

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: CS/CS/SB 784

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); Transportation Committee; and Senator Gainer and others

SUBJECT: Department of Highway Safety and Motor Vehicles

DATE: May 2, 2017

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Miller	TR	<b>Fav/CS</b>
2.	Wells	Pitts	ATD	<b>Recommend: Fav/CS</b>
3.	Wells	Hansen	AP	<b>Fav/CS</b>

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 784 makes numerous changes relating to motor vehicles and the Department of Highway Safety and Motor Vehicles (DHSMV). Specifically, the bill:

- Creates a definition of an autocycle, requires occupants of autocycles to wear safety belts, and exempts drivers of autocycles from being required to have a motorcycle endorsement or motorcycles license, or from completing motorcycle knowledge and skills testing in order to operate the autocycle;
- Provides that a court *may* withhold adjudication for a defendant convicted for the first time of a second degree misdemeanor offense of driving under the influence that has not caused injury to, or the death of, a person or damage to property, when such person voluntarily places or is court ordered to place an ignition interlock device, completes specified requirements, and has not had any other withholds;
- Specifies discounts of the monthly leasing fee of the ignition interlock device and waiver of the installation and removal costs of the device for certain individuals claiming inability to pay;
- Allows volunteer firefighters to use red and white, in addition to red, warning signals;
- Updates various commercial motor vehicle (CMV) regulations to address compatibility issues with federal law;
- Allows a person without a driver license to operate an autonomous vehicle in autonomous mode if the person cannot take control of the vehicle;

- Applies certain insurance coverage requirements, should legislation addressing insurance for transportation network companies (TNCs) become law, to autonomous vehicles used by TNCs to provide transportation, regardless of whether a human operator is physically present in the vehicle when the ride occurs;
- Authorizes a board of county commissioners to require, by ordinance, that the clerk of court collect an additional \$5 with each *criminal*, instead of *civil* traffic penalty, which is used to fund driver education programs in schools;
- Changes “construction zone” to “work zone” for the purpose of double speeding penalties in such zones if required signs are posted and workers are present;
- Requires interstate charter buses to register as apportionable vehicles;
- Changes references to the organization “Prevent Blindness Florida” to “Preserve Vision Florida”;
- Requires tax collectors perform the same motor vehicle registration and driver license services for non-county residents as they do for their home county residents;
- Effective July 1, 2018, expands the allowable operations and authorized agents of the DHSMV electronic filing system;
- Increases the time-frame apportionable vehicles must replace their license plates from annually to every five years;
- Allows a person driving a rental vehicle who is stopped by a law enforcement officer or agent of the DHSMV to show an electronic copy of a rental agreement;
- Revises the eligibility requirement for the agricultural restricted license plate to allow certain agricultural trucks that operate within the state, instead of within a 150-mile radius of the truck’s home address, be eligible for the restricted license plate;
- Allows “Dealer” license plates and “Fleet” license plates to be specialty license plates;
- Removes specialty license plates from statute that have been discontinued by the DHSMV;
- Directs the DHSMV to develop six new specialty license plates;
- Amends the distribution of the Fallen Law Enforcement Officers specialty license plate annual use fees;
- Authorizes a trailer to be considered a motor vehicle for purposes of receiving specified license plates;
- Creates a Purple Heart motorcycle license plate and a Bronze Star license plate;
- Clarifies the definition of motor vehicle dealers and motor vehicle brokers;
- Makes numerous changes to transporter license plates, including requiring more information from applicants for transporter plates and adding penalties for the misuse of such plates;
- Requires DHSMV work with the Agency for State Technology to provide digital proof of driver licenses;
- Allows a person diagnosed with posttraumatic stress disorder (PTSD) or traumatic brain injury (TBI) to be eligible to receive a “D” designation on his or her identification (ID) card;
- Increases the amount of time a Florida Highway Patrol (FHP) trooper must stay employed with the FHP to avoid having to reimburse training costs from two years to three years;
- Revises DHSMV reporting requirements relating to driver license suspensions for persons who do not meet school attendance requirements;
- Authorizes tax collectors to retain fees or a portion of fees when they administer subsequent driver license examinations or reinstate licenses;

- Allows the DHSMV to issue a no-fee replacement identification card upon proof to the DHSMV that the card was stolen;
- Provides the option for expedited shipping of a driver license or identification card;
- Removes an obsolete provision relating to specialty driver licenses; and
- Allows for-hire passenger vehicles be insured by an eligible surplus lines insurer and modifies certain insurance limits;
- Amends current law to no longer require taximeters or other transportation measurement systems be inspected or permitted by the Florida Department of Agricultural and Consumer Services;
- Prohibits a person from using any device prohibited by the Federal Communications Commission which would cause interference with the legal use of a global positioning system to track vehicles; and
- Amends numerous cross-references to reflect changes made by the bill.

The bill is intended to address a broad range of federal compliance, customer service and administrative efficiency issues; however, these changes have various indeterminate impacts on state revenues and expenditures.

The Revenue Estimating Conference (REC) reviewed identical sections of the bill on March 10, 2017.<sup>1</sup> The REC estimates that replacing stolen identification cards at no charge to a customer (section 39 of the bill) will have an insignificant negative impact to the General Revenue Fund until Fiscal Years 2020 through 2022, when it will have a negative impact of \$100,000 annually.

The REC estimates that allowing local tax collectors to retain fees or portions of fees for administering subsequent driver license examinations or reinstating licenses (sections 37 and 40) will shift approximately \$5 million from the Highway Safety Operating Trust Fund each year to the local tax collectors.

Additionally, the REC estimates, authorizing expedited shipping fees for driver licenses and identification cards (section 40) will have an indeterminate impact in revenues to the extent that expedited shipping is requested.

Except as otherwise provided, the bill takes effect October 1, 2017.

## II. Present Situation:

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

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<sup>1</sup> Office of Economic and Demographic Research, Revenue Estimating Conference, *Highway Safety Fees – HB 545* (Mar. 10, 2017), available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/pdf/Impact0310.pdf> at p. 22-30 (last visited Mar. 15, 2017).

### III. Effect of Proposed Changes:

#### Autocycles (Sections 1, 8, 13, 32, and 37)

##### *Present 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>2</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>3</sup> Currently, the DHSMV registers autocycles as motorcycles.<sup>4</sup> This means operators of autocycles, generally, are not required to maintain insurance<sup>5</sup> or wear safety belts<sup>6</sup>, but are required to:

- Maintain a motorcycle endorsement or motorcycle license;<sup>7</sup>
- Wear a helmet, unless over 21 years of age with at least \$10,000 of medical insurance or riding in an enclosed cab;<sup>8</sup> and
- Wear eye protection<sup>9</sup>;

Since autocycles share more characteristics with passenger motor vehicles than motorcycles, some of the motorcycle requirements, or lack of requirements, may or may not be necessary for autocycles. For example, studies suggest a motorcycle endorsement or motorcycle license should not be required for operating an autocycle.<sup>10</sup> Motorcycle rider courses primarily focus on operating a motorcycle in which the operator sits astride the saddle and uses handlebars, while using his or her body weight, balance, and position on the motorcycle to corner or stop; however, operating an autocycle requires mechanics similar to a passenger motor vehicle. At least 21 states do not require a motorcycle endorsement or motorcycle license to operate an autocycle.<sup>11</sup>

There is little research or crash data available concerning the safety of autocycles. 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. The National Highway Traffic Safety Administration (NHTSA) has concerns that the overall appearance of autocycles, being closer to the appearance of a car than a motorcycle, may cause people to think autocycles are as safe as passenger motor vehicles.<sup>12</sup>

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<sup>2</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/3wheelvehiclelep/> at p. 4 (last visited Mar. 22, 2017).

<sup>3</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 Mar. 22, 2017).

<sup>4</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>5</sup> See ch. 324, F.S., on Motor Vehicle Financial Responsibility.

<sup>6</sup> See s. 316.614(3)(a)5., F.S.

<sup>7</sup> Section 322.03(4), F.S.

<sup>8</sup> Section 316.211, F.S.

<sup>9</sup> Section 316.211(2), F.S.

<sup>10</sup> AAMVA, *supra* note 2 at p. 5 and 9

<sup>11</sup> NCSL, *supra* note 3

<sup>12</sup> AAMVA, *supra* note 2 at p. 2

### ***Effect of Proposed Changes***

Section 1 amends s. 316.003, F.S., defining an 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 a National Highway Traffic Safety Administration (NHTSA) registered manufacturer in accordance with the applicable federal motorcycle safety standards.

Sections 1 and 13 include an autocycle in the definition of a motorcycle. Also, the definition of motorcycle is amended 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.

Section 8 amends s. 316.614, F.S., to require that the operator, front seat passenger, and any passenger under the age of 18 years old in an autocycle wear a safety belt.

Sections 32 and 37 amend ss. 322.03 and 322.12, F.S., respectively, to exempt 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.

### **Driving Under the Influence and Ignition Interlock Devices (Sections 2 and 3)**

#### ***Present Situation***

A person is guilty of driving under the influence (DUI) if a person drives or is in actual physical control of a vehicle and the person:

- Is under the influence of alcoholic beverages, any controlled substance set forth in s. 877.111, F.S., or any substance controlled under ch. 893, F.S., to the extent that the person's normal faculties are impaired;
- Has a blood-alcohol level of 0.08 or more grams of alcohol per 100 milliliters of blood; or
- Has a breath-alcohol level of 0.08 or more grams of alcohol per 210 liters of breath.<sup>13</sup>

The criminal penalties for DUI vary depending on numerous factors such as the number of prior convictions, the length of time between convictions, and the defendant's blood alcohol level.<sup>14</sup>

The penalties for a first time DUI offense are punishable by:

- A period of probation not exceeding one year;
- A fine of not less than \$500 or more than \$1,000;
- Imprisonment for not more than six months;
- A mandatory 50 hours of community service; and
- A mandatory ten-day vehicle impoundment.<sup>15</sup>

Section 316.656, F.S., prohibits a court from withholding adjudication of guilt for any violation of s. 316.193, F.S., a DUI offense.

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<sup>13</sup> Section 316.193(1), F.S.

<sup>14</sup> Section 316.193 F.S.

<sup>15</sup> Section 316.193(2) and (6)(a), F.S.

In 2016, there were 44,643 arrests for DUI.<sup>16</sup>

An ignition interlock device (IID) is a dashboard-mounted breathalyzer that requires a driver to blow in the breathalyzer in order to operate the motor vehicle.<sup>17</sup> Section 316.193, F.S., requires an IID be installed on the vehicles of persons convicted of certain DUI offenses. For a first time DUI offense, the court may order the placement of an IID for at least six continuous months.

Section 316.1937, F.S., provides that a court must determine the defendant’s ability to pay for the installation of the IID if he or she claims inability to pay. If the court determines that the defendant is unable to pay for the installation of the IID, the court can order that any portion of a fine paid for violating s. 316.193, F.S., be allocated to defray the costs of installing the IID.<sup>18</sup>

Ignition interlock devices cost, on average, \$70 to \$150 to install and about \$60 to \$80 per month for monitoring and calibration.<sup>19</sup>

The table below summarizes when an IID is required in Florida.<sup>20</sup>

<b>Driving under the influence conviction</b>	<b>Ignition interlock device required</b>
1st conviction	If court orders for at least 6 continuous months
1st conviction if blood-alcohol level is $\geq 0.15$ , or minor in car	Mandatory for at least 6 continuous months
2nd conviction	Mandatory for at least 1 year
2nd conviction if blood-alcohol level is $\geq 0.15$ , or minor in car	Mandatory for at least 2 continuous years
3rd conviction	Mandatory for at least 2 years

The DHSMV contracts with vendors to provide IIDs for offenders in Florida. The devices must meet or exceed the current standards of the NHTSA.<sup>21</sup> The DHSMV oversees and monitors the IIDs and must adopt rules for the implementation of IIDs.<sup>22</sup>

The Florida Legislature’s Office of Program Policy Analysis and Government Accountability (OPPAGA) conducted a study researching IIDs and DUI recidivism rates. The research showed

<sup>16</sup> Florida Department of Highway Safety and Motor Vehicles, *Annual Uniform Traffic Citation Report*, available at <https://services.flhsmv.gov/SpecialtyPlates/UniformTrafficCitationReport> (last visited April 10, 2017).

<sup>17</sup> Office of Program Policy Analysis & Government Accountability, *Ignition Interlock Devices and DUI Recidivism Rates*, Report No. 14-14, (December 2014) available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1414rpt.pdf> (last visited April 10, 2017).

<sup>18</sup> Section 316.1937(2)(d), F.S.

<sup>19</sup> MADD, *Ignition Interlock FAQ’s*, <http://www.madd.org/drunk-driving/ignition-interlocks/interlockfaq.html#D> (last visited April 14, 2017).

<sup>20</sup> Section 316.193, F.S.

<sup>21</sup> Section 316.1938, F.S.

<sup>22</sup> Sections 316.1938 and 316.193(11), F.S.

that IIDs, while installed, were more effective at reducing re-arrest rates for alcohol-impaired driving when compared to other sanctions, such as license suspensions.<sup>23</sup>

The study also found the six month recidivism rate for first-time DUI offenders that were not required to install an IID was 1.74 percent compared to the recidivism rate for first-time offenders required to use the IID which was less with a rate of 0.34 percent.<sup>24</sup> However, only 49 percent of Florida's DUI offenders installed an IID, as required, after completing their period of license revocation.<sup>25</sup>

### ***Effect of Proposed Changes***

Section 2 amends s. 316.193, F.S., to specify that a judge may order, *as a condition of probation*, placement of the IID for at least six continuous months.

