

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/CS/HB 545 Department of Highway Safety and Motor Vehicles  
**SPONSOR(S):** Government Accountability Committee: Transportation & Tourism Appropriations Subcommittee and Transportation & Infrastructure Subcommittee, Payne and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 784

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	15 Y, 0 N, As CS	Johnson	Vickers
2) Transportation & Tourism Appropriations Subcommittee	12 Y, 0 N, As CS	Cobb	Davis
3) Government Accountability Committee	19 Y, 0 N, As CS	Johnson	Williamson

### SUMMARY ANALYSIS

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

- Creates statutory requirements relating to the operation of autocycles.
- Revises provisions regarding the use of certain lights by volunteer firefighters and wreckers.
- Updates various commercial motor vehicle regulations to comport with federal law.
- Changes the term “construction zone” to “work zone” for purposes of doubled speeding fines.
- Changes references to certain organizations for purposes of license and motor vehicle registration check-offs.
- Expands the use of DHSMV’s electronic filing system to additional industries to process vehicle title transactions.
- Requires apportionable license plates to be replaced every five years instead of every year.
- Reduces motor vehicle registration fees for agricultural vehicles under certain circumstances.
- Authorizes the use of electronic copies of rental car agreements for proof of registration and provides liability provisions.
- Creates a Purple Heart motorcycle special license plate and a Bronze Star special license plate.
- Provides for enforcement of provisions related to the use of the transporter license plate.
- Modifies provisions regarding motor vehicle dealer licensing as it relates to unfair and deceptive trade practices.
- Requires reimbursement to DHSMV of tuition expenses for members of the Florida Highway Patrol who do not meet certain employment requirements.
- Revises reporting requirements relating to driver license suspensions for persons who do not meet school attendance requirements and revises driver license suspension provisions regarding high-risk drivers under age 18.
- Reallocates funds related to certain driver license services from DHSMV to the county tax collectors.
- Authorizes free replacement of a stolen identification card as is currently authorized for stolen driver licenses.
- Requires for-hire vehicles to utilize surplus lines insurers for purposes of financial responsibility.

The bill has a fiscal impact on both the state and local governments. See Fiscal Analysis for details.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

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

#### **Autocycles**

##### Current Situation

An autocycle is commonly defined as a three-wheel motorcycle that has a steering wheel and seating that does not require the operator to straddle or sit astride it.<sup>1</sup> The term “autocycle” is not defined in federal law; however, as of February 2016, at least 22 states have created statutory definitions for an autocycle.<sup>2</sup> Currently, the DHSMV registers autocycles as motorcycles.<sup>3</sup> This means operators of autocycles generally are not required to maintain insurance<sup>4</sup> or wear safety belts,<sup>5</sup> but are required to:

- Maintain a motorcycle endorsement or motorcycle license;<sup>6</sup>
- Wear a helmet, unless over 21 years of age with at least \$10,000 of medical insurance or riding within an enclosed cab;<sup>7</sup> and
- Wear eye protection.<sup>8</sup>

Since autocycles fall under the definition of a motorcycle they are only required to meet the federal safety standards required for motorcycles; thus, autocycles are not required to meet the crash safety standards or occupant safety criteria that a regular passenger motor vehicle is required to meet. At least 21 states do not require a motorcycle endorsement or motorcycle license to operate an autocycle.<sup>9</sup>

##### Proposed Changes

The bill creates s. 316.003(2), F.S., defining “autocycle” as a three-wheel motorcycle that has two wheels in the front and one wheel in the back, is equipped with a roll cage or roll hoops, safety belts for each occupant, antilock brakes, a steering wheel, and seating that does not require the operator to straddle or sit astride it and is manufactured by the National Highway Traffic Safety Administration (NHTSA) registered manufacturer in accordance with the applicable federal motorcycle safety standards.

The bill also amends the definition of motorcycle in s 316.003, F.S., to include an autocycle in the definition of a motorcycle and to exempt a vehicle in which the operator is enclosed by a cabin unless the vehicle meets the requirements set forth by the NHTSA for a motorcycle.

The bill amends s. 316.614(4) and (5), F.S., requiring that the operator, front seat passenger, and any passenger under the age of 18 years old in an autocycle wear a safety belt.

---

<sup>1</sup> American Association of Motor Vehicle Administrators (AAMVA), *Best Practices for the Regulation of Three-Wheel Vehicles* (October 2013), available at <http://www.aamva.org/3wheelvehiclebp/> at p. 4 (last visited March 22, 2017).

<sup>2</sup> National Conference of State Legislatures (NCSL), *Traffic Safety Trends – State Legislative Action 2015* (Feb. 2016), available at [http://www.ncsl.org/Documents/transportation/2015\\_Traffic\\_Safety\\_Trends.pdf](http://www.ncsl.org/Documents/transportation/2015_Traffic_Safety_Trends.pdf) at p. 23 (last visited March 22, 2017).

<sup>3</sup> DHSMV Technical Advisory RS/TL16-015, *Registering the Slingshot* (June 20, 2016), available at [https://www.flhsmv.gov/dmv/bulletins/2016/ta\\_rstl16-015.pdf](https://www.flhsmv.gov/dmv/bulletins/2016/ta_rstl16-015.pdf).

<sup>4</sup> See Ch. 324, F.S., on Motor Vehicle Financial Responsibility.

<sup>5</sup> See s. 316.614(3)(a)5., F.S.

<sup>6</sup> Section 322.03(4), F.S.

<sup>7</sup> Section 316.211, F.S.

<sup>8</sup> Section 316.211(2), F.S.

<sup>9</sup> NCSL, *supra* note 2

The bill amends s. 320.01(26), F.S., including an autocycle in the definition of a motorcycle as it relates to motor vehicle licenses. This will result in autocycles being registered like motorcycles.

The bill amends ss. 322.03(4), and 322.12, F.S., exempting operators of an autocycle from needing a motorcycle endorsement or motorcycle license and from needing to complete motorcycle skills and motorcycle knowledge testing to operate an autocycle.

## **Volunteer Firefighter Lights**

### Current Situation

Section 316.2397(3), F.S., provides that vehicles of the fire department and fire patrol, including vehicles of volunteer firefighters, vehicles of medical staff physicians or technicians of licensed medical facilities, ambulances, buses, and taxicabs may show or display red lights.

Section 316.2398, F.S., relates to the display or use of red warning signals on motor vehicles of volunteer firefighters or medical staff. A privately owned vehicle belonging to an active firefighter member of a regularly organized volunteer firefighting company or association, while en route to the fire station for the purpose of proceeding to the scene of a fire or other emergency or while en route to the scene of a fire or other emergency in the line of duty, or a privately owned vehicle belonging to a medical staff physician or technician of a licensed medical facility licensed, while responding to an emergency in the line of duty, may display or use red warning signals visible from the front and from the rear of such vehicle, subject to the following restrictions and conditions:

- No more than two red warning signals may be displayed;
- No inscription of any kind may appear across the face of the lens of the red warning signal; and
- In order for an active volunteer firefighter to display such red warning signals on his or her vehicle, the volunteer firefighter must first secure a written permit from the chief executive officer of the firefighting organization to use the red warning signals, which must be carried by the volunteer firefighter while the red warning signals are displayed.<sup>10</sup>

It is unlawful for any person who is not an active firefighter member of a regularly organized volunteer firefighting company or association or a physician or technician of the medical staff of a licensed medical facility licensed to display any red warning signals on any motor vehicle owned by him or her.<sup>11</sup>

A violation of s. 316.2398, F.S., is a nonmoving violation, punishable as provided in Ch. 318, F.S.<sup>12</sup> In addition, volunteer firefighters must be dismissed from the firefighting organization by the organization's chief executive officer.<sup>13</sup>

### Proposed Changes

The bill amends ss. 316.2397(3) and 316.2398, F.S., authorizing vehicles registered to volunteer fire fighters to use red *or red and white* lights under certain circumstances. Additionally, the bill amends s. 322.01, F.S., making conforming changes to the definition of "authorized emergency vehicle" as used in Ch. 322, F.S.<sup>14</sup>

## **Wrecker Lights**

### Current Situation

In part, s. 316.2397(3), F.S., requires wreckers to use amber or rotating flashing lights while performing recoveries and loading on the roadside day or night, and may use such lights while towing a vehicle on

---

<sup>10</sup> Section 316.2398(1), F.S.

<sup>11</sup> Section 316.2398(2), F.S.

<sup>12</sup> Chapter 318, F.S., relates to the disposition of traffic infractions.

<sup>13</sup> Section 316.2398(5), F.S.

<sup>14</sup> Chapter 322, F.S., relates to driver licenses.

wheel lifts, slings, or under reach if the wrecker operator deems that amber lights are necessary. Flatbeds, car carriers, or rollbacks may not use amber or rotating flashing lights when hauling a vehicle on the bed unless it creates a hazard to other motorists because of protruding objects.

**Proposed Changes**

The bill amends s. 316.2397(3), F.S., requiring wreckers, flatbeds, car carriers, or rollbacks registered as wreckers<sup>15</sup> to use amber rotating or flashing lights while performing recoveries and loading on the roadside day or night, and authorizing the use of such lights while towing a vehicle on wheel lifts, slings, or under reach if the wrecker operator deems that amber lights are necessary. The bill removes the current prohibition for flatbeds, car carriers or rollbacks.

**Federal Motor Carrier Safety Administration Compatibility**

**Current Situation**

The primary mission of the Federal Motor Carrier Safety Administration (FMCSA), within the United States Department of Transportation, is to prevent commercial motor vehicle-related fatalities and injuries.<sup>16</sup> In 2007, FMCSA delivered to Florida a Motor Carrier Safety Assistance Program (MSCAP) review, which concluded that Florida Statutes have multiple compatibility concerns with federal commercial motor vehicle (CMV) safety regulations.<sup>17</sup>

Florida law defines “commercial motor vehicle” as any self-propelled or towed vehicle used on public highways in commerce to transport passengers or cargo, if such vehicle:

- Has a gross vehicle weight rating of 10,000 pounds or more;
- Is designed to transport more than 15 passengers, including the driver; or
- Is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act,<sup>18</sup> as amended.<sup>19</sup>

Section 316.302(1)(a), F.S., provides that all owners and drivers of CMVs operating on the state’s public highways while engaged in *interstate* commerce are subject to the following parts of 49 C.F.R.:

<b>Part</b>	<b>Heading</b>
382	Controlled Substance and Alcohol Use Testing
385	Safety Fitness Procedures
390	Federal Motor Carrier Safety Regulations; General
391	Qualifications of Drivers and Longer Combination Vehicle Driver Instructors
392	Driving of Commercial Motor Vehicles
393	Parts and Accessories Necessary for Safe Operation
395	Hours of Service for Drivers
396	Inspection, Repair, and Maintenance
397	Transportation of Hazardous Materials; Driving and Parking Rules

Section 320.302(1)(b), F.S., provides that, with certain exceptions, all owners or drivers of CMVs engaged in *intrastate* commerce are subject to the following parts of 49 C.F.R. except as it relates to the definition of bus, as those rules and regulations existed on December 31, 2012:

<b>Part</b>	<b>Heading</b>
382	Controlled Substance and Alcohol Use Testing
383	Commercial Driver’s License Standards; Requirements and Testing

<sup>15</sup> Wreckers are registered pursuant to s. 320.08(5)(d) and (e), F.S.

