The flags must be at least 12 inches square and mark the extremities of such load.⁹ The penalty for a violation of this section is \$30, plus administrative and court costs.

In 2005, the federal regulations were amended requiring necessary warning flags on commercial motor vehicles transporting projecting loads to be at least 18 inches square.¹⁰ The Federal regulations were revised to make the requirements consistent with the American Association of State Highway and Transportation Officials’ (AASHTO) Guide for Maximum Dimensions and Weights of Motor Vehicles and for the Operation of Nondivisible Load Oversize and Overweight Vehicles, GSW-3, 1991, which represents a consensus of state and industry practices.¹¹

Under current federal regulations, hazard flags on commercial motor vehicles *permitted* to operate within the state are required to “be clean, red or florescent orange, and at least 18 inches square.”¹² These specifications, however, are not reflected in the Florida Statutes. The Federal Motor Carrier Safety Administration has noted this discrepancy between Florida Statutes requiring 12-inch square flags and federal regulations requiring 18-inch square flags.

Effect of Proposed Changes

Section 2 of the bill revises the size of required hazard flags on protruding loads from 12-inch square flags to 18-inch square flags. This change brings Florida into compliance with federal regulations.

⁸ Section 112.19(2)(f), F.S.

⁹ Section 316.228(1), F.S.

¹⁰ 49 C.F.R. s. 393.87(a)

¹¹ 70 Fed. Reg. 48023 (August 15, 2005).

¹² Florida Highway Patrol, *Commercial Motor Vehicle Manual*, Eighth Edition, April 2013, at p. 25, <http://www.flhsmv.gov/fhp/cve/2013TruckingManual.pdf> (Last visited Feb. 18, 2015.)

Ancient or Antique Motor Vehicles (Sections 3, 5, and 6)

Current Situation

An *ancient* motor vehicle is defined as a private-use motor vehicle manufactured in 1945 or earlier, equipped with an engine manufactured in 1945 or earlier or manufactured to the specifications of the original engine.¹³ An *antique* motor vehicle is defined as a private-use motor vehicle manufactured after 1945 and of the age of 30 years or more after the date of manufacture, equipped with an engine of the age of 30 years or more after the date of manufacture.¹⁴

The owner of an ancient or antique motor vehicle, upon application to the DHSMV and upon payment of the license tax, will be issued a special license plate for such motor vehicle. For *ancient* motor vehicles, the license plate is valid for use without renewal so long as the vehicle is in existence.¹⁵ Additionally, owners of antique and ancient motor vehicles pay a reduced registration annual license tax.¹⁶

The Office of the Inspector General found the DHSMV's Bureau of Issuance Oversight is identifying antique motor vehicles by model date of vehicle rather than inspecting vehicles to determine if they are equipped with an engine 30 years or older. This is due to not having the resources to physically inspect each vehicle's engine.¹⁷ The manufacture date of a motor vehicle is not captured in motor vehicle records, however the model year of the vehicle is indicated on these records.¹⁸ The Bureau of Issuance Oversight has requested a legislative change in the definition of an antique or ancient motor vehicle to address this issue.

Effect of Proposed Changes

Section 3 amends the definition of ancient and antique motor vehicles from requiring the DHSMV to verify the vehicle engine's manufacture date is before 1945 or 30 years or older, to instead verifying the model date of the vehicle is before 1945 or 30 years or older.

Sections 5 and 6 reenact statutes referring to ancient and antique motor vehicles to capture the revised definition.

Insurance Policy Number Public Records Disclosure (Section 4)

Current Situation

The Florida Motor Vehicle No-Fault Law¹⁹ requires every owner or registrant of a motor vehicle, which is required to be registered and licensed in Florida, to maintain personal injury protection and property damage liability insurance coverage. Insurers are required to report to the DHSMV and verify the issuance of a new policy to a driver, as well as the renewal, nonrenewal, or

¹³ Section 320.086(1), F.S.

¹⁴ Section 320.086(2)(a), F.S.

¹⁵ Section 320.086(1), F.S.