This section also allows a defendant convicted for the first time of the second degree misdemeanor offense of driving under the influence to agree to the placement of an IID if the defendant has not caused injury to, or the death of, a person or damage to property.

If the defendant agrees or the court orders placement of an IID, then the court, upon proper showing that the person has received counseling, treatment, rehabilitation or is enrolled in a DHSMV-licensed substance abuse course, may withhold adjudication if the defendant does not have a prior withholding of adjudication or adjudication of guilt for any other offense. If the defendant fails to comply with the terms of the IID, then the court may order, among other penalties, an adjudication of guilt for the defendant.

The bill defines the term "conviction" to mean a determination of guilt, which is the result of a plea or a trial, regardless of whether adjudication is withheld or a plea of nolo contendere is entered.

Section 3 amends s. 316.1937, F.S., to repeal the current method of addressing a defendant's inability to pay for the installation of the IID.

The section instead specifies the following discounts on the monthly leasing fee of the IID if a defendant claims the inability to pay for the IID:

- If the person's family income is at or below 100 percent of the federal poverty level as documented by written order of the court, the regular monthly leasing fee charged to all customers by the interlock provider must be discounted by 50 percent.
- If the person's family income is at or below 149 percent of the federal poverty level as documented by written order of the court, the regular monthly leasing fee charged to all customers by the interlock provider must be discounted by 25 percent.

Defendants who qualify for a reduced leasing fee are not required to pay the costs of installation or removal of the IID.

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<sup>23</sup> OPPAGA Report *supra* note 17.

<sup>24</sup> *Id.* at 8.

<sup>25</sup> *Id.* at 4-5.

## **Volunteer Firefighters – Red and White Warning Signals (Sections 4, 5, and 31)**

### ***Present Situation***

Section 316.2397, F.S., authorizes vehicles of the fire department and fire patrol, including vehicles of permitted volunteer firefighters, to show or display red warning signals. Specifically, active volunteer firefighters are authorized to display such red lights or warning signals if the volunteer firefighter has secured a written permit from the chief executive officers of the firefighting organization allowing the use of such signals. This permit is required to be carried at all times while the firefighter displays the red warning signals. The active firefighter may display red lights on their privately owned vehicle while en route to a fire or other emergency in the line of duty, or while en route to the fire station for the purpose of proceeding to a fire or other emergency.<sup>26</sup>

Section 316.2398, F.S., requires that the warning signals must be visible from the front and rear of the vehicle, and requires:

- No more than two red warning signals may be displayed; and
- No inscription of any kind may appear across the face of the lens of the warning signal.

A violation of these requirements is a nonmoving violation, punishable as provided in ch. 318, F.S.<sup>27</sup>, and any volunteer firefighter who violates these requirements shall be dismissed from membership in the firefighting organization.<sup>28</sup>

### ***Effect of Proposed Changes***

Sections 4, 5, and 31 amend ss. 316.2397, 316.2398, and 322.01, F.S., respectively, to provide that volunteer firefighters may use red or *red and white* warning signals where provided by law. Additionally, the bill removes the prohibition on the number of warning signals a volunteer firefighter or medical staff may use; instead, the responding agency may determine the number of warning signals that may be displayed on the responding vehicle to maintain public safety and the safety of the responding vehicle occupants.

## **Wrecker Lights (Section 4)**

### ***Present Situation***

Section 316.2397, F.S., requires wreckers use amber rotating or flashing lights while performing recoveries and loading on the roadside day or night, and they may use such lights while towing a vehicle on wheel lifts, slings, or under reach if the operator deems such lights necessary. Additionally, a flatbed, car carrier, or rollback may not use such lights when hauling a vehicle unless it creates a hazard to other motorists because of protruding objects.

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<sup>26</sup> Section 316.2398(1), F.S.

<sup>27</sup> Chapter 318.18, F.S., provides that a nonmoving traffic violation is a \$30 penalty plus court costs. This could result in a penalty and costs totaling up to \$108.

<sup>28</sup> Section 316.2398(5), F.S.



### ***Effect of Proposed Changes***

Section 4 amends s. 316.2397, F.S., to remove the prohibition against flatbeds, car carriers, or rollbacks from using amber rotating or flashing lights when hauling vehicles. The section requires such vehicles, when registered as wreckers pursuant to s. 320.08(5)(d) or (e), F.S., use amber rotating or flashing lights while performing recoveries and loading on the roadside, and authorizes the use of such lights if the operator of the wrecker deems such lights necessary.

### **Federal Motor Carrier Safety Administration Compatibility (Section 6)**

#### ***Present Situation***

The Federal Motor Carrier Safety Administration (FMCSA) was established within the United States Department of Transportation on January 1, 2000. Its primary mission is to prevent commercial motor vehicle (CMV)-related fatalities and injuries.<sup>29</sup>

Section 316.302, F.S., provides that all owners and drivers of CMVs<sup>30</sup> operated on the public highways of this state while engaged in *interstate* commerce are subject to the rules and regulations contained in the following parts of the Federal Motor Carrier Safety Regulations<sup>31</sup>:

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

Owners and drivers of CMVs engaged in *intrastate* commerce are subject to the same rules and regulations, unless otherwise provided in s. 316.302, F.S., as such rules and regulations existed on December 31, 2012.<sup>32</sup> To remain compatible with the Federal Motor Carrier Safety Regulations, states generally have up to three years from the effective date of new federal requirements to adopt and enforce such requirements.<sup>33</sup> States that remain incompatible risk losing federal funding. A 2007 Florida State Motor Carrier Safety Assistance Program (MCSAP) review found that the Florida Statutes contain multiple compatibility issues.<sup>34</sup>

<sup>29</sup> FMCSA website, *About Us*, available at <https://www.fmcsa.dot.gov/mission/about-us> (last visited Feb. 23, 2017).

<sup>30</sup> Section 316.003(12), F.S., defines “commercial motor vehicle” as “any self-propelled or towed vehicle used on the public highways in commerce to transport passengers or cargo, if such vehicle: (a) Has a gross vehicle weight rating of 10,000 pounds or more; (b) Is designed to transport more than 15 passengers, including the driver; or (c) Is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act, as amended (49 U.S.C. ss. 1801 et seq.)”

<sup>31</sup> 49 C.F.R. ch. III, subchapter B.

<sup>32</sup> Section 316.302(1)(b), F.S.

<sup>33</sup> 49 C.F.R. *Appendix A to Part 355 – Guidelines for the Regulatory Review – State Determinations* (2016)

<sup>34</sup> 2007 Florida State MCSAP Review, *Summary Findings, Recommendations, and Noteworthy Practices* (June 2007) (on file with the Senate Committee on Transportation).

### 2007 Florida State MCSAP Review Findings

Section 316.302(1)(b), F.S., provides an exception from 49 C.F.R. s. 390.5 as it relates to the definition of a bus, which is defined as “any motor vehicle designed, constructed, and/or used for the transportation of passengers, including taxicabs.” Florida law excludes taxicabs from the definition of a bus.<sup>35</sup> The MCSAP Review noted that Florida Statutes “exempting, from the definition of a bus, taxicabs as it applies to the intrastate private transportation of passengers, is not compatible” with Federal law.<sup>36</sup>

Federal law prohibits certain lamps and reflective devices from being obscured on CMVs.<sup>37</sup> However, s. 316.215(5), F.S., provides an exception from this requirement for front-end loading collection vehicles that are engaged in collecting solid waste or recyclable or recovered materials, and are being operated at less than 20 miles per hour with hazard-warning lights activated. According to the MCSAP review, federal law provides no such exemption.<sup>38</sup>

Section 316.302(2)(d), F.S., provides an exemption from compliance with 49 C.F.R. s. 395.8, requiring driver’s record of duty status, for drivers of CMVs if the driver:

- Is operating solely in intrastate commerce;
- Is not transporting any hazardous materials in amounts that require placarding<sup>39</sup>;
- Is within 150-air miles of the vehicle’s base location; and
- Complies with specific federal requirements relating to hours of service.<sup>40</sup>

Additionally, state law provides that if a driver is not released from duty within 12 hours of arriving on duty, the motor carrier must maintain documentation of the driver’s driving times throughout the duty period. The MCSAP review found that the exemption and alternate records requirement contained in s. 316.302(2)(d), F.S., does not comply with federal regulations because the federal exemption also requires that the driver return to the work reporting location and is released from work within 12 consecutive hours.<sup>41</sup>

Federal law allows a state to exempt a CMV from all or part of its laws or regulations relating to intrastate commerce if the vehicle’s gross vehicle weight, gross vehicle weight rating, gross combined weight, or gross combined weight rating is less than 26,001, and the vehicle is not:

- Transporting hazardous materials requiring a placard; or
- Designed or used to transport 16 or more people, including the driver.<sup>42</sup>

However, s. 316.302(2)(f), F.S., provides exemptions from federal laws or regulations for a person who operates a CMV solely in intrastate commerce, having a *declared* gross vehicle weight of less than 26,001 pounds, and who is not transporting hazardous materials in an amount that requires placarding, or who is transporting petroleum products. According to the MCSAP

<sup>35</sup> Section 316.003(6), F.S.

<sup>36</sup> 2007 Florida State MCSAP Review, *supra* note 34 at p. 2, *FL/FI-1*.

<sup>37</sup> 49 C.F.R. s. 393.9(b)

<sup>38</sup> 2007 Florida State MCSAP Review, *supra* note 34 at p. 4, *FL/FI-7*.

<sup>39</sup> Pursuant to 49 C.F.R. part 172

<sup>40</sup> As provided in 49 C.F.R. s. 395.1(e)(1)(iii) and (v).

<sup>41</sup> 2007 Florida State MCSAP Review, *supra* note 34 at p. 5, *FL/FI-8*.

<sup>42</sup> 49 C.F.R. s. 350.341(a)

Review, the State interprets this statute as exempting such vehicles transporting petroleum products even if a hazardous materials placard is required, which is not in compliance with federal regulations.<sup>43</sup>

### Maximum Driving Time

Section 316.302(2), F.S., provides prohibitions to length of time CMV drivers may drive, as well as exemptions from federal requirements for specified vehicles. Section 316.302(2)(b), F.S., provides that a person who operates a CMV solely in intrastate commerce without any hazardous materials in amounts requiring placarding may not drive:

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

Except as provided in the federal hours of service rules<sup>44</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.<sup>45</sup> 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.<sup>46</sup>

### ***Effect of Proposed Changes***

Section 6 amends multiple provisions in s. 316.302, F.S., addressing federal compatibility issues.

This section amends s. 316.302(1), F.S., to clarify that the section applies to all CMVs except as provided in s. 316.302(3), F.S., relating to covered farm vehicles.

This section amends s. 316.302(1)(b), F.S., to remove an exception to federal law as it relates to the definition of a bus.

This section adopts federal laws that intrastate CMV owners and drivers are required to comply with as such federal rules and regulations existed on December 31, 2016.<sup>47</sup> Examples of some of the regulations adopted that directly affect intrastate CMVs include:

- Amending the definition of *gross combination weight rating* to provide clarification;<sup>48</sup> and

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<sup>43</sup> 2007 Florida State MCSAP Review, *supra* note 34 at p. 5, *FL/FI-3*.

<sup>44</sup> 49 C.F.R. s. 395.1

<sup>45</sup> Section 316.302(2)(c), F.S.

<sup>46</sup> This penalty is found in 316.302(2)(c), F.S.; However, s. 316.3025, F.S., relating to CMV penalties, provides that a penalty of \$100 may be assessed for a violation of s. 316.302(2)(b) or (c), F.S.

<sup>47</sup> A list of Final Rules adopted as of December 31, 2016, that affect FMCSA rules and regulations are available on the FMCSA website, *Rulemaking Documents*, available at <https://www.fmcsa.dot.gov/regulations/search/rulemaking?keyword=&dt=final&topic=> (last visited Mar. 13, 2017).

<sup>48</sup> Gross Combination Weight Rating; Definition, 79 Fed. Reg. 15245 (Mar. 19, 2014), available at <https://www.federalregister.gov/documents/2014/03/19/2014-05502/gross-combination-weight-rating-definition> (last visited Mar. 13, 2017).

- Requiring the use of a Unified Registration System to submit required registration and biennial update information to the FMCSA.<sup>49</sup>

However, s. 316.302(1)(e), F.S., is created to delay the requirement for electronic logging devices and hours of service support documents<sup>50</sup> for intrastate motor carriers, not carrying hazardous materials in amounts requiring placarding, until December 31, 2018.

This section amends s. 316.302(1)(d), F.S., to remove an exemption from federal law allowing specified CMVs to obscure certain lighting or reflective devices.

Due to changes in federal law, the section amends s. 316.302(2)(a), F.S., to provide clarity that drivers of intrastate CMVs that are not transporting hazardous materials requiring placarding are exempt from 49 C.F.R. s. 395.3, which provides maximum driving times for property-carrying vehicles. These drivers continue to be subject to the maximum driving times required by state law.

Section 316.302(2)(d), F.S., is amended to remove a duplicate penalty for falsifying hours of service records.

Section 316.302(2)(d), F.S., is amended to provide that to be exempt from being required to maintain records of duty status for short-haul drivers the driver must also return to the work reporting location and be released from work within 12 consecutive hours.

Lastly, the section amends s. 316.302(2)(f), F.S., to remove specified exemptions for drivers transporting petroleum products. The section also removes that these exemptions apply when a CMV has a *declared* gross vehicle weight of less than 26,001 pounds. This criterion is changed to CMVs having a *gross vehicle weight, gross vehicle weight rating, and gross combined weight rating* of less than 26,001 pounds.