<sup>16</sup> <https://www.fmcsa.dot.gov/mission/about-us> (Last visited October 20, 2016).

<sup>17</sup> 2007 Florida State MSCAP Review (Copy on file with Transportation & Infrastructure Subcommittee).

<sup>18</sup> 49 U.S.C. ss. 1801 et seq.

<sup>19</sup> Section 316.003(12), F.S.

Part	Heading
385	Safety Fitness Procedures
390	Federal Motor Carrier Safety Regulations; General
391	Qualifications of Drivers and Longer Combination Vehicle Driver Instructors
392	Driving of Commercial Motor Vehicles
393	Parts and Accessories Necessary for Safe Operation
395	Hours of Service for Drivers
396	Inspection, Repair, and Maintenance
397	Transportation of Hazardous Materials; Driving and Parking Rules

Federal regulations define “bus” as “any motor vehicle designed, constructed, and/or used for the transportation of passengers, including taxicabs.”<sup>20</sup> In its 2007 review, FMCSA found that Florida’s exemption for taxicabs was not compatible with federal regulations, which includes taxicabs in the definition of “bus.”<sup>21</sup>

In its 2007 review, FMCSA found that the statutory provision exempting trucks transporting solid waste and recyclable materials with specified mechanisms operating at speeds of less than 20 miles per hour from certain lighting provisions is incompatible with federal regulations,<sup>22</sup> which does not contain a similar exemption and that federal regulations expressly prohibit lamps and reflectors from being obscured.<sup>23</sup>

Federal regulations provide that with some exceptions, CMV drivers are required to be at least 21 years of age.<sup>24</sup> Federal regulations also provide maximum drive time requirements for property carrying vehicles.<sup>25</sup> Section 316.302(2)(a), F.S., provides that a person operating a CMV solely in intrastate commerce and not transporting any hazardous material in amounts that require placarding<sup>26</sup> are not required to comply with the above-referenced federal regulations.

Federal regulations provide hours of service rules for CMV drivers.<sup>27</sup> Florida law also provides that except as provided in federal regulations, a person operating a CMV solely in intrastate commerce and not transporting any hazardous material may not drive:

- More than 12 hours following 10 consecutive hours off duty; or
- For any period after the end of the 16th hour after coming on duty following 10 consecutive hours off duty.<sup>28</sup>

The provisions do not apply to drivers of utility service vehicles.<sup>29</sup>

<sup>20</sup> 49 C.F.R. 390.5.

<sup>21</sup> 2007 Florida State MSCAP Review finding FL/FI-1.

<sup>22</sup> 49 C.F.R. 393 Subpart B.

<sup>23</sup> 2007 Florida State MSCAP Review finding FL/FI-7.

<sup>24</sup> 49 C.F.R. s. 391.11(b)(1).

<sup>25</sup> 49 C.F.R. s. 395.3(a) and (b).

<sup>26</sup> Placarding is required pursuant to 49 C.F.R. part 172. In this analysis, everywhere there is a discussion regarding the transportation of hazardous materials, it is assumed to be in amounts that require placarding.

<sup>27</sup> 49 C.F.R. s. 395

<sup>28</sup> Section 316.302(2)(b), F.S.

<sup>29</sup> 49 C.F.R. s. 395.2, defines “utility service vehicle” as any commercial motor vehicle:

(1) Used in the furtherance of repairing, maintaining, or operating any structures or any other physical facilities necessary for the delivery of public utility services, including the furnishing of electric, gas, water, sanitary sewer, telephone, and television cable or community antenna service;

(2) While engaged in any activity necessarily related to the ultimate delivery of such public utility services to consumers, including travel or movement to, from, upon, or between activity sites (including occasional travel or movement outside the service area necessitated by any utility emergency as determined by the utility provider); and

(3) Except for any occasional emergency use, operated primarily within the service area of a utility’s subscribers or consumers, without regard to whether the vehicle is owned, leased, or rented by the utility.

Section 316.302(2)(c), F.S., provides that except as provided in the federal hours of service rules<sup>30</sup> a person operating a CMV solely in intrastate commerce not transporting any hazardous material may not drive after having been on duty more than 70 hours in any period of seven consecutive days or more than 80 hours in any period of eight consecutive days if the motor carrier operates every day of the week. Upon request of DHSMV, motor carriers are required to furnish time records or other written verification so that DHSMV can determine compliance with the hours of service requirements. Falsification of time records is subject to a civil penalty not to exceed \$100.

Section 316.302(2)(d), F.S., provides that a person operating a CMV solely in intrastate commerce not transporting any hazardous material within a 150 air-mile radius is not required to comply with federal provisions regarding a driver's record of duty status<sup>31</sup> if the requirements of certain federal rules regarding short-haul operations<sup>32</sup> are met. If a driver is not released from duty within 12 hours after the driver arrives for duty, the motor carrier must maintain documentation of the driver's driving times throughout the duty period.

Section 316.302(2)(f), F.S., provides that a person who is operating a CMV having a declared gross vehicle weight of less than 26,001 pounds operating solely in intrastate commerce and who is not transporting hazardous materials or who is transporting petroleum products<sup>33</sup> is exempt from s. 316.302(1), F.S. However, such person must comply with 49 C.F.R. parts 382, 392, and 393, and with 49 C.F.R. ss. 396.3(a)(1) and 396.9.

In its 2007 findings, FMCSA determined that s. 316.302(2)(f), F.S., is not compatible with federal regulations since it exempts vehicles transporting petroleum products and the state definition of petroleum products includes liquids that could require placarding, while federal regulations do not allow drivers of vehicles requiring placarding to be exempt from applicable requirements.<sup>34</sup>

### Proposed Changes

The bill amends various provisions of ss. 316.302(1) and (2), F.S., addressing issues related to Florida's CMV regulations and their incompatibility with federal law.

The bill provides that s. 316.302(1), F.S., applies to CMVs except as it relates to covered farm vehicles.<sup>35</sup> It amends s. 316.302(1)(b), F.S., removing the exception for the federal definition of a bus and updating the date of adoption to December 31, 2016, which updates the state law referencing the applicable federal rules applicable to intrastate CMV vehicles. The bill amends s. 316.302(1)(d), F.S.,

---

<sup>30</sup> 49 C.F.R. s. 395.1.

<sup>31</sup> 49 C.F.R. 395.8.

<sup>32</sup> 49 C.F.R. s. 395.1(e)(1)(iii) and (v) are various rules relating to short-haul operations.

<sup>33</sup> Section 376.301(33), F.S., defines "petroleum product" as "any liquid fuel commodity made from petroleum, including, but not limited to, all forms of fuel known or sold as diesel fuel, kerosene, all forms of fuel known or sold as gasoline, and fuels containing a mixture of gasoline and other products, excluding liquefied petroleum gas and American Society for Testing and Materials (ASTM) grades no. 5 and no. 6 residual oils, bunker C residual oils, intermediate fuel oils (IFO) used for marine bunkering with a viscosity of 30 and higher, asphalt oils, and petrochemical feedstocks."

<sup>34</sup> 2007 Florida MCSAP finding FL/FI-3.

<sup>35</sup> Section 316.003(14), F.S., defines "covered farm vehicles" as a straight truck, or an articulated vehicle, which is all of the following:

- Registered in a state with a license plate, or any other designation issued by that state, which allows law enforcement officers to identify it as a farm vehicle.
- Operated by the owner or operator of a farm or ranch or by an employee or a family member of an owner or operator of a farm or ranch in accordance with s. 316.302(3)
- Used to transport agricultural commodities, livestock, machinery, or supplies to or from a farm or ranch.
- Not used in for-hire motor carrier operations; however, for-hire motor carrier operations do not include the operation of a vehicle meeting the requirements of paragraphs (a)-(c) by a tenant pursuant to a crop-share farm lease agreement to transport the landlord's portion of the crops under that agreement.

removing exceptions regarding headlamps and turn signals by waste collection vehicles under specified circumstances.

The bill creates s. 316.302(1)(e), F.S., providing that the requirement for electronic logging devices and hours of service support documents does not go into effect for motor carriers engaged in intrastate commerce and not carrying hazardous materials until December 31, 2018.

The bill amends s. 316.302(2)(a), F.S., to no longer require intrastate CMVs that are not carrying hazardous materials to comply with certain federal regulations providing maximum drive time requirements. Therefore, these vehicles will not be required to comply with 49 C.F.R. 395.3, documenting the maximum driving time for operators of property carrying vehicles. These drivers continue to be subject to the maximum driving times required by state law.

The bill amends s. 316.302(2)(c), F.S., by removing the \$100 fine for falsifying hours of service records, because it is duplicative of the fine provided in s. 316.3025(3)(b)1., F.S.<sup>36</sup>

The bill amends s. 316.302(2)(d), F.S., adding a reference to 49 C.F.R. 395.1(e)(1)(ii) and (iii)(A) and (C) and removing the provision that a motor carrier is required to maintain documentation of the driver's driving times if a driver is not released from duty with 12 hours after arriving for duty.

The bill amends s. 316.302(2)(f), F.S., adding the terms "gross vehicle weight rating" and "gross combined vehicle weight rating" and removing the provision regarding transporting petroleum products to conform to federal law.

## **Serious Disqualifying CMV Offenses**

### Current Situation

In 2013, the Legislature amended s. 316.3025, F.S., codifying a federal prohibition on CMV drivers using handheld devices while operating a CMV.<sup>37</sup> However, s. 322.61, F.S., relating to offenses disqualifying someone from driving a CMV was not amended to list using a handheld device while operating a CMV as a serious disqualifying offense regarding a commercial driver license.