¹⁶ Section 320.08(1)(d), (2)(a), and (2)(e), F.S.

¹⁷ Office of the Inspector General, *Follow-up Review of the GO Renew (Virtual Office) Audit*, at p. 6, (Oct. 10, 2014).

¹⁸ *Id.*

¹⁹ Sections 627.730-627.7405, F.S.

cancellation of that policy. These customer lists, held by the DHSMV, contain detailed client and policy information. For that reason, the state deemed²⁰ certain information regarding these policies confidential and exempt²¹ from the state's public records requirements²². Specifically, personal identifying information of an insured or former insured, and insurance policy numbers are confidential and exempt from public records disclosure.

Section 324.242, F.S., provides for the limited release of the policy number for a policy covering a vehicle involved in a motor vehicle accident. Upon receipt of a written request and copy of a crash report²³, the DHSMV can release the policy number to:

- Any person involved in such accident;
- The attorney of any person involved in such accident; or
- A representative of the insurer of any person involved in such accident.

Because of the limited release allowed of this information, the DHSMV is currently unable to release policy numbers of vehicles involved in accidents to governmental entities and third parties contracted with the insurer that may need this information to perform its duties. This can include, but is not limited to:

- Clerks of Courts;
- Law Enforcement agencies;
- State Attorneys Offices; or
- DHSMV-approved data collectors contracted with the insurer.

Effect of Proposed Changes

Section 4 of the bill adds “department-approved third parties” and “governmental entities” to the individuals and entities to which the DHSMV can disclose confidential and exempt insurance policy numbers to for motor vehicles involved in an accident.

The bill requires an insurer's representative, contracted third party, or an attorney for a person involved in an accident to show proof of representation before the DHSMV may release an insurance policy number.

Governmental entities²⁴ are not required to provide a written request or copy of the crash report if the information is needed to perform its duties and responsibilities.

²⁰ See Ch. 2007-325, Laws of Fla. (creating s. 324.242, F.S.)

²¹ FLA. CONST., art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances (see *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 2004); and *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption (see Attorney General Opinion 85-62, August 1, 1985).

²² FLA. CONST. art. I, s. 24(a) and ch. 119.07(1), F.S.

²³ Sections 316.064, 316.066, and 316.064, F.S., provide crash report requirements.

²⁴ Defined as “any federal, state, county, district, authority, or municipal officer, department, division, board, bureau, or commission created or established by law.”

The bill effectively reduces the public records exemption related to crash data. Since the bill provides for additional parties to receive protected information, it is a contraction of public records exemptions and does not require a two-thirds vote of the body nor does it require a separate bill.

Effective Date (Section 7)

This bill takes effect October 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

The bill does not create or expand a public records exemption.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Section 1. Surviving beneficiaries may experience reduced out-of-pocket expenses due to increased funeral benefits.

Section 2. There will be a minimal negative fiscal impact on those needing to replace 12-inch square hazard flags with 18-inch square hazard flags. Commercial motor vehicles with a permit to operate in the state are already required to use 18-inch square hazard flags.

Section 3. The bill has a positive fiscal impact on individuals with a motor vehicle that falls under the revised definition of antique and ancient motor vehicles, due to the decreased registration fee.

Section 4. The bill may have a positive impact on DHSMV-approved third parties who contract with insurers.

C. Government Sector Impact:

This bill has a negative, but insignificant, impact on state funds.

Section 1. Indeterminate but possibly slightly negative due to potential increased funds a state agency may pay a venue for funeral and burial service for an officer killed in the line of duty.

Section 2. There will be a minimal negative fiscal impact on those needing to replace 12-inch square hazard flags with 18-inch square hazard flags.

Section 3. Possible minimal negative fiscal impact to registration fee revenue due to a potential increase in antique and ancient motor vehicle registrations.

Section 4. The bill will have a minimal positive impact on governmental entities needing insurance policy numbers of vehicles involved in an accident to perform its duties.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 112.19, 316.228, 320.086, and 324.242.

This bill reenacts the following sections of the Florida Statutes: 319.23 and 320.08.

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.