## **Commercial Motor Vehicle Operator Disqualifications (Sections 7 and 41)**

### ***Present Situation***

Federal and state laws prohibit drivers of commercial motor vehicles from texting while driving a commercial motor vehicle (CMV) and from using a hand-held mobile telephone while driving a CMV.<sup>51</sup> Section 316.3025, F.S., provides that a driver who violates these laws may be assessed a civil penalty of:

- \$500 for the first violation;
- \$1,000 and a 60-day CDL disqualification for a second violation; and
- \$2,750 and a 120-day CDL disqualification for a third and subsequent violation.

<sup>49</sup> Unified Registration System, 78 Fed. Reg. 52607 (Aug. 23, 2013), available at <https://www.federalregister.gov/documents/2013/08/23/2013-20446/unified-registration-system> (last visited Mar. 13, 2017). However, the system is currently delayed until all necessary data is transferred to the new database and that is compatible with State partners. See 82 Fed. Reg. 5292.

<sup>50</sup> Electronic Logging Devices and Hours of Service Supporting Documents, 80 Fed. Reg. 78291 (Dec. 16, 2015), available at <https://www.federalregister.gov/documents/2015/12/16/2015-31336/electronic-logging-devices-and-hours-of-service-supporting-documents> (last visited Mar. 6, 2017).

<sup>51</sup> See 49 C.F.R. ss. 392.80 and 392.82, and s. 316.3025, F.S.

However, federal law requires the 60 and 120-day CDL disqualification for these offenses to be assessed for any combination of certain serious traffic violations during a 3-year period. Specifically, federal law requires, for offenses occurring within a 3-year period while operating a CMV, a 60-day CDL disqualification for a second conviction and a 120-day CDL disqualification for a third or subsequent conviction of any combination of the following offenses<sup>52</sup>:

- Excessive speeding (15 mph or more over the posted speed limit);
- Reckless driving;
- Improper lane changes;
- Following too closely;
- A violation of any state or local law relating to motor vehicle traffic control arising in connection with a fatal accident;
- Driving a CMV:
  - Without obtaining a CDL;
  - Without a CDL in the driver's possession;
  - Without the proper class of CDL or endorsements required;
- Violating a state or local law or ordinance on motor vehicle traffic control prohibiting:
  - Texting while driving a CMV; or
  - Use of a hand-held mobile telephone while driving a CMV.

With the exception of texting while driving a CMV and the use of a hand-held mobile phone while driving a CMV, the above penalties and offenses are in state law.<sup>53</sup> To align with federal law, these two offenses need to be added to the list of disqualifying offenses in s. 316.3025, F.S. According to the DHSMV, non-compliance could result in a loss of federal highway funds.<sup>54</sup>

### ***Effect of Proposed Changes***

Sections 7 and 41 amend ss. 316.3025 and 322.61, F.S., respectively, to remove the commercial driver license disqualification penalty for texting while driving a CMV and using a hand-held mobile telephone while driving a CMV from s. 316.3025, and adds those offenses to the list of serious disqualifying offenses while operating a commercial motor vehicle listed in s. 322.61, F.S. This change aligns Florida law with federal regulations.

## **Autonomous Vehicle Operation (Section 9)**

### ***Present Situation***

Section 316.003(2), F.S., defines “autonomous vehicle” as any vehicle equipped with autonomous technology. That subsection also includes a definition of “autonomous technology,” which means technology installed on a motor vehicle that has the capability to drive the vehicle on which the technology is installed *without the active control or monitoring by a human*

<sup>52</sup> 49 C.F.R. s. 383.51 (2015), Table 2, available at <https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-subtitleB-chapIII-subchapB.pdf> at p. 206-207 (last visited Feb 9, 2017).

<sup>53</sup> See s. 322.61(1), F.S.

<sup>54</sup> Meeting with the DHSMV and Senate Transportation Committee Staff (Jan. 23, 2017).

*operator*.<sup>55</sup> If a vehicle is equipped with technology that requires active control or monitoring by a human operator, that vehicle does not meet the definition of “autonomous vehicle” under Florida law.

Section 316.85, F.S., authorizes a person who possesses a valid driver license to operate an autonomous vehicle in autonomous mode on roads in this state if the vehicle is equipped with autonomous technology as defined in s. 316.003(2), F.S. A person is deemed the operator of an autonomous vehicle operating in autonomous mode when the person causes the vehicle’s autonomous technology to engage, regardless of whether the person is physically present in the vehicle while the vehicle is operating in autonomous mode. Thus, under Florida law, an autonomous vehicle may be operated in autonomous mode even if a person is not physically present in the vehicle.

Section 319.145, F.S., requires autonomous vehicles registered in this state to:

- Have a system to safely alert the operator if an autonomous technology failure is detected while the technology is engaged. When an alert is given, the *system* must:
  - Require the operator to take control of the autonomous vehicle; or
  - If the operator does not, or is not able to, take control of the autonomous vehicle, be capable of bringing the vehicle to a complete stop.
- Have a means inside the vehicle to visually indicate when the vehicle is operating in autonomous mode; and
- Be capable of being operated in compliance with the applicable traffic and motor vehicle laws of this state.

### ***Effect of Proposed Changes***

Section 9 amends s. 316.85, F.S., to allow a person who does not possess a valid driver license to engage autonomous technology to operate an autonomous vehicle in autonomous mode only if the person inside the vehicle cannot take control of the vehicle’s operation or disengage the autonomous technology.

## **Autonomous Vehicles/Transportation Network Companies/Insurance (Section 10)**

### ***Present Situation***

Technological advances have led to new methods for consumers to arrange and pay for transportation, including software applications that make use of mobile smartphone applications, Internet web pages, email, and text messages. Ridesharing companies, such as Lyft, Uber, and SideCar, describe themselves as “transportation network companies” (TNCs), rather than as vehicles for hire.

TNCs use smartphone technology to connect individuals who want to ride with private drivers for a fee. A driver logs onto a phone application and indicates the driver is ready to accept

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<sup>55</sup> The latter definition does not include a motor vehicle enabled with active safety systems or driver assistance systems, including, without limitation, a system to provide electronic blind spot assistance, crash avoidance, emergency braking, parking assistance, adaptive cruise control, lane keep assistance, lane departure warning, or traffic jam and queuing assistant, unless any such system alone or in combination with other systems enables the vehicle on which the technology is installed *to drive without the active control or monitoring by a human operator*.

passengers. Potential passengers log on, learn which drivers are nearby, see photographs, receive a fare estimate, and decide whether to accept a ride. If the passenger accepts a ride, the driver is notified and drives to pick up the passenger. Once at the destination, payment is made through the phone application.

Drivers generally use their personal vehicles, and personal automobile insurance policies may contain a “livery” exclusion that excludes coverage if the vehicle is carrying passengers for hire.<sup>56</sup> Consequently, personal automobile insurance policies may not cover damage or loss when a car is being used for commercial ridesharing. Some ridesharing companies provide insurance for portions of the time when the driver is transporting passengers, but such insurance is not required. This could lead to situations where drivers and passengers are involved in accidents and there is no insurance coverage. In contrast, taxis and limousines must maintain a motor vehicle liability policy with minimum limits of \$125,000 per person for bodily injury, up to \$250,000 per incident for bodily injury, and \$50,000 for property damage.<sup>57</sup>

Issues relating to insurance coverage for TNCs, and other TNC-related matters, have been under review by the Florida Legislature in recent years. The Florida Senate is currently considering legislation that would create uniform statewide minimum insurance requirements for TNCs and TNC drivers. Generally, when a TNC driver is logged onto the digital network<sup>58</sup> but not engaged in a prearranged ride,<sup>59</sup> the legislation requires:

- Primary automobile liability coverage of at least \$50,000 for death and bodily injury per person, \$100,000 for death and bodily injury per incident, and \$25,000 for property damage;
- Personal Injury Protection (PIP) benefits that meet the minimum coverage amounts required under ss. 627.730-627.7405, F.S.;<sup>60</sup> and
- Uninsured and underinsured vehicle coverage as required by s. 627.727, F.S.<sup>61</sup>

When a TNC driver is engaged in a prearranged ride, the following insurance requirements apply:

- Primary automobile liability coverage of at least \$1 million for death, bodily injury, and property damage;
- PIP benefits that meet the minimum coverage amounts required of a limousine<sup>62</sup> under ss. 627.730-627.7405, F.S.; and

<sup>56</sup> The exclusion in Florida law is mentioned in s. 627.041(8), F.S.

<sup>57</sup> Section 324.032(1)(a), F.S.

<sup>58</sup> CS/CS/SB 340 currently defines “digital network” to mean any online-enabled technology application service, website, or system offered or used by a TNC that enables the prearrangement of rides with TNC drivers.

<sup>59</sup> CS/CS/SB 340 currently defines “prearranged ride” to mean the provision of transportation by a TNC driver to a rider, beginning when a TNC driver accepts a ride requested by a rider through a digital network controlled by a TNC, continuing while the TNC driver transports the rider, and ending when the last rider exits from and is no longer occupying the TNC vehicle.

<sup>60</sup> These provisions, known as the No-Fault Law, require coverage for PIP to the named insured, relatives residing in the same household, persons operating the insured motor vehicle, passengers in the motor vehicle, and other persons struck by the motor vehicle and suffering bodily injury while not an occupant to a limit of \$10,000 in medical and disability benefits and \$5,000 in death benefits.

<sup>61</sup> Section 627.727(1), F.S., requires uninsured motorist vehicle coverage if a policy provides bodily injury coverage unless it is specifically rejected.

<sup>62</sup> Although the legislation currently requires PIP coverage at the same amounts required of limousines, limousines are excluded from PIP requirements under s 627.733(1)(a), F.S. Thus, the effect of this provision should it remain in the TNC

- Uninsured and underinsured vehicle coverage as required by s. 627.727, F.S.<sup>63</sup>

Interest in the use of autonomous vehicles in ridesharing services is increasing, including with respect to fully autonomous vehicles that do not require drivers. General Motors reportedly paid \$500 million for a stake and strategic alliance in Lyft to develop the use of autonomous vehicles in ridesharing and recently spent \$1 billion to buy a technology company that has self-driving cars on roads in California.<sup>64</sup> Current Florida law does not specifically address insurance requirements for autonomous vehicles, or for autonomous vehicles used by TNCs.

***Effect of Proposed Changes:***

Section 10 of the bill creates s. 316.851, F.S., effective on the same date that the TNC legislation currently under consideration, or similar legislation, takes effect, if such legislation is enacted in the 2017 Regular Session or in any extension thereof. In that case, the bill would require an autonomous vehicle used by a TNC *to provide a prearranged ride* to be covered by automobile insurance as required by s. 627.748, F.S., created in that TNC legislation, regardless of whether a human operator is physically present in the vehicle when the ride occurs. As the legislation currently stands, the required coverage would be primary automobile liability coverage of at least \$1 million for death, bodily injury, and property damage, and uninsured and underinsured vehicle coverage as required by s. 627.727, F.S. The coverage ultimately specified in that legislation, if enacted, would be required coverage for an autonomous vehicle used by a TNC to provide prearranged transportation, regardless of the presence or absence of a human driver.

- The bill further requires an autonomous vehicle logged on to a digital network but not engaged in a prearranged ride to maintain insurance coverage as defined in s. 627.748(7)(b), F.S. As the TNC legislation currently stands, subsection (7)(b) requires during the identified period of time:
  - Primary automobile liability coverage of at least \$50,000 for death and bodily injury per person, \$100,000 for death and bodily injury per incident, and \$25,000 for property damage;
  - PIP benefits that meet the minimum coverage amounts required under ss. 627.730-627.7405, F.S.;<sup>65</sup> and
  - Uninsured and underinsured vehicle coverage as required by s. 627.727, F.S.

The bill also requires an autonomous vehicle used to provide a transportation service to carry in the vehicle proof of the required coverage at all times while operating in autonomous mode.

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legislation and be enacted would require no PIP coverage when an autonomous vehicle is engaged in a prearranged ride, regardless of whether a human operator is physically present in the vehicle when the ride occurs.

<sup>63</sup> See the CS/CS/SB 340 staff analysis for additional information and details of the legislation, available at <http://www.flsenate.gov/Session/Bill/2017/340/Analyses/2017s00340.rc.PDF>. (last visited April 19, 2017.)

<sup>64</sup> See The Ford Motor Company, *Ford Targets Fully Autonomous Vehicle for RideSharing in 2021; Invests in New Tech Companies, Doubles Silicon Valley Team* (Aug. 16, 2016), available at <https://media.ford.com/content/fordmedia/fna/us/en/news/2016/08/16/ford-targets-fully-autonomous-vehicle-for-ride-sharing-in-2021.html> (last visited April 19, 2017.)

<sup>65</sup> These provisions, known as the No-Fault Law, require coverage for personal injury protection to the named insured, relatives residing in the same household, persons operating the insured motor vehicle, passengers in the motor vehicle, and other persons struck by the motor vehicle and suffering bodily injury while not an occupant to a limit of \$10,000 in medical and disability benefits and \$5,000 in death benefits.



**Dori Slosberg Driver Education Safety Act (Section 11)**

***Present Situation***

Section 318.1215, F.S., the Dori Slosberg Driver Education Safety Act, allows a board of county commissioners to require, by ordinance, that the clerk of court collect an additional \$5 with each civil traffic penalty, which shall be used to fund driver education programs in schools. The funds are required to be used for direct educational expenses, and a minimum of 30 percent of the student’s time in the program be behind-the-wheel-training.

According to the Dori Saves Lives non-profit, more than 60 counties in Florida require the additional \$5 with each civil traffic penalty, bringing in approximately \$15 million each year to fund driver education programs in Florida schools.<sup>66</sup>

***Effect of Proposed Changes***

Section 11 amends s. 318.1215, F.S., to provide that a board of county commissioners may require, by ordinance, that the clerk of court collect an additional \$5 with each *criminal*, instead of *civil* traffic penalty, which is used to fund driver education programs in schools. This change will likely reduce the amount of such funds collected.