Section 316.3025(6)(a), F.S., provides penalties associated with texting and using a handheld mobile telephone while driving a CMV. A driver violating the federal prohibitions against texting<sup>38</sup> or using a handheld mobile telephone<sup>39</sup> while operating a CMV, may be assessed a civil penalty and commercial driver license disqualification<sup>40</sup> as follows:

- First violation: \$500;
- Second violation: \$1,000 and a 60-day commercial driver license disqualification;<sup>41</sup>
- Third and subsequent violations: \$2,750 and a 120-day commercial driver license disqualification.

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

- A violation of any state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with a crash resulting in death;
- Reckless driving;<sup>42</sup>

<sup>36</sup> Section 316.3025, F.S., provides the penalties for various CMV violations.

<sup>37</sup> Chapter 2013-160, L.O.F.

<sup>38</sup> 49 C.F.R. 329.80.

<sup>39</sup> 49 C.F.R. 392.82.

<sup>40</sup> Section 320.01(15), F.S., defines "disqualification" as "a prohibition, other than an out-of-service order, that precludes a person from driving a commercial motor vehicle."

<sup>41</sup> Commercial driver license disqualification is pursuant to 49 C.F.R. part 383.

- Unlawful speed of 15 miles per hour or more above the posted speed limit;
- Improper lane change;<sup>43</sup>
- Following too closely;<sup>44</sup>
- Driving a commercial vehicle without obtaining a commercial driver license;
- Driving a commercial vehicle without the proper class of commercial driver license or commercial learner's permit or without the proper endorsement; or
- Driving a commercial vehicle without a commercial driver license or commercial learner's permit in possession.<sup>45</sup>

### Proposed Changes

The bill removes from s. 316.3025(6)(a), F.S., the commercial driver license disqualification for using a handheld mobile device while operating a CMV. The disqualification provisions are moved to s. 322.61, F.S., which lists the serious disqualifying offenses for operating a CMV.

### **Work Zones**

#### Current Situation

Section 318.18, F.S., provides the amount of penalties associated with various traffic violations. It provides that for moving violations involving an unlawful speed, the fines are as follows:

For speed exceeding the limit by:	Fine:
1-5 m.p.h.	Warning
6-9 m.p.h.	\$25
10-14 m.p.h.	\$100
15-19 m.p.h.	\$150
20-29 m.p.h.	\$177
30 m.p.h. and above	\$250

A person cited for exceeding the speed limit in a posted construction zone, which posting must include notification of the speed limit and the doubling of fines, must pay a fine double the amount listed above. The fine is doubled for construction zone violations only if construction personnel are present or operating equipment on the road or immediately adjacent to the road under construction. However, there is no standard definition for “construction zone.”

According to the Department of Transportation (DOT), the Manual on Uniform Traffic Control Devices (MUTCD) defines a work zone as an area of a highway with construction, maintenance, or utility work activities. A work zone is typically marked by signs, channelizing devices, barriers, pavement markings, and/or work vehicles. It extends from the first warning sign or high-intensity rotating, flashing, oscillating, or strobe lights on a vehicle to the END ROAD WORK sign or the last temporary traffic control device.<sup>46</sup>

### Proposed Changes

The bill amends s. 318.18(3)(d), F.S., changing the term “construction zone” to “work zone.” Therefore, fines for unlawful speed would be doubled in a posted work zone, which is broader than the term “construction zone.” This provision applies when DHSMV creates a new inventory of uniform traffic citations.

<sup>42</sup> Reckless driving is defined in s. 316.192, F.S.

<sup>43</sup> Improper lane change is defined in s. 316.085, F.S.

<sup>44</sup> Following too closely is defined in s. 316.0895, F.S.

<sup>45</sup> A license or learner permit is required to drive a commercial motor vehicle pursuant to s. 322.03, F.S.

<sup>46</sup> Email from DOT, March 31, 2017. (Copy on file with Transportation & Infrastructure Subcommittee).

## International Registration Plan

### Current Situation

The International Registration Plan (IRP) is a cooperative registration agreement among all of the states in the continental United States, the District of Columbia, and certain Canadian provinces. The IRP allows a carrier to register once for all the jurisdictions, rather than dealing with each jurisdiction separately. The IRP jurisdictions voted in favor of amending the definition of apportionable vehicle, which went into effect on January 1, 2016. The amendment removed the exemption from IRP registration for charter buses. All charter buses operating interstate are now required to obtain IRP registration or purchase trip permits.<sup>47</sup>

According to DHSMV, Congress has incentivized states to participate in the IRP by requiring participation as a condition for being able to establish, maintain, or enforce their own CMV registration laws and regulations which limit, within their own state, the operation of CMVs registered in another state.<sup>48</sup>

Section 320.01(24), F.S., defines “apportionable vehicle” as any vehicle, except recreational vehicles, vehicles displaying restricted plates, city pickup and delivery vehicles, buses used in transportation of chartered parties, and government-owned vehicles, which is used or intended for use in two or more member jurisdictions that allocate or proportionally register vehicles and which is used for the transportation of persons for hire or is designed, used, or maintained primarily for the transportation of property and:

- Is a power unit having a gross vehicle weight in excess of 26,000 pounds;
- Is a power unit having three or more axles, regardless of weight; or
- Is used in combination, when the weight of such combination exceeds 26,000 pounds gross vehicle weight.

Vehicles, or a combination of vehicles, with a gross vehicle weight of 26,000 pounds or less and two-axle vehicles may be proportionally registered.

### Proposed Changes

The bill amends s. 320.01(24), F.S., removing the exception for charter buses from the definition of “apportionable vehicle.” This will require charter buses operating interstate to register as apportionable vehicles. Pursuant to the revised IRP, all charter buses operating interstate are now required to obtain an IRP registration or purchase trip permits.

## Preserve Vision

### Current Situation

Preserve Vision Florida, formerly Prevent Blindness Florida, is a non-profit organization offering vision education and services to Florida’s children and adults. Its focus is promoting a lifetime of healthy vision care through advocacy, education, screening and research. Its mission is to promote healthy vision through vision awareness and education, vision screening, assistance to receive medical eye care, and advocacy for vision and medical eye care health service.<sup>49</sup> In May of 2016, the organization Prevent Blindness Florida changed its name to Preserve Vision Florida.<sup>50</sup>

---

<sup>47</sup> DHSMV 2017 Legislative Concepts.

<sup>48</sup> Email from DHSMV, February 16, 2017. (Copy on file with Transportation & Infrastructure Subcommittee).

<sup>49</sup> <http://pvfla.org/about-us/> (Last visited March 17, 2017).

<sup>50</sup> Department of State, Division of Corporations – Sunbiz.org, *Preserve Vision Florida, Inc.* (May 4, 2016), <http://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C2016%5C0509%5C84865905.Tif&documentNumber=706503> (last visited March 22, 2017).

Section 320.02, F.S., provides for motor vehicle registration and requires the motor vehicle registration application form to include language permitting the voluntary contribution of \$1 per applicant Prevent Blindness Florida.

Section 320.08068, F.S., creates a motorcycle specialty license plate for an annual use fee of \$20. The annual use is distributed to The Able Trust as custodial agent. The Able Trust may retain a maximum of 10 percent of the proceeds from the sale of the license plate for administrative costs. The Able Trust distributes the remaining funds as follows:

- Twenty percent to the Brain and Spinal Cord Injury Program Trust Fund.
- Twenty percent to Prevent Blindness Florida.
- Twenty percent to the Blind Services Foundation of Florida.
- Twenty percent to the Florida Endowment Foundation for Vocational Rehabilitation to support the James Patrick Memorial Work Incentive Personal Attendant Services and Employment Assistance Program.
- Twenty percent to the Florida Association of Centers for Independent Living.<sup>51</sup>

Section 322.08, F.S., contains statutory provisions regarding an application for a driver license. Section 322.08(8), F.S., requires the application for a driver license or identification card to include voluntary contributions, including a \$1 voluntary contribution to Prevent Blindness Florida.

#### Proposed Changes

The bill amends ss. 320.02(15)(a), 320.08068(4)(b), and 322.08(8)(m), F.S., changing the references in statute from “Prevent Blindness Florida” to “Preserve Vision Florida” to reflect the change in the organization’s name.

### **Use of Electronic Filing System**

#### Current Situation

Section 320.03, F.S., provides the duties of tax collectors as it relates to motor vehicle licensing. It provides that jurisdiction over the electronic filing system for use by authorized electronic filing system agents for certain purposes is expressly preempted to the state, and DHSMV has regulatory authority over the system. The electronic filing system must be available for use statewide and applied uniformly throughout the state.

An entity that, in the normal course of its business, sells products that must be titled or registered, provides title and registration services on behalf of its consumers, and meets all established requirements may be an authorized electronic filing system agent and must not be precluded from participating in the electronic filing system in any county. Upon request from a qualified entity, the tax collector must appoint the entity as an authorized electronic filing system agent for that county.

#### Proposed Changes

The bill amends s. 320.03(10), F.S., providing that effective July 1, 2018, DHSMV’s electronic filing system will be able to process title transactions, derelict motor vehicle certificates, and certificates of destruction for derelict and salvage motor vehicles.<sup>52</sup> The bill also removes an obsolete rulemaking deadline and revises DHSMV’s rulemaking authority.

Motor vehicle dealers currently use DHSMV’s electronic filing system to process vehicle titles and registrations. The bill would allow the insurance and salvage motor vehicle industries to utilize DHSMV’s electronic filing system to process title, derelict motor vehicle, and salvage motor vehicle transactions.

---

<sup>51</sup> Section 320.08068(4), F.S.

<sup>52</sup> Certificates of destruction for derelict and salvage motor vehicles are pursuant to various provisions of s. 319.30, F.S.