**Work Zones (Sections 12 and 52)**

***Present Situation***

Section 318.18, F.S., provides that a person cited for exceeding the speed limit in a posted construction zone, must pay double the fine for exceeding the speed limit. The posting must include notification of the speed limit and the doubling of fines. Fines are doubled only if construction personnel are present or operating equipment on the road or immediately adjacent to the road under construction. Fines for unlawful speed are:

<i>For speed exceeding the limit by:</i>	<i>Fine:</i>
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.	\$175
30 m.p.h. and above	\$250

The term construction zone is not defined in Florida Statutes; however, s. 316.003(97), F.S., defines “work zone” as the area and its approaches on any state-maintained highway, county maintained highway, or municipal street where construction, repair, maintenance, or other street-related or highway-related work is being performed or where one or more lanes are closed to traffic.

<sup>66</sup> Dori Saves Lives, *Teen Driver Education Teachers*, <http://doriseslives.org/driver-education-teachers/> (last visited April 19, 2017).

### ***Effect of Proposed Changes***

Section 12 amends s. 318.18(3)(d), F.S., to change the term “construction zone” to “work zone.” Persons cited for exceeding the speed limit in a posted work zone must pay double the fine for unlawful speed.

Section 52 provides that this amendment applies upon the adoption by rule of uniform traffic citation forms. The DHSMV shall notify the Division of Law Revision and Information upon the adoption of such forms.

### **International Registration Plan – Charter Buses (Section 13)**

#### ***Present Situation***

The International Registration Plan (IRP) is a registration reciprocity agreement among all states in the contiguous United States, the District of Columbia, and several Canadian provinces. It provides for the payment of license fees based on fleet operation in various member jurisdictions.<sup>67</sup> This allows carriers to operate inter-jurisdictionally while only needing to register its vehicles in its base jurisdiction, which is the state or province where the registrant has an established place of business<sup>68</sup>.

All apportionable vehicles domiciled in the state are required to be registered in accordance with the IRP and display “Apportioned” license plates.<sup>69</sup> Motor carriers registered under the IRP are also required to maintain specified records for the DHSMV, and may have their registrations and license plates withheld if:<sup>70</sup>

- An identifying number issued by the federal agency responsible for motor carrier safety is not provided for the motor carrier and entity responsible for motor carrier safety for each motor vehicle; or
- A motor carrier or vehicle owner has been prohibited from operating by a federal or state agency responsible for motor carrier safety.

Additionally, the DHSMV has authority to suspend, with notice, any commercial motor vehicle or license plate issued to a motor carrier or vehicle owner who has been prohibited from operating by a federal or state agency responsible for motor carrier safety.<sup>71</sup> Apportionable vehicles that do not regularly operate in a particular jurisdiction also have the option to register for trip permits in order to operate in IRP member jurisdictions for limited periods where they do not pay license taxes.<sup>72</sup>

<sup>67</sup> International Registration Plan, Inc., *About IRP*, <http://www.irponline.org/?page=AboutIRP> (last visited Feb. 1, 2017).

<sup>68</sup> As defined by the IRP, (January 2017) available at [http://c.ymcdn.com/sites/www.irponline.org/resource/resmgr/publications/IRP\\_agreement\\_eff\\_january\\_1\\_.pdf](http://c.ymcdn.com/sites/www.irponline.org/resource/resmgr/publications/IRP_agreement_eff_january_1_.pdf) at p. 16 (last visited Feb. 1, 2017).

<sup>69</sup> Section 320.0715(1), F.S.

<sup>70</sup> Section 320.0715(4), F.S.

<sup>71</sup> Section 320.0715(4)(c), F.S.

<sup>72</sup> See IRP, Inc., *Trip Permits- Cost/Duration* (May 2016), available at [http://www.irponline.org/resource/resmgr/Jurisdiction\\_Info\\_2/Trip\\_Permits\\_5.19.2016.xlsx](http://www.irponline.org/resource/resmgr/Jurisdiction_Info_2/Trip_Permits_5.19.2016.xlsx) (last visited Feb. 6, 2017).

The IRP defines an apportionable vehicle as:<sup>73</sup>

[A]ny Power Unit that is used or intended for use in two or more Member Jurisdictions and that is used for the transportation of persons for hire or designed, used, or maintained primarily for the transportation of property, and:

- (i) Has two Axles and a gross Vehicle weight or registered gross Vehicle weight in excess of 26,000 pounds, or
- (ii) Has three or more Axles, regardless of weight, or
- (iii) Is used in combination, when the gross Vehicle weight of such combination exceeds 26,000 pounds.

The definition excludes a recreational vehicle, a vehicle displaying restricted plates, or a government-owned vehicle. However, those excluded vehicles may choose to register under the IRP.

Prior to January 1, 2016, charter buses were also excluded from having to register under the IRP, but retained the option to do so. The IRP was amended to remove charter buses from the exemption, requiring charter bus operations to register under the IRP. This registration ensures that charter bus operations will pay license fees to each jurisdiction it operates in, and prevents or suspends the registration of unsafe carriers.<sup>74</sup> As of January 1, 2016, the DHSMV estimates that less than 200 charter bus carriers or companies within the state were required to register under the IRP in order for the state to remain compliant with the reciprocity agreement.<sup>75</sup>

### *Effect of Proposed Changes*

Section 13 amends s. 320.01, F.S., to remove charter buses from the apportionable vehicle exclusion. This change is necessary to align with the requirements of the IRP. All charter buses operating interstate are now required to obtain an IRP registration or purchase trip permits.

### **Prevent Blindness Florida Organization Name Change (Sections 14, 24 and 35)**

#### *Present Situation*

In May of 2016, the organization Prevent Blindness Florida changed their name to Preserve Vision Florida.<sup>76</sup>

<sup>73</sup> International Registration Plan (Jan. 2017), available at [http://c.ymcdn.com/sites/www.irponline.org/resource/resmgr/publications/IRP\\_agreement\\_eff\\_january\\_1\\_.pdf](http://c.ymcdn.com/sites/www.irponline.org/resource/resmgr/publications/IRP_agreement_eff_january_1_.pdf) at p. 12-13 (last visited Feb. 2, 2017).

<sup>74</sup> See IRP, Inc., *Official Amendment to the International Registration Plan* (June 2014) [http://c.ymcdn.com/sites/www.irponline.org/resource/resmgr/irp\\_ballots/ballot\\_391.pdf](http://c.ymcdn.com/sites/www.irponline.org/resource/resmgr/irp_ballots/ballot_391.pdf) (last visited Feb. 3, 2017).

<sup>75</sup> Email from the DHSMV (Feb. 17, 2017) (on file with the Senate Committee on Transportation).

<sup>76</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 Mar. 22, 2017).

***Effect of Proposed Changes***

Sections 14, 24 and 35 amend ss. 320.02, 320.08068 and 322.08, F.S., respectively, pertaining to the DHSMV to recognize the organization's name change.

**Tax Collector Services and Fee Distributions (Sections 15, 37, 38 and 40)*****Present Situation***

In 2010, the Florida Legislature required all state driver license issuance services be transferred to tax collectors who are constitutional officers under s. 1(d), Art. VIII of the State Constitution by June 30, 2015.<sup>77</sup> As part of that transfer, tax collectors retain portions of specified fees when processing certain driver license services. Additionally, tax collectors charge a \$6.25 service fee for completing such services.<sup>78</sup> However, some tax collectors refuse to offer such services to out-of-county Florida residents.

Tax collectors are not currently able to retain portions of fees for some services that the tax collectors are regularly performing. For example, an applicant who fails an initial driving knowledge or skills test is required to pay a \$10 or \$20 fee, respectively, to be issued a subsequent test. These fees are deposited into the Highway Safety Operating Trust Fund (HSOTF), regardless of whether the DHSMV or the tax collectors administered the exam.<sup>79</sup>

Similarly, service fees for license reinstatements collected pursuant to s. 322.21(8), F.S., are deposited into the General Revenue Fund and HSOTF, regardless of whether the reinstatement was conducted by the DHSMV or tax collectors. Of the \$45 service fee to reinstate a driver license suspension, \$15 is deposited in the General Revenue Fund and \$30 in the HSOTF. Of the \$75 service fee to reinstate a driver license revocation or CDL disqualification, \$35 is deposited in the General Revenue Fund and \$40 in the HSOTF.

***Effect of Proposed Changes***

Sections 15 and 38 amend ss. 320.03 and 322.135, F.S., respectively, to require each tax collector to provide the same motor vehicle registration and driver license services to residents of other counties as it does to residents of its home county.

Sections 37 and 40 amend ss. 322.12 and 322.21, F.S., respectively, to require, for subsequent driver license initial knowledge and skills tests, that the tax collector retain the \$10 or \$20 fee, less an eight percent General Revenue Service Charge<sup>80</sup>, for administering tests to applicants. The bill also requires the tax collectors to retain a portion of service fees when processing driver license reinstatements. If the reinstatement is processed by the tax collector:

- Of the \$45 fee for suspension reinstatement, \$15 shall be retained by the tax collector, less an eight percent General Revenue Service Charge, and \$15 shall be deposited into the HSOTF; and

<sup>77</sup> Chapter 2010-163, Laws of Florida and s. 322.02(1), F.S.

<sup>78</sup> Section 322.135(1)(c), F.S.

<sup>79</sup> Section 322.12(1), F.S.

<sup>80</sup> Set forth in s. 215.20, F.S.

- Of the \$75 fee for revocation or disqualification reinstatement, \$20 shall be retained by the tax collector, less an eight percent General Revenue Service Charge, \$20 shall be deposited into the HSOTF, and \$35 shall be deposited into the General Revenue Fund.

### **DHSMV's Electronic Filing System (Section 16)**

#### ***Present 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 (EFS) for use by authorized EFS agents for certain purposes is expressly preempted to the state, and DHSMV has regulatory authority over the system. Specifically, the EFS is used to:

- Electronically title or register motor vehicles, vessels, mobile homes, or off-highway vehicles;
- Issue or transfer registration license plates or decals;
- Electronically transfer fees due for the title and registration process; and
- Perform inquiries for title, registration, and lienholder verification and certification of service providers.

The section provides that 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 the requirements established by the DHSMV shall not be precluded from participating in the EFS upon request from the qualified entity.<sup>81</sup> The EFS must be available for use statewide and applied uniformly throughout the state. Additionally, the EFS agents may charge a fee to the customer for use of the EFS.

The EFS is primarily used by Florida's motor vehicle dealers to acquire access to DHSMV registration and title information, and to process title and registration transactions.<sup>82</sup>

#### ***Effect of Proposed Changes***

Section 16 amends s. 320.03(10), F.S., to provide that effective July 1, 2018, the EFS system can be used to process title transactions, derelict motor vehicle certificates, and certificates of destruction for derelict and salvage motor vehicles. The bill adds that an entity that, in the normal course of its business, processes title transactions, derelict motor vehicle certificates, or certificates of destruction for derelict or salvage motor vehicles and meets the requirements established by the DHSMV may be an authorized EFS agent.

The section also reauthorizes DHSMV to adopt rules to administer the section, including, but not limited to, rules establishing participation requirements, certification of service providers, EFS requirements, disclosures, and enforcement authority for noncompliance.

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<sup>81</sup> Fla. Admin. Code R. 15C-16.010 provides DHSMV's requirements to be an EFS agent.

<sup>82</sup> For more information, see DHSMV website, *Electronic Filing System (EFS)*, <https://www.flhsmv.gov/motor-vehicles-tags-titles/electronic-lien-titles/electronic-filing-system-efs/> (last visited April 19, 2017).

## **Issuance of Apportionable Vehicle Plates (Sections 17 and 19)**

### ***Present Situation***

Registration license plates, which bear a graphic symbol and alphanumeric system of identification, are issued for a 10-year period. However, “Apportioned” license plates issued to vehicles registered under the International Registration Plan (IRP), are issued annually.<sup>83</sup> Each original plate costs \$28, which is deposited into the Highway Safety Operating Trust Fund (HSOTF). Apportioned vehicles are also issued an annual cab card that denotes the declared gross vehicle weight for each apportioned jurisdiction where the vehicle is authorized to operate.<sup>84</sup>

### ***Effect of Proposed Changes***

Sections 17 and 19 amend ss. 320.06 and 320.0607, F.S., respectively, to provide that beginning October 1, 2018, apportioned vehicles will be issued license plates valid for a 5-year period, instead of annually. If the license plate is damaged or worn prior to the end of the 5-year period, the DHSMV will replace it, upon application and surrender of the current plate, at no charge. Cab cards and validation stickers will continue to be issued annually, and the \$28 annual fee will apply to the issuance of an original or renewal validation sticker, instead of for the cost of the plate.

## **Electronic Rental Agreements (Section 18)**

### ***Present Situation***

Section 320.0605, F.S., provides that a person who rents or leases a vehicle is required to possess a true copy of rental or lease documentation for the motor vehicle at all times while the vehicle is being operated.<sup>85</sup> The documentation must include the following:

- Date of rental and time of exit from rental facility;
- Rental station identification;
- Rental agreement number;
- Rental vehicle identification number;
- Rental vehicle license plate number and state of registration;
- Vehicle’s make, model, and color;
- Vehicle’s mileage; and
- Authorized renter’s name.

### ***Effect of Proposed Changes***

Section 18 amends s. 320.0605, F.S., to authorize a person to possess an *electronic copy* of the rental or lease documentation to be displayed upon the request of a law enforcement officer or an agent of the DHSMV. The bill provides that displaying the electronic copy does not constitute consent for the officer or agent to access any information on the device other than the displayed

<sup>83</sup> Section 320.06(1)(b)1., F.S.