## Issuance of Apportionable Motor Vehicle License Plates

### Current Situation

Florida law requires all apportionable vehicles domiciled in Florida to be registered in accordance with the IRP and to display required license plates.<sup>53</sup>

Section 320.06, F.S., provides for motor vehicle registration certificates, license plates, and validation stickers. Upon receiving an initial application for registration and payment of the appropriate license tax<sup>54</sup> and other fees, DHSMV assigns the motor vehicle a registration license number and issues to the owner or lessee a certificate of registration and one license plate, unless two plates are required,<sup>55</sup> for each vehicle registered.<sup>56</sup>

Most license plates are issued for a 10-year period. Upon renewal, the license plate is replaced. However, a vehicle with an apportioned<sup>57</sup> registration is issued an annual license plate and a cab card denoting the declared gross vehicle weight for each apportioned jurisdiction in which the vehicle is authorized to operate.<sup>58</sup>

Section 320.0607, F.S., provides for replacement license plates, validation decals, or mobile home stickers. It requires that upon the issuance of an original license plate, the applicant pays a fee of \$28 to be deposited into the Highway Safety Operating Trust Fund.

### Proposed Changes

The bill amends s. 320.06(1)(b), F.S., providing that before October 1, 2018, a vehicle that has an apportioned registration will be issued a license plate and a cab card denoting the declared gross vehicle weight for each apportioned jurisdiction in which the vehicle is authorized to operate. It provides that beginning October 1, 2018, a vehicle registered in accordance with the IRP, will be issued a license plate for a five-year period, an annual cab card denoting the declared gross vehicle weight, and an annual validation sticker showing the month and year of expiration. The license plate and validation sticker will be issued based on the applicant's appropriate renewal period. The registration period for an apportionable vehicle is for 12 months and the validation sticker is good for 12 months. The annual fee for an original and renewed validation sticker is \$28, which is deposited into the Highway Safety Operating Trust Fund. If the license plate is damaged or worn it may be replaced at no charge by applying to DHSMV and surrendering the current license plate.

The bill amends s. 320.0607(5), F.S., providing that beginning October 1, 2018, the \$28 fee for a replacement license plate does not apply to vehicles registered under the IRP and issued an apportionable license plate.

## Electronic Rental Car Documentation

### Current Situation

Section 320.0605, F.S., requires certificates of registration for motor vehicles. The registration certificate or an official copy, a true copy of rental or lease documentation issued for a motor vehicle or issued for a replacement vehicle in the same registration period, a temporary receipt printed upon self-initiated electronic renewal of a registration via the Internet, or a cab card issued for a vehicle registered under the IRP must be in the possession of the operator of the vehicle or be carried in the vehicle for which issued.<sup>59</sup> This provision does not apply during the first 30 days after purchase of a

---

<sup>53</sup> Section 320.0715(1), F.S.

<sup>54</sup> License taxes are provided for in s. 320.08, F.S.

<sup>55</sup> Section 320.0706, F.S., requires the display of license plates on the front and the rear of some trucks.

<sup>56</sup> Section 320.06(1)(a), F.S.

<sup>57</sup> Section 320.06(3)(a), F.S., requires apportioned license plate to have the word "apportioned" at the bottom of the license plate.

<sup>58</sup> Section 320.06(1)(b)1., F.S.

<sup>59</sup> Section 320.0657, F.S., provides for permanent registration of fleet license plates.

replacement vehicle. A violation is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in Ch. 318, F.S.<sup>60</sup>

Section 320.0605(2), F.S., provides that rental or lease documentation that is sufficient to satisfy the above requirement includes, in part, the date of rental and time of exit from rental facility.

#### Proposed Changes

The bill amends s. 320.0605, F.S., authorizing a copy of rental or lease documentation to be in electronic format.

The bill provides that presenting to a law enforcement officer an electronic device displaying an electronic copy of rental or lease documentation does not constitute consent for the officer to access any information on the device other than the displayed rental or lease documentation. Additionally, the person who presents the device to the officer assumes the liability for any resulting damage to the device. This provision is almost identical to the existing digital proof of automobile insurance statute.<sup>61</sup>

The bill also revises the requirements of the rental documentation to not require the time of exit from the rental facility.

### **Marked State Vehicles**

#### Current Situation

Section 320.0655, F.S., provides for permanent license plates for governmental entities and volunteer fire departments. A permanent license plate must be issued for any motor vehicle owned or exclusively operated by the state or by any county, municipality, or other governmental entity. All such license plates must be of a distinctive color, different from that of plates issued under s. 320.06, F.S.,<sup>62</sup> and must be displayed as required by s. 316.605, F.S.<sup>63</sup> Such plates are removed upon the sale of the vehicle or when the vehicle otherwise becomes ineligible for the permanent plate.<sup>64</sup> Any motor vehicle issued a license plate pursuant s. 320.0655, F.S., is exempt from the requirement to pay annual license taxes,<sup>65</sup> but must pay a \$3 fee to cover the cost of the license plate.<sup>66</sup>

There is currently no provision in statute regarding how state-owned motor vehicles are required to be marked.

#### Proposed Changes

The bill creates s. 320.0655(4), F.S., requiring that a motor vehicle owned by a governmental entity or otherwise purchased with state funds to be clearly marked and numbered in a manner that the ownership of the motor vehicle can easily be determined. This provision does not apply a vehicle\ registered using a fictitious name.<sup>67</sup>

### **Agricultural Restricted License Plate**

#### Current Situation

Section 320.08(4)(m), F.S., provides a restricted license plate for an eligible truck tractor or heavy truck, not operated as a for-hire vehicle, which is engaged exclusively in transporting raw, unprocessed, and non-manufactured agricultural or horticultural products, within a 150 mile radius of its home address. The law sets forth the following fees for the plates:

---

<sup>60</sup> Chapter 318, F.S., relates to the disposition of traffic infractions.

<sup>61</sup> Section 316.646(1), F.S.

<sup>62</sup> Section 320.06, F.S., relates to registration certificates, license plates, and validation stickers.

<sup>63</sup> Section 316.605, F.S., relates to the licensing of vehicles.

<sup>64</sup> Section 320.0655(1), F.S.

<sup>65</sup> Annual license taxes are provided for in s. 320.08, F.S.

<sup>66</sup> The \$3 fee is provided for in s. 320.10(2), F.S.

<sup>67</sup> Section 320.025, F.S., authorizes certain government vehicles to be registered under a fictitious name.

- \$87.75 flat, if the vehicle's declared gross vehicle weight is less than 44,000 pounds.
- \$324 flat, if the vehicle's declared gross vehicle weight is 44,000 pounds or more and such vehicle only transports from the point of production to the point of primary manufacture; the point of assembling the same; or a shipping point by rail, water or motor transportation company.

Section 320.08(4)(n), F.S., authorizes not-for-hire truck tractors and heavy trucks used exclusively in transporting raw, unprocessed and non-manufactured agricultural or horticultural products to be incidentally used to haul farm implements and fertilizers when delivered direct to the growers. For the purpose of this paragraph, "not-for-hire" means that the owner of the motor vehicle must also be the owner of the raw, unprocessed, and non-manufactured agricultural or horticultural product, or the user of farm implements and fertilizer being delivered.

#### Proposed Changes

The bill amends ss. 320.08(4)(m) and (n), F.S., revising the eligibility requirement for the agricultural restricted license plate by removing the 150 mile radius of its home address restriction and instead allows truck tractors or heavy trucks that operate within the State of Florida to be eligible for the restricted license plate. In effect, any such truck tractor or heavy truck operated within the state and meeting the criteria for a restricted license plate would be eligible.

### **Purple Heart Motorcycle Special License Plate**

#### Current Situation

There are currently 21 special use license plates for motor vehicles authorized in s. 320.089, F.S. These special license plates are available to military service members or veterans for various types of service. There are currently no special license plates authorized for motorcycles.

The Purple Heart is awarded to members of the armed forces of the U.S. who are wounded by an instrument of war in the hands of the enemy and posthumously to the next of kin in the name of those who are killed in action or die of wounds received in action.<sup>68</sup>

#### Proposed Changes

The bill creates s. 320.0875, F.S., creating the Purple Heart motorcycle special license plate. Upon application to DHSMV and payment of the motorcycle license tax<sup>69</sup> a resident who owns or leases a motorcycle that is not used for-hire or commercial use is to be issued a Purple Heart motorcycle license plate if he or she provides documentation acceptable to DHSMV that he or she is a recipient of the Purple Heart medal.

The Purple Heart motorcycle special license plate will be stamped with the term "Combat-wounded Veteran." The license plate may have the term "Purple Heart" stamped on the plate and the likeness of the Purple Heart Medal stamped on the license plate.

### **Bronze Star Special License Plate**

#### Current Situation

Section 320.089, F.S., currently authorizes 21 special license plates available to military service members or veterans for certain types of service. Examples of service include Veteran of the U.S. Armed Forces, World War II Veteran, and Woman Veterans.

Special license plates are each stamped with words consistent with the type of special use plate issued. A likeness of the related campaign medal or badge appears on the plate followed by the license plate serial number.

<sup>68</sup> <http://www.purpleheart.org/HistoryOrder.aspx> (Last visited February 20, 2017).

<sup>69</sup> The license tax is provided in s. 320.08, F.S.,

Applicants for special license plates are required to pay the annual license tax<sup>70</sup> with the exception of certain disabled veterans who qualify for the Pearl Harbor, Purple Heart, or Prisoner of War plate, to whom such plates are issued at no cost.<sup>71</sup> The first \$100,000 of the revenue generated annually from the issuance of special use plates is deposited into the Grants and Donations Trust Fund under the Veterans' Nursing Homes of Florida Act.<sup>72</sup> Any additional revenue is deposited into the State Homes for Veterans Trust Fund and used to construct, operate, and maintain domiciliary and nursing homes for veterans.<sup>73</sup>

### Proposed Change

The bill amends s. 320.089, F.S., authorizing DHSMV to create the Bronze Star<sup>74</sup> special use license plate for recipients of the Bronze Star medal who provides proof of their qualification. The license plate will be stamped with the term "Bronze Star" and a likeness of the related campaign medal. Revenue generated from the sale of the Bronze Star special use license plate will be administered the same as the existing special use license plates in s. 320.089, F.S., and deposited into the Grants and Donations Trust Fund and the State Homes for Veterans Trust Fund to support the State Veterans Homes Program.

The bill also reorganizes and renumbers s. 320.089, F.S., relating to special license plates for military service members, veterans, and Pearl Harbor Survivors.

## **Transporter License Plates**

### Current Situation

Section 320.133, F.S., provides for the establishment of transporter license plates. DHSMV may issue a transporter license plate to any applicant who, incidental to conducting his or her business, engages in the transporting of motor vehicles which are not currently registered to any owner and which do not have license plates, upon payment of \$101.25<sup>75</sup> for each transporter license plate and proof of liability insurance coverage in the amount of \$100,000 or more. Transporter license plates are valid for use on any motor vehicle in the transporter's possession while the motor vehicle is being transported in the course of business. Examples of businesses that may use transporter license plates are motor vehicle detail shops, and licensed repossessioners who contract with lending institutions to repossess vehicles.<sup>76</sup>

A transporter license plate is required to be in a DHSMV approved distinctive color, with the word "transporter" on the face of the license plate in place of the county name. It is valid for 12 months beginning January 1 and ending December 31. A refund of the license tax is not provided for any unexpired portion of the license period.

### Proposed Changes

The bill amends s. 320.133, F.S., to define "transporter license plate eligible business" as a business engaged in the limited operation of an unregistered motor vehicle or repossessioner who contracts with lending institutions to repossess or recover motor vehicles or mobile homes. It provides that a person is not eligible to purchase or renew a transporter license plate unless he or she provides satisfactory proof to DHSMV that his or her business is a transporter license plate eligible business.

---

<sup>70</sup> The annual license tax is provided in s. 320.08, F.S.

<sup>71</sup> S. 320.089(2)(a), F.S.

<sup>72</sup> S. 320.089(1)(b), F.S.

<sup>73</sup> Id.

<sup>74</sup> The Bronze Star Medal is awarded to any person who, after December 6, 1941, while serving in any capacity with the Armed Forces of the United States, distinguishes himself or herself by heroic or meritorious achievement or service, not involving participation in aerial flight. There is no count of Bronze Star recipients residing in Florida.

<sup>75</sup> The license tax for a transporter license plate is imposed by s. 320.08(15), F.S.

<sup>76</sup> Email from DHSMV, February 16, 2017. (Copy of file with Transportation & Infrastructure Subcommittee).

The bill requires that the application for qualification as a transporter license plate eligible business contain the legal name of the person or persons applying for the license plate, the name of the business, and the principal or principals of the business. The application must describe the exact physical location of the place of business within the state. This location must be available at all reasonable hours for transporter license plate inspection by DHSMV or any law enforcement agency. The application must contain proof of a garage liability insurance policy or a business automobile policy of at least \$100,000, and the certificate of insurance must indicate the number of transporter license plates reported to the insurance company. Upon seeking initial qualification, the applicant must provide documentation proving that the business is registered with the Department of State. The business must indicate how it meets the qualification as a transporter license plate eligible business by describing the business processes that require the use of a transporter license plate.

DHSMV may issue a transporter license plate to an applicant who is not a licensed dealer<sup>77</sup> and is qualified as a transporter license plate eligible business upon payment of the license tax<sup>78</sup> for each transporter license plate and upon proof of the required insurance. A transporter license plate is only valid for use on an unregistered motor vehicle in the transporter's possession while the motor vehicle is being transported in the course of the transporter's business. A person who sells or unlawfully possesses, distributes, or brokers a transporter license plate to be attached to any vehicle commits a misdemeanor of the second degree, punishable by up to 60 days imprisonment<sup>79</sup> or a fine of up to \$500.<sup>80</sup> Any and all transporter license plates issued are subject to cancellation by DHSMV.

A person who knowingly or willingly sells or unlawfully possesses, distributes, or brokers a transporter license plate to avoid registering a vehicle requiring registration commits a misdemeanor of the first degree, punishable by up to one-year imprisonment<sup>81</sup> or a fine of up to \$1,000,<sup>82</sup> and is disqualified from transporter license plate usage. All transporter license plates issued to the person's business will be canceled and returned to DHSMV immediately upon disqualification. The transporter license plate is subject to removal, and any and all transporter plates issued are subject to cancellation by DHSMV.

A transporter license plate eligible business issued a transporter license plate is required to maintain for two years, at its location, records of each use for each transporter license plate and evidence that the plate was used as required by Ch. 320, F.S. Such records must be open to inspection by DHSMV or its agents or any law enforcement officer during reasonable business hours. A person who fails to maintain records of any transporter license plate usage commits a misdemeanor of the second degree, may be subject to cancellation of any and all transporter license plates issued, and is automatically disqualified from future transporter license plate issuance.

When attached to a motor vehicle, a transporter license plate must be accompanied by the registration issued for the license plate and proof of insurance. A person operating a motor vehicle with a transporter license plate attached who fails to provide the required documentation commits a misdemeanor of the second degree, and the license plate is subject to removal. This does not apply to a person who contracts with dealers and auctions to transport motor vehicles.

A transporter license plate attached to a motor vehicle in violation s. 320.133, F.S., must be immediately removed from the motor vehicle by law enforcement and surrendered to DHSMV by the law enforcement agency for cancellation.

---

<sup>77</sup> Motor vehicle dealers are licensed pursuant to s. 320.27, F.S.

<sup>78</sup> Section 320.08(15), F.S., provides for the license tax for a transporter license plate.

<sup>79</sup> Section 775.082, F.S.

<sup>80</sup> Section 775.083, F.S.

<sup>81</sup> Section 775.082, F.S.

<sup>82</sup> Section 775.083, F.S.

## Motor Vehicle Dealers

### Current Situation

Section 320.27, F.S., relates to motor vehicle dealers. It defines “motor vehicle dealer” as any person engaged in the business of buying, selling, or dealing in motor vehicles or offering or displaying motor vehicles for sale at wholesale or retail, or who may service and repair motor vehicles pursuant to an agreement.<sup>83</sup> Any person who buys, sells, or deals in three or more motor vehicles in any 12-month period or who offers or displays for sale three or more motor vehicles in any 12-month period is prima facie presumed to be engaged in such business. The terms “selling” and “sale” include lease-purchase transactions. A motor vehicle dealer may, at retail or wholesale, sell a recreational vehicle<sup>84</sup> acquired in exchange for the sale of a motor vehicle, provided such acquisition is incidental to the principal business of being a motor vehicle dealer. However, a motor vehicle dealer may not buy a recreational vehicle for the purpose of resale unless licensed as a recreational vehicle dealer.<sup>85</sup>

A motor vehicle dealer may apply for a certificate of title to a motor vehicle required to be registered under s. 320.08(2)(b), (c), and (d), F.S., using a manufacturer's statement of origin as permitted by s. 319.23(1), F.S., only if such dealer is authorized by a franchised agreement to buy, sell, or deal in such vehicle and is authorized by such agreement to perform delivery and preparation obligations and warranty defect adjustments on the motor vehicle; provided this limitation does not apply to recreational vehicles, van conversions, or any other motor vehicle manufactured on a truck chassis. The transfer of a motor vehicle by a dealer not meeting these qualifications must be titled as a used vehicle.

The term “motor vehicle dealer” does not include persons not engaged in the purchase or sale of motor vehicles as a business who are disposing of vehicles acquired for their own use or for use in their business or acquired by foreclosure or by operation of law, provided such vehicles are acquired and sold in good faith and not for the purpose of avoiding the provisions of law; persons engaged in the business of manufacturing, selling, or offering or displaying for sale at wholesale or retail no more than 25 trailers in a 12-month period; public officers while performing their official duties; receivers; trustees, administrators, executors, guardians, or other persons appointed by, or acting under the judgment or order of, any court; banks, finance companies, or other loan agencies that acquire motor vehicles as an incident to their regular business; motor vehicle brokers; and motor vehicle rental and leasing companies that sell motor vehicles to motor vehicle dealers licensed under s. 320.27, F.S.

Section 320.27(1)(d), F.S., defines “motor vehicle broker” as a person engaged in the business of offering to procure or procuring motor vehicles for the general public, or who holds himself or herself out through solicitation, advertisement, or otherwise as one who offers to procure or procures motor vehicles for the general public, and who does not store, display, or take ownership of any vehicles for the purpose of selling such vehicles. Motor vehicle brokers are not licenses in the State of Florida.

### Proposed Changes

The bill amends the definition of “motor vehicle dealer” to include a person who engages in possessing, storing, or displaying motor vehicles for retail sale; negotiating with consumers regarding the terms of sale for a motor vehicle; providing test drivers of motor vehicles offered for sale; or delivering or arranging for delivery of a motor vehicle in conjunction with the sale of a motor vehicle. A person whose sole dealing in motor vehicles is owning a publication in which, or hosting a website on which, licensed motor vehicle dealers display vehicles for sale are not considered motor vehicle dealers.

The bill amends the definition of “motor vehicle broker” to include any person engaged in the business of, or holds himself or herself out through solicitation, advertisement, or otherwise as being in the

---

<sup>83</sup> Section 320.60(1), F.S., defines “agreement” or “franchise agreement” means a contract, franchise, new motor vehicle franchise, sales and service agreement, or dealer agreement or any other terminology used to describe the contractual relationship between a manufacturer, factory branch, distributor, or importer, and a motor vehicle dealer, pursuant to which the motor vehicle dealer is authorized to transact business pertaining to motor vehicles of a particular line-make.

<sup>84</sup> Recreational vehicles are described in s. 320.01(1)(b)1.-6. And 8., F.S.

<sup>85</sup> Recreational vehicle dealers are licensed pursuant to s. 320.771, F.S.

business of assisting the general public in purchasing or leasing a motor vehicle from a licensed motor vehicle dealer, and who does not deal in motor vehicles as delineated in the definition of the term “motor vehicle dealer.” An advertisement or solicitation by a motor vehicle broker must include that the broker is receiving a fee and must clearly state that the broker is not a licensed motor vehicle dealer.

The bill amends s. 320.27(2), F.S., relating to motor vehicle dealer license requirements providing that any person acting in violation of the licensing requirement has committed an unfair and deceptive trade practice.

## **Law Enforcement Training Reimbursement**

### Current Situation

Section 321.25, F.S., authorizes DHSMV to provide for the training of law enforcement officials and individuals in matters relating to the duties, functions, and powers of the Florida Highway Patrol (FHP) in schools established by DHSMV. DHSMV is authorized to charge a fee for providing the training. These costs may include, but are not limited to, tuition, lodging, and meals. While DHSMV is authorized to charge a fee for training, it currently does not charge a fee for FHP recruits.