<sup>84</sup> See IRP, Inc., *State of Florida Apportioned Cab Card Sample*, [http://c.ymcdn.com/sites/www.irponline.org/resource/resmgr/cab\\_cards/fl\\_cc\\_sample.pdf](http://c.ymcdn.com/sites/www.irponline.org/resource/resmgr/cab_cards/fl_cc_sample.pdf) (last visited Feb. 8, 2017).

<sup>85</sup> A person who cannot display such documentation upon request from an officer or agent of the DHSMV is guilty of a noncriminal traffic infraction, punishable as a nonmoving violation.

rental or lease documentation. The person who presents the device to the officer assumes liability for any resulting damage to the device.

This section also removes that the rental or lease documentation must include the time of exit from the rental facility.

### **Agricultural Restricted License Plate (Section 21)**

#### ***Present Situation***

Section 320.08(4)(m), F.S., provides a restricted license plate for a flat fee of \$324 available for truck tractors used within a 150-mile radius of its address used for hauling forestry products.

Section 320.08(4)(n), F.S., provides a restricted plate for a flat fee available for truck tractors or heavy trucks, not operated as for-hire vehicles, engaged exclusively in transporting raw, unprocessed, and nonmanufactured agricultural or horticultural products within a 150-mile radius of its home address. The fee for such plate is:

- \$87.75 if such vehicle's declared gross weight is less than 44,000 pounds; or
- \$324 if the vehicle's declared gross 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 assembly; or to a shipping point.

For these purposes, "not-for-hire" means that the owner of the motor vehicle must also be the owner of the raw, unprocessed, and nonmanufactured agricultural or horticultural product or the user of the farm implements and fertilizer being delivered. The DHSMV may require any documentation deemed necessary to determine eligibility prior to issuance of this license plate.

#### ***Effect of Proposed Changes***

Section 21 amends s. 320.08, F.S., to revise the eligibility requirement for the agricultural restricted plate by removing the 150-mile radius from its home address requirement. Instead, truck tractors or heavy trucks that operate *within the state* and meet the criteria for the restricted plate are eligible for such plate.

Section 21 also makes cross-reference changes to conform to provisions made by the bill.

### **Specialty License Plates – New, Discontinued, and Amended (Sections 22 and 23)**

Presently, there are over 120 specialty license plates available for purchase in Florida.<sup>86</sup> Specialty license plates are available to an owner or lessee of a motor vehicle who is willing to pay an annual use fee, ranging from \$15 to \$25, paid in addition to required license taxes and service fees.<sup>87</sup> The annual use fees are distributed to an organization or organizations in support of a particular cause or charity signified in the plate's design and designated in statute.<sup>88</sup>

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<sup>86</sup> A list of Florida's specialty license plates is available on the DHSMV website at <http://www.flhsmv.gov/dmv/specialtytags/> (last visited Feb. 14, 2017).

<sup>87</sup> Section 320.08056, F.S.

<sup>88</sup> Section 320.08058, F.S.

In order to establish a specialty license plate, s. 320.08053, F.S., requires the plate must first be adopted into statute. Upon becoming law:

- Within 60 days, the organization must submit an art design for the plate, in a medium prescribed by the DHSMV;
- Within 120 days, the DHSMV must establish a method to issue pre-sale vouchers for the approved specialty license plate; and
- Within 24 months after the pre-sale vouchers are established, the organization must obtain a minimum of 1,000 voucher sales before manufacturing may begin.

If, at the end of the 24-month pre-sale period, the minimum sales requirement has not been met, the DHSMV will discontinue the plate and issuance of the pre-sale voucher. Upon discontinuation, a purchaser of a presale voucher may use the annual use fee as a credit towards any other specialty license plate or apply for a refund with the DHSMV.<sup>89</sup>

The annual use fees collected by an organization and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of specified United States Armed Forces and veterans-related specialty plates.<sup>90</sup> Additionally, organizations must adhere to certain accountability requirements, including an annual audit or attestation document affirming that funds received have been spent in accordance with applicable statutes.<sup>91</sup>

#### DHSMV Costs Defrayed

The DHSMV retains sufficient annual use fees, from the sale of the specialty plates, to defray its costs for inventory, distribution, and other direct costs associated with the specialty license plate program. The remainder of the proceeds collected are distributed as provided by law.<sup>92</sup>

#### Discontinuance of Specialty Plates

The DHSMV must discontinue the issuance of an approved specialty license plate if the number of valid specialty plate registrations falls below 1,000 plates for at least 12 consecutive months. A warning letter is mailed to the sponsoring organization following the first month in which the total number of valid specialty plate registrations is below 1,000 plates. Collegiate plates are exempt from the minimum plate requirement.<sup>93</sup> The specialty license plate must also be discontinued if the organization no longer exists, stops providing services that are authorized to be funded from the annual use fee proceeds, or pursuant to an organizational recipient's request.<sup>94</sup>

The following specialty license plates have been discontinued recently by the DHSMV:

- The American Red Cross plate for failing to meet sales requirements;<sup>95</sup>

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<sup>89</sup> Section 320.08053(2)(b), F.S.

<sup>90</sup> Section 320.08056(10)(a), F.S.

<sup>91</sup> Section 320.08062, F.S.

<sup>92</sup> Section 320.08056(7), F.S.

<sup>93</sup> Section 320.08056(8)(a), F.S.

<sup>94</sup> Section 320.08056(8)(b), F.S.

<sup>95</sup> DHSMV Technical Advisory RS/TL16-009, *American Red Cross Specialty License Plate* (April 6, 2016), available at [https://www.flhsmv.gov/dmv/bulletins/2016/ta\\_rst16-009.pdf](https://www.flhsmv.gov/dmv/bulletins/2016/ta_rst16-009.pdf) (last visited Mar. 22, 2017).



- The Donate Organs Pass It On plate because the organization has closed;<sup>96</sup> and
- The St. Johns River plate and Hispanic Achievers plate for not meeting presale requirements.<sup>97</sup>

#### Fallen Law Enforcement Officers Specialty License Plate

The Fallen Law Enforcement Officers specialty license plate was created by law in 2014<sup>98</sup> with an annual fee of \$25. As of February 1, 2017, the plate had 4,689 active registrations.<sup>99</sup> Currently, proceeds from sale of the plate are distributed to the Police and Kids Foundation, Inc., which may use a maximum of 10 percent of the proceeds to promote and market the plate, and the remaining proceeds are invested and reinvested. The foundation is authorized to use the interest earnings from such investments for the operation of the foundation.<sup>100</sup>

#### *Effect of Proposed Changes*

Sections 22 and 23 of the bill direct the DHSMV to develop six new specialty license plates. Each plate has an annual use fee of \$25.

#### Ducks Unlimited License Plate

Section 320.08058(80), F.S., is created to direct the DHSMV to develop the Ducks Unlimited license plate. Annual use fees from the sale of the plate are distributed to Ducks Unlimited, Inc. The organization may use up to 5 percent of the fees for administrative costs and marketing of the plate, and at least 95 percent of fees must be used in Florida to support the organization's mission and efforts for the conservation, restoration, and management of Florida wetlands and associated habitats for the benefit of waterfowl, other wildlife, and people.

Ducks Unlimited, Inc. is a non-profit, volunteer-based organization whose mission is to conserve, restore, and manage wetlands and associated habitats for North America's waterfowl. The organization was created in 1937, and currently has habitat projects in all 50 states, every Canadian province, and key areas of Mexico and Latin America. According to the Ducks Unlimited website, Ducks Unlimited is the world's leader in wetlands and waterfowl conservation organization.

In Fiscal Year 2016, the organization reported receiving revenues and support of over \$221 million, with 84 percent going to wetlands and waterfowl conservation and education.<sup>101</sup>

<sup>96</sup> DHSMV Technical Advisory RS/TL16-019, *Deauthorization of Donate Organs Pass It On Specialty License Plate* (July 15, 2016), available at [https://www.flhsmv.gov/dmv/bulletins/2016/ta\\_rstl16-019.pdf](https://www.flhsmv.gov/dmv/bulletins/2016/ta_rstl16-019.pdf) (last visited Mar. 22, 2017).

<sup>97</sup> After 24 months in the presale process, the Hispanic Achievers plate had 26 registrations and the St. Johns River plate had 45 registrations. See DHSMV website, *Pre-Sale Specialty License Plate Vouchers* (June 30, 2016), <http://www.flhsmv.gov/specialtytags/PreSaleData.html> (last visited Mar. 22, 2017).

<sup>98</sup> Chapter 2014-168, Laws of Florida

<sup>99</sup> DHSMV website, *Monthly Active Specialty Plates* (February 2017), available at <https://services.flhsmv.gov/specialtyplates/ActivePlates.aspx> (last visited Feb. 21, 2017).

<sup>100</sup> Section 320.08058(80), F.S.

<sup>101</sup> Ducks Unlimited website, *2016 Annual Report*, <http://www.ducks.org/about-ducks-unlimited/ducks-unlimited-financial-information/du-2016-annual-report> (last visited Feb. 13, 2017).

### Play Ball License Plate

Section 320.08058(81), F.S., is created to direct the DHSMV to develop the Play Ball license plate. Annual use fees will be distributed to American Dream Baseball, Inc., which may use up to 15 percent of the proceeds for administrative costs of the organization associated with implementing programs funded by the proceeds, and up to 10 percent for promotion, and marketing of the license plate. The remainder of the funds are to fund programs and projects of American Dream Baseball, Inc.

American Dream Baseball, Inc. is a not-for-profit organization based in Boca Raton, Florida, that teaches the fundamentals of baseball, as well as discipline, character, respect, perseverance, work ethic, sacrifice and passion. Its mission statement is: “The American Dream Baseball, Inc. strives to teach baseball fundamentals to kids of all ages that aspire to achieve success, higher education and other opportunities through baseball.”<sup>102</sup>

### America the Beautiful License Plate

Section 320.08058(82), F.S., is created to direct the DHSMV to develop the America the Beautiful license plate. Annual use fees from the sale of the plate are to be distributed to the America the Beautiful Fund. Ten percent of funds are to offset administrative, marketing, and promotion costs. The remaining proceeds are for projects and programs teaching character, leadership, and service to Florida youth; provision of wellbeing and assistance in the military community; outdoor education advancing self-sufficiency; wildlife conservation; the maintenance of historic or culturally important sites, and the development and modification of recreational areas.

America the Beautiful Fund is a fictitious name registered by Live Laugh Love Give, Inc.<sup>103</sup> The mission statement of Live Laugh Love Give, Inc. is “Empowering children and families against dependency. Animal assistance, sanctuaries, and wildlife preservation. Education grants to better the world. Enhancing lives of military families.”<sup>104</sup>

### Protect Pollinators Plate

Section 320.08058(83), F.S., is created to direct the DHSMV to develop a Protect Pollinators license plate. Annual use fees are distributed to the Florida Wildflower Foundation, Inc., which may use up to 10 percent of annual use fees to market, promote, and administer the plate. The remaining proceeds are used to establish pollinator wildflower habitats, fund pollinator education and research programs, and promote awareness of pollinators and their importance to Florida agricultural success and the security of the food supply.

The foundation’s mission is to “enrich lives with Florida native wildflowers through education, planting and research projects.”<sup>105</sup>

<sup>102</sup> American Dream Baseball, *About Us*, <http://americandreambaseball.org/about-us/> (last visited May 1, 2017).

<sup>103</sup> Florida Department of State – Division of Corporations, *Fictitious Name Detail*, <http://dos.sunbiz.org/scripts/ficidet.exe?action=DETREG&docnum=G15000109272&rdocnum=G15000109272> (last visited May 1, 2017).

<sup>104</sup> See Live Laugh Love website, <https://www.livelaughlove.com/give> (last visited May 1, 2017).

<sup>105</sup> Florida Wildflower Foundation, *About Us*, <http://flawildflowers.org/about.php> (last visited May 1, 2017).

Florida Native License Plate

Section 320.08058(84), F.S., is created to direct the DHSMV to develop a Florida Native license plate. Annual use fees are distributed to Florida Native Plant Society. Of the fees:

- Up to 10 percent may be used for administrative costs;
- Up to 20 percent may be used to market and promote the plate;
- At least 25 percent is dedicated to maintaining, improving, and restoring public native species, and hunting and fishing habitats; and
- 25 percent to promote the cultivation of Florida's agricultural products.

The mission of the Florida Native Plant Society is to promote the preservation, conservation, and restoration of Florida's native plants through support for conservation land acquisition, land management, research, public policies, and education.<sup>106</sup>

Donate Life Florida License Plate

Section 320.08058(85), F.S., is created to direct the DHSMV to develop the Donate Life Florida license plate. Annual use fees are distributed to Donate Life Florida, which may use up to 10 percent of the proceeds for marketing and administrative costs. The remainder of the proceeds must be used by Donate Life Florida to educate Florida residents on the importance of organ, tissue, and eye donation and for the continued maintenance of the Joshua Abbott Organ and Tissue Donor Registry.

Donate Life Florida is a non-profit organization contracted by the State of Florida, Agency for Health Care Administration to create the state's organ, tissue, and eye donor registry.<sup>107</sup>

Fallen Law Enforcement Officers License Plate

The bill amends the distribution of the Fallen Law Enforcement Officers specialty license plate to allow the Police and Kids Foundation, Inc. to use at least 90 percent of the proceeds of the license plate sales (rather than just the interest earnings thereon) for the foundation's operations, activities, programs, and projects.

Discontinued Specialty License Plates

Sections 22 and 23 amend ss. 320.08056 and 320.08058, F.S., respectively, to remove the American Red Cross plate, the Donate Organs Pass It On plate, the St. Johns River plate, and the Hispanic Achievers plate from law.

**Specialty License Plates for Motor Vehicle Dealers and Fleets (Sections 17 and 20-22)*****Present Situation***

A franchised motor vehicle dealer, independent motor vehicle dealer, marine boat trailer dealer, or mobile home dealer license plate is subject to an annual license tax of \$17.<sup>108</sup> Such license

<sup>106</sup> Florida Native Plant Society, *What We Do*, <http://www.fnps.org/what-we-do/what-we-do> (last visited May 1, 2017).

<sup>107</sup> Donate Life Florida, *About Donate Life Florida*, <https://www.donateliflorida.org/content/about/> (last visited May 1, 2017).

<sup>108</sup> Section 320.08(12), F.S.

plates are imprinted with the word “Dealer” at the bottom of the plate.<sup>109</sup> Dealers may, upon payment of the dealer plate license tax, secure one or more dealer license plates, which are valid while the motor vehicles are in the dealer’s inventory and for sale, or while being operated in connection with the dealer’s business, except when used as a for-hire vehicle.<sup>110</sup>

Fleet license plates are available for companies that own or lease a minimum of 200 nonapportioned motor vehicles used for business purposes.<sup>111</sup> Such permanent plates are available upon approval by the DHSMV and payment of license taxes prescribed under s. 320.08, F.S. Fleet vehicle license plates have the word “Fleet” imprinted at the bottom of the plate.<sup>112</sup>

Neither dealer license plates, nor fleet plates are eligible to be specialty license plates.

### ***Effect of Proposed Changes***

The bill provides that a dealer or fleet company may, with the permission of the specialty license plate organization, purchase specialty license plates directly through the DHSMV to be used on dealer or fleet vehicles. The dealer or fleet company that orders specialty license plates for its vehicles must pay the annual use fee of the specialty license plate, and any other applicable license taxes or fees.

The specialty license plate will include the letters “DLR” for dealer license plates and “FLT” for fleet license plate on the right side of the plate.

### **Ancient, Antique Motor, or Historical Motor Vehicles (Section 25)**

#### ***Present Situation***

Section 320.086, F.S., provides that *ancient* motor vehicle is defined as a private-use motor vehicle manufactured in 1945 or earlier. An *antique* motor vehicle is defined as a private-use motor vehicle manufactured after 1945 and of the age of 30 years or more after the date of manufacture. Additionally, the section provides requirements for a motor vehicle to be registered as a historical motor vehicle, and an ancient or antique firefighting apparatus or former military vehicle only used in exhibitions. For purposes of this section, “former military vehicle” includes a trailer.

The owner of such vehicles, upon application to the DHSMV and upon payment of the license tax, will be issued a special license plate for the motor vehicle. For *ancient* motor vehicles, the license plate is valid for use without renewal so long as the vehicle is in existence. Owners of antique and ancient motor vehicles pay a reduced, flat license tax of \$7.50.<sup>113</sup>

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<sup>109</sup> Section 320.06(3), F.S.

<sup>110</sup> Section 320.13, F.S.

<sup>111</sup> Section 320.0657 and DHSMV, Division of Motorist Services, Procedure RS-55, *Fleet Registration Program* (Feb. 8, 2013), available at <http://www3.flhsmv.gov/dmv/Proc/RS/RS-55.pdf> (last visited April 29, 2017).

<sup>112</sup> *Id.*

<sup>113</sup> Section 320.08(2), F.S.

### *Effect of Proposed Changes*

Section 25 amends s. 320.086, to provide, for purpose of this section, a trailer is considered a motor vehicle. Therefore, if the owner of a trailer qualifies for such license plate upon application to the DHSMV and payment of the license tax, the trailer will be issued the corresponding special license plate.

### **Purple Heart Motorcycle Plate (Section 26)**

#### *Present Situation*

DHSMV currently offers multiple military special license plates available to certain military service members or veterans, but only offers two military motorcycle special plates: the Disabled Veteran motorcycle plate and the Paralyzed Vets of America motorcycle plate.<sup>114</sup>

#### Purple Heart Medal

The Purple Heart is one of the oldest and most recognized American military medals, awarded to service members who were killed or wounded by enemy action. The Purple Heart differs from all other decorations in that an individual is not “recommended” for the decoration. Rather, he or she is entitled to it upon meeting specific criteria.<sup>115</sup> The Purple Heart is ranked immediately behind the Bronze Star Medal and ahead of the Defense Meritorious Service Medal<sup>116</sup> in order of precedence.

### *Effect of Proposed Changes*

Section 26 creates s. 320.0875, F.S., to establish a Purple Heart motorcycle special license plate. A Florida resident who owns or leases a motorcycle that is not used for hire or commercial use, and who was awarded a Purple Heart may receive a Purple Heart motorcycle license plate upon:

- Application to the DHSMV;
- Payment of the motorcycle license tax<sup>117</sup>; and
- Documentation acceptable to the DHSMV that he or she is a recipient of the Purple Heart medal.

The Purple Heart motorcycle plate shall be stamped with the words “Combat-wounded Veteran” followed by the serial number, the term “Purple Heart,” and the likeness of the Purple Heart medal.

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<sup>114</sup> For plate samples, see DHSMV, *Military License Plates*, available at <http://www.flhsmv.gov/specialtytags/miltags.html> (last visited Mar. 22, 2017).

<sup>115</sup> Paragraph 1-14(c), Army Regulation 600-8-22.

<sup>116</sup> The Defense Meritorious Service Medal is awarded in the name of the Secretary of Defense to members of the Armed Forces of the United States who, after 3 November 1977, distinguished themselves by noncombat meritorious achievement or service.

<sup>117</sup> Section 320.08(1)(a) and (c), F.S., provide the motorcycles have a flat license tax of \$10 plus a \$2.50 nonrefundable motorcycle education safety fee.

## **Bronze Star License Plate (Section 27)**

### ***Present Situation***

Currently, there are 21 special military plates authorized in s. 320.089, F.S., available to military service members or veterans.<sup>118</sup> Special military plates authorized under this section are stamped with words consistent with the type of special plate issued, and include a likeness of the related campaign medal or badge, if applicable. Applicants for special military license plates authorized under this section are required to pay the annual license tax in s. 320.08, F.S., 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>119</sup> With the exception of Woman Veteran plates, the first \$100,000 of revenue generated annually from the sale of special use military plates is deposited into the Grants and Donations Trust Fund under the Veterans' Nursing Homes of Florida Act, as described in s. 296.38(2), F.S. 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>120</sup> Proceeds from the Woman Veteran plates must be deposited into the Operations and Maintenance Trust Fund administered by the Department of Veterans' Affairs to be used solely for the purpose of creating and implementing programs that benefit women veterans.<sup>121</sup>

### **Bronze Star Medal**

The Bronze Star Medal was established on February 4, 1944, to recognize those who served after December 6, 1941, in any capacity in or with the Armed Forces of the United States or a friendly foreign nation. The Bronze Star Medal is awarded to a person who distinguished himself or herself by heroic or meritorious service, not involving participation in aerial flight, in connection with military operations against an armed enemy; or while engaged in military operations involving conflict with an opposing armed force in which the United States is not a belligerent party. Recipients of the Bronze Star Medal must be receiving imminent danger pay while serving in a geographic area authorized for special pay.<sup>122</sup> In order of precedence, the Department of Defense (DoD) places the Bronze Star Medal seventh amongst DoD wide military decorations and awards following the Distinguished Flying Cross and preceding the Purple Heart.<sup>123</sup>

### ***Effect of Proposed Changes***

Section 27 creates a special military license plate for recipients of the Bronze Star Medal. The plate will be stamped with the words "Bronze Star" and a likeness of the Bronze Star Medal. To

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<sup>118</sup> The 21 military special plates currently offered in s. 320.089, F.S., include plates available for the following types of service: Veteran or Woman Veteran of the U.S. Armed Forces, World War II, Korean War, or Vietnam War Veteran, Navy Submariner, Active or retired National Guard member or U.S. Reservists, Pearl Harbor survivor, recipient of the Combat Infantry Badge, Combat Medical Badge, Combat Action Badge, Combat Action Ribbon, Air Force Combat Action Medal, Distinguished Flying Cross, or Purple Heart, former Prisoner of War, and service members or veterans of Operation Desert Shield, Desert Storm, Enduring Freedom, and Iraqi Freedom.

<sup>119</sup> Section 320.089(1)(c) and (2)(a), F.S.

<sup>120</sup> Section 320.089(1)(b), F.S.

<sup>121</sup> Section 320.089(1)(c), F.S.

<sup>122</sup> Department of the Army, *Military Awards*, Army Regulation 600-8-22 (June 25, 2015).

<sup>123</sup> Department of Defense, *Manual of Military Decorations and Awards: DoD Service Awards – Campaign, Expeditionary, and Service Medals*, Manual No. 1348.33, Vol. 2 (May 15, 2015). The order of precedence for military awards varies by branch of service.

receive a Bronze Star special military license plate, the individual must submit an application for the plate to the DHSMV, provide proof that he or she is a Bronze Star Medal recipient, and pay the appropriate license tax as provided in s. 320.08, F.S. Revenue generated from the sale of the Bronze Star plate is deposited in the Grants and Donations Trust Fund and the State Home for Veterans Trust Fund, both of which are administered by the FDVA.

This section also makes technical changes to s. 320.089, F.S., to provide clarity.

## **Transporter License Plates (Section 28)**

### ***Present Situation***

Section 320.133, F.S., allows the DHSMV to issue transporter license plates. Transporter plates are available for an applicant who, incidental to the conduct of the applicant's business, engages in the transporting of unregistered motor vehicles, and who pays a license tax and provides proof of liability insurance coverage of at least \$100,000. A transporter plate is valid for 1 year, beginning January 1 to December 31, for a flat license tax of \$101.25.<sup>124</sup> To apply for a transporter plate, the business applicant certifies he understands the plate may only be used for motor vehicles in possession of the business that are being transported in the course of the business.<sup>125</sup>

Types of businesses that may require the use of transporter plates include:

- Motor vehicle detail shops;
- Van conversion shops or other shops installing specialized equipment on vehicles;
- Businesses that transport mobile homes and recreational vehicles;
- Licensed repossessors; and
- Businesses that deliver unregistered vehicles (Drive away services).

Currently, there are 8,332 transporter license plates issued by the state, and approximately 4,618 businesses and individuals who have these plates issued to them.<sup>126</sup> There is no requirement for the business applying for the plate to prove it is engaged in transporting unregistered vehicles. The DHSMV has discovered businesses are using transporter license plates on company vehicles rather than on vehicles being transported for the business. According to DHSMV, it has little authority under current law to inquire as to whether the license plates are being used appropriately by applicants.<sup>127</sup>

### ***Effect of Proposed Changes***

Section 28 makes numerous changes to s. 320.133, F.S., concerning transporter license plates, including defining a "transporter license plate eligible business," requiring additional business information from applicants for transporter licenses, and adding penalties for improper use of transporter license plates.

<sup>124</sup> Sections 320.08(15) and 320.133(3), F.S.

<sup>125</sup> See DHSMV, *Application for Transporter License Plates* (May 2011), available at <https://www.flhsmv.gov/pdf/forms/83065.pdf> (last visited Feb. 10, 2017).

<sup>126</sup> DHSMV, *Legislative Package Talking Points* (Jan. 24, 2017) (on file with the Senate Committee on Transportation).

<sup>127</sup> *Id.*

This section also requires applicants for transporter license plates to provide proof satisfactory to the DHSMV that the business is a “transporter license plate eligible business,” which is defined as a business engaged in the limited operation of unregistered motor vehicles or a reposessor who contracts with lending institutions to repossess or recover motor vehicles or mobile homes. Additionally, the application for a transporter license plate must include:

- The legal name of the person or persons applying for the license plate;
- The name of the business, and principal or principals of the business;
- A description of the exact physical location of the place of business within the state;
- Proof of a garage liability insurance policy or a business automobile policy in the amount of \$100,000;
- Proof that the business is registered with the Division of Corporations of the Department of State to conduct business in the state; and
- A description of the business processes the business conducts that requires a need for a transporter license plate.

The business certificate of insurance must also indicate the number of transporter license plates reported to the insurance company, which will be the maximum number the DHSMV will issue to the applicant. The applicant is required to maintain such coverage for the entire transporter license plate registration period. The applicant is also required to maintain for two years, records of use for each transporter license plate. Such records must be at the business’s location and open to inspection by the DHSMV or any law enforcement agency during reasonable business hours.

This section clarifies that the transporter license plate is only valid for use on an unregistered motor vehicle being transported in the course of the transporter’s business and cannot be used on any motor vehicle that would require registration by the business. The DHSMV has authority to cancel any transporter license plate.

Finally, the section adds penalties for the improper use of transporter license plates. Specifically:

- A person who sells or unlawfully possesses, distributes, or brokers a transporter license plate to be attached to any vehicle commits a second-degree misdemeanor<sup>128</sup>, and the plate is subject to removal;
- A person who fails to maintain true and accurate records of transporter license plate usage commits a second-degree misdemeanor<sup>129</sup>, all transporter plates issued to the person may be subject to cancellation, and the person is disqualified from future transporter license plate issuance;
- A person who operates a motor vehicle with a transporter license plate attached who fails to provide the registration issued for the transporter license plate and proof of required insurance commits a second-degree misdemeanor<sup>130</sup>, and the plate is subject to removal. This penalty does not apply to a person who contracts with dealers and auctions to transport motor vehicles; and
- A person who *knowingly and willfully* sells or unlawfully possesses, distributes, or brokers a transporter plate to avoid registering a vehicle that requires registration commits a first-

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<sup>128</sup> The second-degree misdemeanor is punishable as provided in ss. 775.082 or 775.083, F.S., which is a definite term of imprisonment not exceeding 60 days or a fine of no more than \$500.