Section 943.16, F.S., authorizes an employing agency<sup>86</sup> to pay the tuition of a trainee attending an approved basic recruit training program.<sup>87</sup> A trainee attending an approved training program at an employing agency’s expense is required to remain employed by the employing agency for a period of not less than two years after graduation. If employment is terminated on the trainee’s own initiative within two years, he or she is required to reimburse the employing agency for the full cost of his or her tuition and other course expenses.<sup>88 89</sup>

### Proposed Changes

The bill amends s. 321.25, F.S., providing that notwithstanding s. 943.16, F.S., a person who attends DHSMV’s training academy at DHSMV’s expense must remain employed by DHSMV for at least three years. Once employed, if the person fails to remain employed by FHP for at least three years from the first date of employment, he or she must repay the cost of tuition and other course expenses<sup>90</sup> to DHSMV.

The bill authorizes DHSMV to institute a civil action to collect the cost of tuition and other course expenses that are not reimbursed, provided that FHP provided written notification to the person of the three-year employment commitment during the employment screening process and the person returned a signed acknowledgement of receipt of such notification.

DHSMV may waive a person’s requirement for reimbursement in part or in full when the person terminates employment due to hardship or extenuating circumstances.

## **“D” Designation on Identification Cards**

### Current Situation

In general, s. 322.051, F.S., provides requirements for identification cards. DHSMV may issue an identification card to any person who is 5 years of age or older, or any person who has a disability, regardless of age, who applies for a disabled parking permit<sup>91</sup> upon completion of an application and

---

<sup>86</sup> Section 943.10(4), F.S., defines “employing agency” as any agency or unit of government or any municipality or the state or any political subdivision thereof, or any agent thereof, which has constitutional or statutory authority to employ or appoint persons as officers. The term also includes any private entity which has contracted with the state or county for the operation and maintenance of a nonjuvenile detention facility.

<sup>87</sup> Section 943.16(1), F.S.

<sup>88</sup> Section 943.16(5), F.S., provides that “other course expenses” includes the cost of meals.

<sup>89</sup> Section 943.16(2), F.S.

<sup>90</sup> The bill provides that “other course expenses” may include the cost of meals and lodging.

<sup>91</sup> Disabled parking permits are provided under s. 320.0848, F.S.

payment of an application fee. Upon request by a person who has a developmental disability, or by a parent or guardian of a child or ward who has a developmental disability, DHSMV may issue an identification card exhibiting a capital “D” for the person, child, or ward if the person or the parent or guardian of the child or ward submits payment of an additional \$1 fee and proof acceptable to DHSMV of a diagnosis by a licensed physician of a developmental disability.<sup>92</sup>

The above provision applies when DHSMV implements a new design of the driver license and identification card.<sup>93</sup>

### Proposed Changes

The bill amends s. 322.051(8)(e)1., F.S., providing that persons with post-traumatic stress disorder<sup>94</sup> or traumatic brain injury<sup>95</sup> may receive the “D” designation on his or her identification card. This also applies to a parent or guardian’s request for a child or ward.

## **Truancy Reporting**

### Current Situation

Section 322.091, F.S., provides school attendance requirements for minors to be eligible for driving privileges. A minor is not eligible for driving privileges unless he or she:

- Is enrolled in a public school, nonpublic school, or home education program and satisfies relevant attendance requirements;
- Has received a high school diploma, a high school equivalency diploma, a special diploma, or a certificate of high school completion;
- Is enrolled in a study course in preparation for the high school equivalency examination and satisfies relevant attendance requirements;
- Is enrolled in other educational activities approved by the district school board and satisfies relevant attendance requirements;
- Has been issued a certificate of exemption;<sup>96</sup> or
- Has received a hardship waiver.<sup>97</sup>

DHSMV may not issue a driver license or learner's driver license to, and is required to suspend the license of, any minor if DHSMV is notified of noncompliance with the school attendance requirements.<sup>98</sup>

Section 322.091(5), F.S., requires DHSMV to report quarterly to each school district certain information regarding each student whose driving privileges have been suspended for not meeting the school attendance requirements. According to DHSMV, it has automated this function and any school needing this information can now access it on-line and in real time.<sup>99</sup>

---

<sup>92</sup> Section 393.063(12), F.S., defines “developmental disability” as a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.

<sup>93</sup> Section 3 of Ch. 2016-175, L.O.F.

<sup>94</sup> Post-traumatic stress disorder (PTSD) is a mental health condition that is triggered by either experiencing or witnessing a terrifying event. Symptoms of PTSD include flashbacks, nightmares and severe anxiety, as well as uncontrollable thoughts about the traumatic event.

<sup>95</sup> Traumatic brain injury (TBI) occurs when external mechanical forces cause brain dysfunction. TBI is usually the result of a violent blow or jolt to the head or body. An object penetrating the skull can also cause TBI. Serious TBI can result in bruising, torn tissues, bleeding and other physical damage to the brain that can result in long-term complications or death.

<sup>96</sup> This is in accordance with s. 1003.21(3), F.S., which authorizes a district school superintendent to authorize certificates of exemptions from school attendance requirements in certain situations.

<sup>97</sup> Hardship waivers are granted pursuant to s. 322.091(3), F.S.

<sup>98</sup> Section 322.091(1), F.S.

<sup>99</sup> DHSMV 2017 Legislative Concepts.

## Proposed Changes

The bill amends s. 322.091(5), F.S., providing that instead of submitting printed quarterly reports to school districts, DHSMV, upon request, must report information regarding students whose driving privilege has been suspended for not meeting school attendance requirements. The current on-line access to truancy information available to school districts remains unchanged.

## **Driver License Fees – Tax Collectors**

### Examination Fees

#### *Current Situation*

Section 322.12(1), F.S., provides legislative intent that every applicant for an original driver license must pass an examination. However, DHSMV may waive the knowledge, endorsement, and skills tests for an applicant who is otherwise qualified and who surrenders a valid driver license from another state or a province of Canada, or a valid driver license issued by the U.S. Armed Forces, if the driver applies for a Florida license of an equal or lesser classification.

Any applicant who fails to pass the initial knowledge test incurs a \$10 fee for each subsequent test, and any applicant who fails to pass the initial skills test incurs a \$20 fee for each subsequent test. The fees for subsequent tests, regardless of whether the test is administered by DHSMV or a tax collector, are deposited into the Highway Safety Operating Trust Fund.

According to DHSMV, the county tax collectors have been performing the subsequent driver license knowledge and skills tests while the fees associated with these tests have been remitted to DHSMV.<sup>100</sup>

#### *Proposed Changes*

The bill amends s. 322.12(1)(a), F.S., providing that for a subsequent knowledge test administered by the tax collector, the tax collector retains the \$10 fee less the general revenue surcharge, which is currently 8 percent.<sup>101</sup> For a subsequent skills test administered by the tax collector, the tax collector retains the \$20 fee less the general revenue surcharge.

### Reinstatement Fees

#### *Current Situation*

Section 322.21(8), F.S., provides that any person who applies for reinstatement following the suspension<sup>102</sup> or revocation<sup>103</sup> of the person's driver license must pay a service fee of \$45 following a suspension and \$75 following a revocation, which is in addition to the fee for a license. Any person who applies for reinstatement of a commercial driver license following the disqualification<sup>104</sup> of the person's privilege to operate a commercial motor vehicle must pay a service fee of \$75, which is in addition to the fee for a license. DHSMV is required to collect all of these fees at the time of reinstatement.

DHSMV must issue proper receipts for such fees and promptly transmit all funds as follows:

- Of the \$45 fee received from a licensee for reinstatement following a suspension, DHSMV deposits \$15 in the General Revenue Fund and \$30 in the Highway Safety Operating Trust Fund.
- Of the \$75 fee received from a licensee for reinstatement following a revocation or disqualification, DHSMV deposits \$35 in the General Revenue Fund and \$40 in the Highway Safety Operating Trust Fund.

---

<sup>100</sup> Email from DHSMV, February 16, 2017. (Copy on file with Transportation & Infrastructure Subcommittee).

<sup>101</sup> Section 215.20(1), F.S.

<sup>102</sup> Section 322.01(40), F.S., defines "suspension" as "the temporary withdrawal of a licensee's privilege to drive a motor vehicle."

<sup>103</sup> Section 322.01(36), F.S., defines "revocation" as "the termination of a licensee's privilege to drive."

<sup>104</sup> Section 320.01(15), F.S., defines "disqualification" as "a prohibition, other than an out-of-service order, that precludes a person from driving a commercial motor vehicle."

According to DHSMV, the county tax collectors process some driver license reinstatements; however, the tax collectors do not receive any of the fees associated with providing these services.

#### *Proposed Changes*

The bill amends s. 322.21(8), F.S., providing that if a driver license reinstatement is processed by the tax collector, \$15 less the general revenue surcharge is retained by the tax collector; \$15 is deposited into the Highway Safety Operating Trust Fund; and \$15 is deposited into the General Revenue Fund.

For reinstatements processed by the tax collector, \$20 less the general revenue surcharge is retained by the tax collector, \$20 is deposited into the Highway Safety Operating Trust Fund, and \$35 is deposited into the General Revenue Fund.

### **High-Risk Drivers**

#### Current Situation

Section 322.161, F.S., relates to high-risk drivers. It requires DHSMV to restrict the driving privilege of any Class E licensee who is age 15 through 17 and who has accumulated six or more points,<sup>105</sup> excluding parking violations, within a 12-month period.

Upon determination that any person has accumulated six or more points, DHSMV must notify the licensee and issue the licensee a restricted license for business purposes only. The licensee must appear before DHSMV within 10 days after notification to have this restriction applied. The period of restriction is for a period of no less than one year beginning on the date it is applied by DHSMV.

The restriction is automatically withdrawn by DHSMV after one year if the licensee does not accumulate any additional points. If the licensee accumulates additional points, the period of restriction is extended 90 days for each point. The restriction is also automatically withdrawn upon the licensee's 18th birthday if no other grounds for restriction exist. The licensee must appear before DHSMV to have the restriction removed and a duplicate license issued.

Any action taken by DHSMV pursuant to s. 322.161, F.S., is not subject to any formal or informal administrative hearing or similar administrative procedure.

#### Proposed Changes

The bill amends s. 322.161, F.S., creating the Brittany Baxter Act. The bill changes the time period for a driver age 15 through 17 to accumulate six points from 12 months to 15 months, and provides that the driver license restriction is for at least one year. The bill provides that during the period of restriction, the licensee is required to complete a 12-hour approved advanced driver improvement course and receive four hours of behind-the-wheel training from a Florida licensed commercial driving school.