<sup>129</sup> *Id.*

<sup>130</sup> *Id.*



degree misdemeanor<sup>131</sup>, and all transporter plates issued to the person's business are canceled and must be returned to the DHSMV.

### **Motor Vehicle Dealer and Broker Definitions (Section 29)**

#### ***Present Situation***

Section 320.27(1)(c), F.S., defines a "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 vehicles pursuant to an agreement as defined in s. 320.60(1), F.S. A person who buys, sells, offers for sale, displays for sale or deals in three or more motor vehicles in any 12-month period is presumed to be a motor vehicle dealer.

Motor vehicle dealers are required to be licensed by the state to conduct business. To become a licensed motor vehicle dealer, a person or persons must have their business site approved by a Division of Motorist Services Regional Office, and submit an application to the DHSMV with required documentation and fees, which may include:<sup>132</sup>

- An original \$25,000 surety bond or a letter of credit;
- A copy of the business location's lease or proof of ownership;
- A copy of the pre-licensing dealer training course completion certificate;
- A garage liability insurance certificate, or a general liability insurance policy coupled with a business automobile policy;
- A copy of registration of business with Florida's Secretary of State, Division of Corporations;
- A copy of specified corporate papers;
- A sales tax number and Federal Employer Identification number; and
- Fingerprints of the applicants to be submitted to the Florida Department of Law Enforcement for state processing, and then forwarded to the Federal Bureau of Investigation for federal processing.

Additionally, motor vehicle dealers are required to follow numerous state laws and procedures in order to maintain their dealer license. Any person who violates these license requirements can be found guilty of a second-degree misdemeanor<sup>133</sup>, and could be liable under civil law in violation of Florida's Deceptive and Unfair Trade Practices Act<sup>134</sup>.

Section 320.27(1)(d), F.S., defines a "motor vehicle broker" as any person engaged in the business of offering to procure or procuring motor vehicles for the general public, including through solicitation or advertisement, but who does not store, display, or take ownership of any vehicle for the purpose of selling the vehicle.

<sup>131</sup> The first-degree misdemeanor is punishable as provided in ss. 775.82 or 775.083, which is a definite term of imprisonment not exceeding one year or a fine of no more than \$1,000.

<sup>132</sup> See s. 320.27, F.S., and DHSMV website, *Licensing Requirements for Motor Vehicle Dealers*, <http://www.flhsmv.gov/dmv/dealer.html> (last visited April 19, 2017).

<sup>133</sup> Section 320.27(8), F.S.

<sup>134</sup> Part II, ch. 501, F.S.

Motor vehicle brokers are not considered motor vehicle dealers; thus, are not required to be licensed.

### *Effect of Proposed Changes*

Section 29 amends the definitions of “motor vehicle dealer” and “motor vehicle broker.” Specifically, it adds that the term “motor vehicle dealer” also includes any person:

- Who engages in possessing, storing, or displaying motor vehicles for retail sale;
- Who advertises motor vehicles for retail sale;
- Who negotiates with consumers regarding the terms of sale for a motor vehicle;
- Who provide test drivers of motor vehicles offered for sale; or
- Who deliver or arrange for delivery a motor vehicle in conjunction with the sale of such motor vehicle.

The section clarifies that a person is not a motor vehicle dealer if his or her sole dealing in motor vehicles is owning a publication or hosting a website that displays vehicles for sale by licensed motor vehicle dealers.

This section amends the term “motor vehicle broker,” which is defined in the bill as any person engaged in the business of assisting the general public in purchasing or leasing a motor vehicle from a licensed dealer, including through solicitation or advertisement, and is not considered a motor vehicle dealer.

The section adds that any advertisement or solicitation by a motor vehicle broker must include a statement that the broker is receiving a fee and that the person is not a licensed motor vehicle dealer.

### **FHP Law Enforcement Training Reimbursement (Section 30)**

#### *Present Situation*

Section 321.25, F.S., authorizes the 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...” The DHSMV is authorized to charge a fee for providing authorized training, as well as tuition, lodging, and meals. New FHP troopers receive 28 to 29 weeks of paid Law Enforcement Training at the FHP Training Academy. During this paid training, meals, lodging, equipment, and study materials are provided to FHP Academy trainees at no cost to the trainee.<sup>135</sup> The DHSMV estimates that the cost of training and other course expenses to the DHSMV is approximately \$12,386 per trooper trainee.<sup>136</sup>

In Florida, if an officer trainee who attends an approved training program at the expense of an employing agency terminates employment with such agency within two years after graduation from the basic recruit training program, he or she may be required to reimburse the employing agency for the full cost of tuition and other expenses.<sup>137</sup> Section 943.16, F.S., allows an

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<sup>135</sup> FHP, *Be A Trooper- Requirements- Benefits*, available at <http://beatrooper.com/requirements/> (last visited Feb. 10, 2017).

<sup>136</sup> Email from the DHSMV (Feb. 17, 2017) (on file with the Senate Committee on Transportation).

<sup>137</sup> Section 943.16, F.S.

employing agency to institute a civil action to collect these expenses if it is not reimbursed, provided that the trainee signed acknowledgement of this requirement. Trainees are not required to reimburse the employing agency if they resign their law enforcement certification upon terminating employment. Additionally, an employing agency may waive the reimbursement requirement in part or in full for a trainee who terminates employment due to hardship or extenuating circumstances.<sup>138</sup>

Since 2012, 86 FHP members terminated employment with the FHP within two years of completing training. According to the DHSMV, the FHP only pursues reimbursement if a trooper leaves within the two years to secure employment with another law enforcement agency.<sup>139</sup> An additional 37 FHP members terminated employment within the third year of completing FHP training.

### ***Effect of Proposed Changes***

Section 30 amends s. 321.21, F.S., relating specifically to FHP training, to increase the employment period length to which the reimbursement requirement applies from two years to three years. If an FHP trainee terminates employment with FHP prior to completing three years of service, the DHSMV may require the trainee to reimburse the cost of the FHP training tuition and other course expenses.

The amended section retains that the DHSMV may institute a civil action to collect tuition and other related expenses if it is not reimbursed, provided the trainee signed written acknowledgement of the (3-year) requirement. Additionally, the DHSMV retains authority to waive the reimbursement requirement in part or in full if the trainee terminates employment due to hardship or extenuating circumstances. However, the amendment removes the ability of FHP trainees to resign their law enforcement certification upon termination in order to avoid having to reimburse the DHSMV for the cost of tuition and other course expenses.

### **Digital Driver Licenses (Section 33)**

#### ***Present Situation***

Section 322.032, F.S.,<sup>140</sup> provides for the establishment of a digital proof of driver license. This section requires the DHSMV to begin to review and prepare for the development of a secure and uniform system for issuing an optional digital proof of driver license. DHSMV is authorized to contract with one or more private entities to develop a digital proof of driver license system.

The digital proof of driver license developed by DHSMV or by an entity contracted by the DHSMV is required to be in such a format as to allow law enforcement to verify the authenticity of the digital proof of driver license. DHSMV may adopt rules to ensure valid authentication of digital driver licenses by law enforcement.

A person may not be issued a digital proof of driver license until he or she has satisfied all of the requirements of Ch. 322, F.S., for issuance of a physical driver license.

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<sup>138</sup> *Id.*

<sup>139</sup> DHSMV, *Legislative Package Talking Points* (Jan. 24, 2017) (on file with the Senate Committee on Transportation).

<sup>140</sup> This section was created in 2014. *See* ch. 2014-216, Laws of Fla.

This section also establishes certain penalties for a person who manufactures or possesses a false digital proof of driver license. Specifically, a person who:

- Manufactures a false digital proof of driver license commits a felony of the third degree, punishable by up to five years in prison<sup>141</sup> and a fine not to exceed \$5,000.<sup>142</sup>
- Possesses a false digital proof of driver license commits a misdemeanor of the second degree, punishable by up to 60 days in prison.<sup>143</sup>

#### Agency for State Technology

The Florida Legislature created the Agency for State Technology in 2014 to develop and publish state information technology policy, oversee state technology projects, and manage the State Data Center.<sup>144</sup>

#### *Effect of Proposed Changes*

Section 33 amends s. 322.032, to require the DHSMV to collaborate with the Agency for State Technology to *establish and implement* secure and uniform protocols and standards for issuing an optional digital proof of driver license.

This section requires DHSMV to procure any application programming interface necessary to enable a private entity to securely manufacture a digital proof of driver license.

The bill also provides that displaying the digital proof of driver license does not constitute consent for the officer or agent to access any information on the device other than the digital proof of driver license. The person who presents the device to the officer assumes liability for any resulting damage to the device.

#### **“D” Designation on ID card for Persons with PTSD or TBI (Section 34)**

##### *Present Situation*

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>145</sup> upon completion of an application and payment of a \$25 fee.<sup>146</sup>

Section 320.051(8)(e), F.S., provides that 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 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

<sup>141</sup> Section 775.082, F.S.,

<sup>142</sup> Section 775.083, F.S.

<sup>143</sup> Section 775.082, F.S.

<sup>144</sup> See Agency for State Technology, <http://www.ast.myflorida.com/> (last visited April 19, 2017).

<sup>145</sup> Disabled parking permits are provided under s. 320.0848, F.S.

<sup>146</sup> Section 322.051, F.S.

- Proof acceptable to DHSMV of a diagnosis by a licensed physician of a developmental disability.<sup>147</sup>

The above provision applies upon implementation of new designs for the driver license and identification card by the DHSMV.<sup>148</sup>

### *Effect of Proposed Changes*

Section 34 amends s. 322.051(8)(e)1., F.S., adding persons with post-traumatic stress disorder (PTSD)<sup>149</sup> or traumatic brain injury (TBI)<sup>150</sup> to those individuals who 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 (Section 36)**

### *Present Situation*

A minor is not eligible for driving privileges unless he or she<sup>151</sup>:

- Is enrolled in a public school, nonpublic school, or home education 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; or
- Has been issued a certificate of exemption or hardship waiver under.

Subsection 322.091(5), F.S., requires the DHSMV to submit a report quarterly to each school district containing the legal name, sex, date of birth, and social security number of each student whose driving privileges have been suspended under this section.

### *Effect of Proposed Changes*

Section 36 amends subsection 322.091(5), F.S., to remove obsolete language. According to the DHSMV, access to this report is available to school boards electronically on an accessible website.<sup>152</sup> The report via the website is updated in real-time whenever a new student is added.

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<sup>147</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>148</sup> Section 3 of Ch. 2016-175, L.O.F.

<sup>149</sup> PTSD is defined as a mental health condition that is triggered by a terrifying event. Symptoms include flashbacks, nightmares and severe anxiety, as well as uncontrollable thoughts about the event. See Mayo Clinic website, <http://www.mayoclinic.org/diseases-conditions/post-traumatic-stress-disorder/home/ovc-20308548> (last visited Mar. 23, 2017).

<sup>150</sup> TBI occurs when an external mechanical force causes brain dysfunction; usually from a violent blow or jolt to the head or body. See Mayo Clinic website, <http://www.mayoclinic.org/diseases-conditions/traumatic-brain-injury/basics/definition/con-20029302> (last visited Mar. 23, 2017).

<sup>151</sup> Section 322.091, F.S.

<sup>152</sup> Meeting with the DHSMV and Senate Transportation Committee Staff (Jan. 23, 2017).

## **Stolen Identification Cards (Section 39)**

### *Present Situation*

Section 322.17, F.S., provides that in the event that an instruction permit or driver license is stolen from an individual, upon proof of identity and proof satisfactory to the DHSMV that such permit or license was stolen (generally, with copy of a police report), a replacement permit or license will be issued at no cost to the individual.

Replacement driver licenses and identification cards cost \$25. According to the DHSMV, in Fiscal Year 2015-2016, individuals reported approximately 7,123 stolen identification cards to the DHSMV.<sup>153</sup>

### *Effect of Proposed Changes*

Section 39 amends s. 322.17, F.S., to include that identification cards shall be replaced at no cost to an individual who provides proof of identity and proof satisfactory to the DHSMV that the card was stolen.

## **Specialty Driver Licenses or Identification Cards (Section 40)**

### *Present Situation*

Section 322.1415, F.S., provided authority for DHSMV to issue specialty driver licenses and identification cards recognizing, at a minimum, Florida universities, Florida professional sports teams, and all branches of the United States Armed Forces. Additionally, s. 322.1415(5), F.S. provided that the section was repealed effective August 31, 2016.

### *Effect of Proposed Changes*

Section 40 amends s. 322.21, F.S., to remove an obsolete reference to specialty driver license and identification card costs from s. 322.21, F.S.

## **Expedited Shipping (Section 40)**

### *Present Situation*

The DHSMV is not currently authorized to offer expedited shipping services for renewal or replacement driver licenses or identification cards. The fastest way to receive a renewal or replacement driver license or identification card is to go in-person to a Florida driver license office. However, for individuals out-of-state or who cannot get to a driver license office, renewals and replacement driver licenses or identification cards may be requested using a convenience service<sup>154</sup>, including the DHSMV's virtual office<sup>155</sup>.

According to the DHSMV, it can take seven to fourteen days to receive a renewal or replacement driver license or identification card after it is ordered from the DHSMV's virtual office.

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<sup>153</sup> DHSMV, *Legislative Package Talking Points* (Jan. 24, 2017) (on file with the Senate Committee on Transportation).

<sup>154</sup> Section 322.01(10), F.S., defines "convenience service" as "any means whereby an individual conducts a transaction with the department other than in person."