The bill amends the provision regarding the automatic withdrawal of the driver license restriction to one year if the licensee has completed a DHSMV approved driver improvement course. If the licensee has not completed the course requirement, the period of restriction is extended until the licensee completes the course requirement. Potentially, additional high-risk drivers will be issued restricted driver licenses due to increasing the period of time where a driver accumulates six points receives a restricted driver license.

### **Stolen Identification Cards**

#### Current Situation

Section 322.17(1)(b), F.S., provides that in the event that a learner permit or driver license is stolen, the person to whom the driver license or learner permit was issued may, at no charge, obtain a

replacement upon furnishing proof satisfactory to DHSMV that the permit or license was stolen and further furnishing the full name, date of birth, sex, residence and mailing address, proof of birth satisfactory to DHSMV, and proof of identity satisfactory to DHSMV.

There is no corresponding provision in statute providing for the free replacement of stolen identification cards.

#### Proposed Changes

The bill amends s. 322.17(1)(b), F.S., authorizing a person to receive a replacement for a stolen identification card at no charge, by providing proof that the identification card was stolen and furnishing the required information to DHSMV.

### **Replacement Driver Licenses**

#### Current Situation

Section 322.21(1)(e), F.S., provides that the fee for a replacement driver license is \$25.<sup>106</sup> From this amount, \$7 is deposited into the Highway Safety Operating Trust Fund and \$18 is deposited into the General Revenue Fund. Beginning July 1, 2015, or upon the completion of the transition of driver license issuance services, if the tax collector issues the replacement driver license, the \$7 that is currently deposited into the Highway Safety Operating Trust Fund is retained by the tax collector.

#### Proposed Changes

The bill amends s. 322.21(1)(e), F.S., removing obsolete language regarding the transfer of driver license issuance services to the tax collector. The transfer of driver license services to tax collectors has been completed.

### **Specialty Driver Licenses**

#### Current Situation

Section 322.1415, F.S., created the specialty driver license and identification card program. DHSMV was authorized to issue to any applicant qualified pursuant to s. 322.14, F.S.,<sup>107</sup> a specialty driver license or identification card upon payment of the appropriate fee pursuant to s. 322.21, F.S.<sup>108</sup> Any specialty driver license or identification card approved by DHSMV had to be available for state and independent universities domiciled in Florida, all Florida professional sports teams,<sup>109</sup> and all branches of the U.S. Armed Forces. Section 322.1415, F.S., was repealed as of August 31, 2016. According to DHSMV, there was no interest on behalf of the various entities eligible for specialty driver licenses to move forward with the concept and no specialty driver licenses were ever issued.<sup>110</sup>

Section 322.21(1)(i), F.S., provides for the fees related to a specialty driver license or identification card.

#### Proposed Change

The bill repeals s. 322.21(1)(i), F.S., providing for the fee and distribution associated with the repealed specialty driver license and identification card program.

---

<sup>106</sup> Replacement driver licenses are issued pursuant to s. 322.17, F.S.

<sup>107</sup> Section 322.14, F.S., relates to licenses issued to drivers.

<sup>108</sup> Section 322.21, F.S., relates to driver license fees.

<sup>109</sup> Florida professional sports teams are designated pursuant to s. 320.08058(9)(a), F.S.

<sup>110</sup> Email from DHSMV, February 16, 2017. (Copy on file with Transportation & Infrastructure Subcommittee).

## **Expedited Mailing Service**

### Current Situation

Section 319.323, F.S., authorizes a \$10 service fee for customers to receive a motor vehicle title in an expedited time frame.<sup>111</sup> However, current law does not authorize DHSMV to collect an expedited mailing fee related to driver licenses and identification cards.

### Proposed Changes

The bill creates s. 322.21(10), F.S., providing that an applicant for a renewal or duplicate driver license or identification card submitted to DHSMV using a convenience service will be provided with an option for expedited mailing where DHSMV at the applicant's request, issues the driver license or identification card within five working days after receiving the application and mails the license or card using an expedited mail option. A fee will be charged for the mailing option, not to exceed the cost of expedited mail service, which is in addition to the fees imposed by ss. 322.051<sup>112</sup> or 322.21, F.S.,<sup>113</sup> for the convenience service. Fees collected for the expedited shipping option will be deposited into the Highway Safety Operating Trust Fund.

## **For-hire Passenger Transportation - Financial Responsibility**

### Current Situation

Section 324.031, F.S., provides that 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, which policy is issued by an insurance carrier which is a member of the Florida Insurance Guaranty Association.<sup>114</sup> The operator or owner of any other vehicle may prove financial responsibility by furnishing satisfactory evidence of holding a motor vehicle liability policy, furnishing a certificate of self-insurance showing a deposit of cash, or furnishing a certificate of self-insurance issued by the DHSMV. However, any person, including a firm, partnership, association, corporation, or other person, other than a natural person, proving financial responsibility by certificate of self-insurance showing a deposit of cash must have a deposit equal to the number of vehicles owned times \$30,000, to a maximum of \$120,000. In addition, such person must maintain insurance providing excess coverage of minimum limits of \$125,000/\$250,000/\$50,000 or \$300,000 combined single limits.

### Proposed Changes

The bill amends s. 324.031, F.S., specifying that a for-hire passenger transportation vehicle's motor vehicle liability policy must be provided by an insurer authorized to do business in Florida and who is a member of the Florida Insurance Guaranty Association or an eligible nonadmitted insurer that has a superior, excellent, exceptional, or equivalent financial strength rating by a rating agency acceptable to the Office of Insurance Regulation of the Financial Services Commission.

## **Towing from Private Property**

### Current Situation

Section 715.07, F.S., relates to the towing of vehicles<sup>115</sup> or vessels<sup>116</sup> parked on private property. It provides that the owner or lessee of real property, or any person authorized by the owner or lessee, may cause any vehicle or vessel parked on such property without her or his permission to be removed by a person regularly engaged in the business of towing vehicles or vessels, without liability for the

---

<sup>111</sup> This is in addition to other fees associated with obtaining a motor vehicle title.

<sup>112</sup> Section 322.051, F.S., relates to identification cards.

<sup>113</sup> Section 322.21, F.S., provides for license fees.

<sup>114</sup> The Florida Insurance Guaranty Association is created in s. 631.55, F.S.

<sup>115</sup> Section 715.07(1)(a), F.S., defines "vehicle" as any mobile item which normally uses wheels, whether motorized or not.

<sup>116</sup> Section 715.07(2)(a), F.S., defines "vessel" as every description of watercraft, barge, and airboat used or capable of being used as a means of transportation on water, other than a seaplane or a "documented vessel" as defined in s.

327.02, F.S.

costs of removal, transportation, or storage or damages caused by such removal, transportation, or storage, under certain circumstances. The towing or removal of any vehicle or vessel from private property without the consent of the registered owner or other legally authorized person in control of that vehicle or vessel is subject to strict compliance with certain conditions and restrictions.

Section 715.07(2)(a)9., F.S., provides that when a vehicle or vessel has been towed or removed, it must be released to its owner or custodian within one hour after requested. Any vehicle or vessel owner or agent has the right to inspect the vehicle or vessel before accepting its return, and no release or waiver of any kind which would release the person or firm towing the vehicle or vessel from liability for damages noted by the owner or other legally authorized person at the time of the redemption may be required from any vehicle or vessel owner, custodian, or agent as a condition of release of the vehicle or vessel to its owner. A detailed, signed receipt showing the legal name of the company or person towing or removing the vehicle or vessel must be given to the person paying towing or storage charges at the time of payment, whether requested or not.

### Proposed Changes

The bill amends s. 715.07(2)(a)9., F.S., providing that a towed motor vehicle or vessel must be released to its owner or person in custody or control of the vehicle or vessel, which includes, but is not limited to, a person in possession of the keys or person in possession of a signed letter from the owner within one hour after requested. The release of the vehicle does not require an original signed letter. Faxes, emails, or other electronic transmissions are must be accepted as forms of authorization to release a vehicle or vessel.

The bill republishes s. 715.07(5)(b), F.S., providing that a violation of s. 715.07(2)(a)9., F.S., is a felony of the third degree.

## **Cargo Theft**

### Current Situation

Section 812.014, F.S., provides penalties associated with commercial vehicle theft or cargo. If the property stolen is valued at \$100,000 or more or is a semitrailer that was deployed by a law enforcement officer; is cargo valued at \$50,000 or more that has entered the stream of interstate or intrastate commerce from the shipper's loading platform to the consignee's receiving dock; or if the offender commits any grand theft and:

- In the course of committing the offense the offender uses a motor vehicle as an instrumentality, other than merely as a getaway vehicle, to assist in committing the offense and thereby damages the real property of another; or
- In the course of committing the offense the offender causes damage to the real or personal property of another in excess of \$1,000,

The offender commits grand theft in the first degree. Grand theft in the first degree is punishable as a felony of the first degree, which is a term of imprisonment not to exceed 30 years or a fine not to exceed \$10,000. Additionally, the person may be subject to enhanced penalties for certain habitual felony offenders.<sup>117</sup>

FHP's Bureau of Criminal Investigations and Intelligence within DHSMV investigates commercial vehicle and cargo theft and other forms of criminal activity related to DHSMV and FHP. The Bureau works with local, state, and federal partners in an effort to combat such activity.<sup>118</sup>

---

<sup>117</sup> Sections 775.082, 775.083, and 775.084, F.S.

<sup>118</sup> DHSMV Website <https://www.flhsmv.gov/florida-highway-patrol/specialized-areas/bureau-of-criminal-investigations-and-intelligence-bcii/> (Last Visited April 24, 2017).

Global positioning system (GPS) jammers are devices using radio frequency transmitters in order to intentionally block, jam, or interfere with GPS. It is illegal to market, sell, or use GPS jammers in the United States.<sup>119</sup> Such devices have been linked to cargo thefts throughout the United States.<sup>120</sup>

#### Proposed Changes

The bill creates provides that if in the course of committing an offense of theft an offender uses any type of device to defeat, block, disable, jam, or interfere with GPS or similar system designed to identify the location of the cargo of the vehicle or trailer carrying the cargo commits grand theft in the first degree.

#### **Cross-References**

The bill amends ss. 212.05, 316.303, 316.545, 316.613, and 655.970, F.S., conforming cross-references.

#### **B. SECTION DIRECTORY:**

Section 1 creates s. 316.003, F.S., providing definitions.

Section 2 amends s. 316.2397, F.S., relating to certain lights prohibited; exceptions.

Section 3 amends s. 316.2398, F.S., relating to the display or use of warning signals on motor vehicles of volunteer fire fighters or medical staff.

Section 4 amends s. 320.302, F.S., relating to commercial motor vehicles.

Section 5 amends s. 316.3025, F.S., relating to commercial motor vehicle penalties.

Section 6 amends s. 316.614, F.S., relating to safety belt usage.

Section 7 amends s. 316.18, F.S., relating to the amount of penalties.

Section 8 amends s. 320.01, F.S., revising the definitions of “apportionable vehicle” and “motorcycle.”

Section 9 amends s. 320.02, F.S., relating to registration required; application for registration.

Section 10 amend s. 320.03, F.S., relating to registration; duties of tax collectors.

Section 11 amends s. 320.06, F.S., relating to registration certificates, license plates, and validation stickers.

Section 12 amends s. 320.0605, F.S., relating to certificates of registration and required possession.

Section 13 amends s. 320.0607, F.S., relating to replacement license plates, validation decals, or mobile home stickers.

Section 14 amends s. 320.0655, F.S., relating to permanent license plates for governmental entities and volunteer fire departments.

Section 15 amends s. 320.08, F.S., relating to license taxes.

Section 16 amends s. 320.08068, F.S., relating to motorcycle specialty license plates.

---

<sup>119</sup> See GPS.gov, *Information About GPS Jamming*, <http://www.gps.gov/spectrum/jamming/> (last visited April 23, 2017).

<sup>120</sup> Federal Bureau of Investigation, Private Industry Notification 141002-001, *Cargo Thieves use GPS Jammers to Mask GPS Trackers* (Oct. 2, 2014), available at <https://info.publicintelligence.net/FBI-CargoThievesGPS.pdf> (last visited April 23, 2017).

Section 17 creates s. 320.0875, F.S., creating the Purple Heart motorcycle special license plate.

Section 18 amends s. 320.089, F.S., relating to special license plates.

Section 19 amends s. 320.133, F.S., relating to transporter license plates.

Section 20 amends s. 320.27, F.S., relating to motor vehicle dealers.

Section 21 amends s. 321.25, F.S., relating to training provided at patrol schools.

Section 22 amends s. 322.01, F.S., revising the definition of "authorized emergency vehicle."

Section 23 amends s. 322.03, F.S., relating to drivers must be licensed.

Section 24 amends s. 322.051, F.S., relating to identification cards.

Section 25 amends s. 322.08, F.S., relating to an application for a driver license.

Section 26 amends s. 322.091, F.S., relating to school attendance requirements.

Section 27 amends s. 322.12, F.S., relating to the examination of applicants.

Section 28 amends s. 322.161, F.S., relating to restricted licenses for high-risk drivers.

Section 29 amends s. 322.17, F.S., relating to replacement licenses and permits.

Section 30 amends s. 322.21, F.S., relating to license fees and the procedures for handling and collecting license fees.

Section 31 amends s. 322.61, F.S., relating to the disqualification from operating a commercial motor vehicle.

Section 32 amends s. 324.031, F.S., relating to the manner of proving financial responsibility.

Section 33 amends s. 715.07, F.S., relating to vehicles or vessels parked on private property.

Section 34 amends s. 812.014, F.S., relating to theft.

Sections 35 through 39 amend ss. 212.05, 316.03, 316.545, 316.613, and 655.960, F.S., conforming cross-references.

Section 40 provides that amendments to s. 318.18, F.S., are applicable after the issuance of new uniform traffic citations.

Section 41 provides that except as otherwise provided, the bill has an effective date of October 1, 2017.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

The bill amends several sections of statute to comply with FMCSA requirements. According to DHSMV, Florida failing to comply with FMCSA requirements could lead to a reduction of up to 4 percent of the state's Federal-aid highway funds for the first year of noncompliance and up to 8

percent of loss of Federal-aid highway funds for subsequent years of noncompliance. Additionally, noncompliance could lead to the loss of potential future highway grants.<sup>121</sup>

On March 10, 2017, the Revenue Estimating Conference adopted a negative fiscal impact to the Highway Safety Operating Trust Fund of \$9,332 and a negative impact to the General Revenue Fund of \$49,124<sup>122</sup> associated with the provisions authorizing free replacement of stolen identification cards.

Classifying charter buses as apportionable vehicles may change the registration fees for these vehicles. The actual change for any specific vehicle is based on motor vehicle details, jurisdictions where the vehicle travels, and the mileage percentages in each of the jurisdictions. Because the details of these transactions cannot be quantified at this time, the revenue impact is indeterminate.<sup>123</sup>

Revenues collected from those eligible individuals willing to pay the \$1 fee for adding the “D” designation to an identification card will be deposited into the Agency for Persons with Disabilities Operations and Maintenance Trust Fund, though the number of individuals who may add the designation is unknown.

The Highway Safety Operating Trust Fund will experience a reduction in revenues of approximately \$4.9 million associated with the reallocation of certain driver license related fees to the county tax collectors.

Revenues collected from the sale of the Bronze Star license plate will be deposited into the Grants and Donations Trust Fund within the Department of Veterans’ Affairs. However, the amount of revenue is indeterminate.

## 2. Expenditures:

Based on DHSMV’s estimated costs for similar special license plates, an order of 2,200 license plates would be made ( $2,200 \times \$2.82 = \$6,204$ ) for the newly created Purple Heart motorcycle and Bronze Star special license plates, and distributed to tax collector offices statewide to meet public demand. The total cost to produce and distribute the two new special license plates would be approximately \$12,408. Additionally, based on previous estimates of similar special use plates, approximately 87 programming hours, or the equivalent of \$3,500 in FTE and contracted resources will be required in order to implement this provision.

DHSMV may experience a workload decrease as it will no longer be required to submit school truancy reports on a quarterly basis. This impact is likely insignificant.

DHSMV may incur expenditures associated with printing and voiding out new uniform traffic citations due to changing work zones to construction zones. However, the bill has the change applicable upon the creation of a new inventory of uniform traffic citations.

## B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

### 1. Revenues:

Under current law, when a replacement identification card transaction is performed by a county tax collector, the tax collector retains the \$9 that would otherwise be collected by DHSMV. To the extent that individuals receive free replacement identification cards when their identification cards are stolen, the bill will have a negative impact to local government revenues. On March 10, 2017,

<sup>121</sup> Email from DHSMV, February 17, 2017. (Copy on file with Transportation & Infrastructure Subcommittee).

<sup>122</sup> Revenue Estimating Conference Results of March 10, 2017 Impact Conference.

<sup>123</sup> Email from DHSMV, February 16, 2017. (Copy on file with Transportation & Infrastructure Subcommittee).

the Revenue Estimating Conference adopted a negative fiscal impact to local governments of \$17,946.<sup>124</sup>

County tax collectors will see approximately \$4.9 million in additional revenue associated with certain driver license related fees being allocated from DHSMV to the county tax collectors.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There is a potential impact to the CMV industry associated with changes to the CMV regulations contained in the bill; however, the impact is indeterminate at this time.

Classifying charter buses as apportionable vehicles may change the registration fees for these vehicles; however, the actual change for any specific vehicle is based on motor vehicle details, jurisdictions where the vehicle travels, and the mileage percentages in each of the jurisdictions.<sup>125</sup>

There may be savings to various businesses associated with the implementation of an electronic filing system for certain title transactions at DHSMV.

Operators of autocycles will not be required to obtain a motorcycle license or endorsement or to complete a motorcycle knowledge and skills test currently required to obtain such a license or endorsement.

Individuals who do not remain employed with FHP for three years after graduating from the academy may be required to reimburse DHSMV for its training costs. The cost is approximately \$12,386. According to DHSMV since 2012, 86 members resigned from FHP within two years of completing training. An additional 37 members resigned within three years of completing the academy.<sup>126</sup>

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

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

---

<sup>124</sup> Revenue Estimating Conference Results of March 10, 2017 Impact Conference.

<sup>125</sup> Email from DHSMV, February 16, 2017. (Copy on file with Transportation & Infrastructure Subcommittee).

<sup>126</sup> Email from DHSMV, February 17, 2017. (Copy on file with Transportation & Infrastructure Subcommittee).

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On February 22, 2017, the Transportation & Infrastructure Subcommittee adopted a strike-all amendment and reported the bill favorable as a committee substitute. In summary the strike-all amendment:

- Corrected drafting errors.
- Authorized volunteer firefighter vehicles to use red or red and white lights.
- Authorized the electronic display of rental car agreements and provided liability provisions.
- Repealed an obsolete provision related to the Hispanic Achievers specialty license plate.
- Created the Purple Heart motor cycle special license plate.
- Created the Bronze Star special license plate.
- Authorized the “D” designation on the identification card for persons with PTSD and TBI.

On March 15, 2017, the Transportation & Tourism Appropriations Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. In summary, the amendments removed provisions redirecting revenues collected from driver license reexamination fees and driver license reinstatement fees from the Highway Safety Operating Trust Fund to county tax collectors.

On April 24, 2017, the Government Accountability Committee adopted a proposed committee substitute, which was amended. The proposed committee substitute, as amended:

- Provided statutory provisions regarding autocycles.
- Required certain vehicles registered as wreckers to use amber lights under certain circumstances.
- Provide that requirements for electronic logging devices for certain motor carriers engaged in intrastate commerce do not go into effect until December 31, 2018.
- Changed provisions relating to increased speeding fines in a “work zone” to a “construction zone.”
- Changed “Prevent Blindness Florida” to “Preserve Vision Florida” as it relates to certain voluntary checkoffs for motor vehicle registrations and driver licenses.
- Provided for the electronic processing of title transactions for derelict and salvage motor vehicle transactions.
- Required most government owned vehicles to be marked.
- Provided that the agricultural license tag is good to transport products anywhere within the state.
- Revised the penalties for high-risk teen drivers.
- Provided that certain driver license fees and allocated to the tax collectors performing the service, less the General Revenue service charge.
- Revised provisions regarding custody or control of certain motor vehicles or vessels that have been towed.
- Revised the definitions of “motor vehicle dealer” and “motor vehicle broker” and provisions regarding the licensing of motor vehicle dealers.
- Required for-hire passenger transportation vehicles to obtain insurance from certain eligible non-admitted insurers.
- Enhanced the penalties for using devices to interfere with global positioning systems relating to cargo theft.

This analysis is drafted to the committee substitute as reported favorably by the Government Accountability Committee.