<sup>155</sup> Available at <https://services.flhsmv.gov/virtualoffice/Lobby.aspx> (last visited Feb. 13, 2017).

***Effect of Proposed Changes***

Section 40 also provides that an applicant for a renewal or replacement driver license or identification card, when using a convenience service, will have the option to request expedited shipping. If the applicant chooses expedited shipping, the DHSMV shall issue the license or identification card within five working days of receiving the application and will ship the license or card using an expedited mail service. The DHSMV may charge a fee for the expedited shipping that does not exceed the cost of the expedited mail service. This shipping fee is in addition to any fee that would have been charged for the license or card, excluding the expedited shipping. The DHSMV shall deposit expedited shipping fees into the Highway Safety Operating Trust Fund.

**For-hire Passenger Transportation - Financial Responsibility (Section 42)*****Present 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 that is a member of the Florida Insurance Guaranty Association.<sup>156</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.

***Effect of Proposed Changes***

Section 42 amends s. 324.031, F.S., providing that a for-hire passenger transportation vehicle's motor vehicle liability policy must be provided by an insurer authorized to do business in this state and who is a member of the Florida Insurance Guaranty Association, or by eligible surplus lines 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.

The section also changes the excess minimum insurance limits required for persons proving financial responsibility by certificate of deposit, from \$125,000/\$250,000/\$50,000 to \$100,000/\$300,000/\$50,000.

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<sup>156</sup> The Florida Insurance Guaranty Association is created in s. 631.55, F.S.

## Taximeters (Sections 43-45)

### *Present Situation*

Currently, the Bureau of Standards within the Department of Agriculture and Consumer Services (DACS) is generally responsible for the inspection of weights and measures devices or instruments in Florida.<sup>157</sup> Section 531.37(1), F.S., defines “weights and measures” as all weights and measures of every kind, instruments, and devices for weighing and measuring, and any appliance and accessories associated with any or all such instruments and devices. The definition excludes those weights and measures used to inspect the accuracy of devices used in conjunction with aviation fuel.<sup>158</sup>

The DACS’ responsibilities concerning weights and measures include, but are not limited to:

- Establishing standards of weight, measure, or count and reasonable standards of fill for packaged commodities, as necessary;
- Providing exemptions to ch. 531, F.S., when appropriate to maintain good commercial practices within the state;
- Conducting investigations necessary to ensure compliance with ch. 531, F.S.;
- Testing annually the standards of weight and measure used by any city or county; and
- Inspecting and testing weights and measures commercially used to determine weight, measure, or count of goods being sold, or in computing the charge or payment for services rendered on the basis of weight, measure, or count.<sup>159</sup>

For the purpose of consumer protection, the Bureau of Standards within the DACS is also empowered under s. 531.42, F.S., to enforce the proper use of weights and measuring instruments or devices and the advertisement of the correct weight or measurement on a good for sale.

### Taximeters

A taximeter is a device that automatically calculates at a predetermined rate or rates and indicates the charge for hire of a vehicle.<sup>160</sup>

A weights and measures instrument or device, which includes taximeters, may not be used for commercial purposes within the state without first being permitted by the DACS.<sup>161</sup>

Section 531.63, F.S., provides that the commercial use permit fee, which is issued annually, for a taximeter may not exceed \$50. Currently, the annual permit fee for such taximeters is \$35.<sup>162</sup>

According to the DACS, it currently permits approximately 3,700 taximeters annually.<sup>163</sup>

<sup>157</sup> See ch. 531, F.S., “Weights and Measures Act of 1971.”

<sup>158</sup> Section 531.37(1), F.S.

<sup>159</sup> Section 531.41, F.S.

<sup>160</sup> U.S. Department of Commerce, National Institute of Standards and Technology, *Handbook 44, Section 5.54 Taximeters* (2012), <https://www.nist.gov/sites/default/files/documents/pml/wmd/pubs/2011/10/26/5-54-12-hb44-final.pdf> (last visited Mar. 24, 2017).

<sup>161</sup> Section 531.60, F.S.

<sup>162</sup> DACS, *Laws and Rules – Bureau of Standards* (January 2015), available at [http://www.freshfromflorida.com/content/download/42262/890253/2015\\_STANDARDS\\_LAWS\\_&\\_RULES.pdf](http://www.freshfromflorida.com/content/download/42262/890253/2015_STANDARDS_LAWS_&_RULES.pdf) at p. 33 (last visited Mar. 24, 2017).

<sup>163</sup> DACS, *SB 1452 Agency Analysis* (Mar. 13, 2017) (on file with the Senate Committee on Transportation).



However, taximeters are exempt from such state permitting requirements if the taximeter is tested for accuracy and compliance with state standards by a local government and licensed, permitted, or registered by such local government.<sup>164</sup> The extent of local government regulation and permitting of taximeters is unknown.

### ***Effect of Proposed Changes***

Section 43 amends s. 531.37(1), F.S., to exclude taximeters and transportation measurement systems from the definition of “weights and measures.” Because taximeters would no longer be subject to state regulation, section 44 amends s. 531.61, F.S., to delete language that exempts taximeters from state weights and measures permit requirements if the device is locally regulated.

In addition, section 45 amends s. 561.63, F.S., to remove taximeters from a list of weights and measure instruments subject to a commercial use permit fee (of up to \$50 in this case).

In effect, the bill will no longer require taximeters or other transportation measurement systems to be inspected or permitted by the DACS.

## **Unauthorized Interference with Global Positioning Systems (Section 46)**

### ***Present Situation***

Section 877.27, F.S., prohibits a person from making a radio transmission if he or she is not licensed or exempt for licensure by the Federal Communications Commission, or from causing an unlicensed radio transmission to interfere with a licensed radio public or commercial radio station. A person who violates this prohibition commits a third degree felony.

Global positioning system (GPS) jammers are devices using radio frequency transmitters in order to intentionally block, jam, or interfere with GPS systems. It is illegal to market, sell, or use GPS jammers in the United States.<sup>165</sup> Such devices have been linked to cargo thefts throughout the United States.<sup>166</sup>

### ***Effect of Proposed Changes***

Section 46 amends s. 877.27, F.S., to clearly prohibit a person from using a device prohibited by the Federal Communications Commission that would cause interference with the legal use of a GPS to track vehicles. A person who violates this prohibition commits a third degree felony.

## **Amending Cross-References (Sections 47-51)**

Sections 47-51 amend numerous cross-references to reflect changes made by the bill.

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<sup>164</sup> Section 531.61(1), F.S.

<sup>165</sup> See GPS.gov, *Information About GPS Jamming*, <http://www.gps.gov/spectrum/jamming/> (last visited April 19, 2017).

<sup>166</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 19, 2017).

**Effective Dates (Sections 52 and 53)**

Section 10 takes effect upon the same date that SB 340 or similar legislation takes effect.

Section 12 takes effect upon the adoption by rule of uniform traffic citation forms.

Section 16 takes effect July 1, 2018.

The remaining sections of the bill take effect October 1, 2017.

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

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

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

The Revenue Estimating Conference (REC) reviewed some provisions in the bill on March 10, 2017.<sup>167</sup> The REC estimates that replacing stolen identification cards at no charge to a customer (section 39 of the bill) will reduce revenues deposited into the General Revenue Fund by an insignificant amount until Fiscal Years 2020 through 2022. Beginning 2020, the lost revenues are anticipated to be \$100,000 annually.

The REC estimates that allowing local tax collectors to retain fees or portions of fees for administering subsequent driver license examinations or reinstating licenses (sections 37 and 40) will shift approximately \$5 million of revenues from the annually to the local tax collectors.

Additionally, the REC estimates that authorizing expedited shipping fees for driver licenses and identification cards (section 40) will have an indeterminate impact in revenues to the extent that expedited shipping is requested.

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<sup>167</sup> Office of Economic and Demographic Research, Revenue Estimating Conference, *Highway Safety Fees – HB 545* (Mar. 10, 2017), available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/pdf/Impact0310.pdf> at p. 22-30 (last visited Mar. 15, 2017).

**B. Private Sector Impact:**

The bill may have a positive impact for individuals who are:

- Issued a free replacement identification card to replace a stolen card (section 39);
- CMV operators who may replace a damaged apportioned license plate at no charge (section 17);
- Not-for-hire truck operators within the state who may become eligible for the restricted agricultural special license plate (section 21);
- Businesses who may become eligible to use DHSMV's electronic filing system (section 16);
- Operators of autocycles (sections 32 and 37) who will not be required to obtain a motorcycle license or endorsement license, or to complete a motorcycle safety course and a motorcycle knowledge and skills test currently required to obtain such a license or endorsement;
- Surplus lines insurers (section 42); and
- Taxi drivers and other individuals who are currently required to have their taximeter or transportation measurement system permitted by DACS (sections 43-45).

In addition, the bill could have a positive impact on specialty license plate organizations if a dealer or fleet purchases its specialty license plate, as well as IID providers if the bill increases the amount of DUI offenders who may voluntarily place such devices.

**C. Government Sector Impact:**

The bill makes changes to address compliance issues with federal laws relating to commercial motor vehicles (sections 6, 7, and 41). According to the DHSMV, if Florida fails to comply with FMCSA compatibility requirements, Florida may experience a reduction of up to four percent of Federal-aid highway funds following the first year of noncompliance and up to eight percent for subsequent years.<sup>168</sup> Noncompliance may also affect the potential award of future grants.

To the extent that FHP troopers terminate employment for employment with another agency between their second and third year of service, the DHSMV may receive reimbursement for training costs from the individual (section 30). The DHSMV estimates that the cost of training and other course expenses to the DHSMV is approximately \$12,386 per trooper trainee.<sup>169</sup>

The DHSMV will likely incur programming costs associated with changes made by the bill, as well as production costs to create Bronze Star license plates (section 27), Purple Heart motorcycle plates (section 26), and procurement costs to implement a digital proof of driver license (section 33). The DHSMV is authorized to retain revenues from the first proceeds of specialty license plate sales to defray departmental expenditures related to the specialty license plate program.<sup>170</sup>

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<sup>168</sup> Email from the DHSMV (Feb. 17, 2017) (on file with the Senate Committee on Transportation).

<sup>169</sup> *Id.*

<sup>170</sup> Section 320.08056(7), F.S.

FDACS expects to lose roughly \$129,500 annually beginning in Fiscal Year 2017-2018 due to the loss of taximeter permit fees (sections 43-45).<sup>171</sup> However, the DACS will no longer incur administrative costs or expenses related to the regulation and permitting of taximeters.

The bill is intended to address a broad range of federal compliance, customer service and administrative efficiency issues; however, these changes have various indeterminate impacts to revenues and expenditures and the total fiscal impact of the bill on the government sector is unknown.

## **VI. Technical Deficiencies:**

The percentages in lines 1556-1558 of the bill likely need to be amended to equal 100 percent.

## **VII. Related Issues:**

Section 2 refers to a “first offense misdemeanor of the second degree” of driving under the influence. A first offense of driving under the influence, however, is not explicitly referred to as a second degree misdemeanor in the Florida Statutes, nor do the penalties assessed for a first offense of driving under the influence match the penalties associated with a second degree misdemeanor.<sup>172</sup> In addition, s 316.656, F.S., prohibits a court from withholding adjudication of guilt or imposition of sentence for any driving under the influence violation.

## **VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 316.003, 316.193, 316.1937, 316.2397, 316.2398, 316.302, 316.3025, 316.614, 316.85, 318.1215, 318.18, 320.01, 320.02, 320.03, 320.06, 320.0605, 320.0607, 320.0657, 320.08, 320.08056, 320.08058, 320.08068, 320.086, 320.089, 320.133, 320.27, 321.25, 322.01, 322.03, 322.032, 322.051, 322.08, 322.091, 322.12, 322.135, 322.17, 322.21, 322.61, 324.031, 531.37, 531.61, 531.63 and 877.27.

This bill creates the following sections of the Florida Statutes: 316.851 and 320.0875.

This bill amends the following sections of the Florida Statutes to conform cross-references: 212.05, 316.303, 316.545, 316.613, and 655.960.

## **IX. Additional Information:**

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

### **CS/CS by Appropriations on May 1, 2017:**

The CS:

<sup>171</sup> See DACS, *SB 1452 Agency Analysis* (Mar. 13, 2017) (on file with the Senate Committee on Transportation).

<sup>172</sup> See ss. 775.082 and 775.083, F.S., and s. 316.193, F.S.

- Provides that a court *may* withhold adjudication for a defendant convicted for the first time of a second degree misdemeanor offense of driving under the influence that has not caused injury to, or the death of, a person or damage to property, when such person voluntarily places or is court ordered to place an ignition interlock device, completes specified requirements, and has not had any other withholds;
- Specifies discounts of the monthly leasing fee of the ignition interlock device and waiver of the installation and removal costs of the device for certain individuals claiming inability to pay;
- Allows “Dealer” license plates and “Fleet” license plates be specialty license plates with the permission of the sponsoring specialty license plate organization. Such plates must be ordered directly from the DHSMV;
- Amends the distribution of the Fallen Law Enforcement Officers specialty license plate to allow the Police and Kids Foundation, Inc. to use the remaining proceeds from the sale of the plate, after up to 10 percent is used for marketing, for the organization’s operations, activities, programs, and projects;
- Directs the DHSMV to create the following six new specialty license plates:
  - Ducks Unlimited license plate;
  - Play Ball license plate;
  - America the Beautiful license plate;
  - Protect Pollinators license plate; and
  - Donate Life Florida license plate; and
- Lastly, it makes changes to current law to no longer require taximeters or other transportation measurement systems be inspected or permitted by the DACS.

**Recommended CS/CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on April 18, 2017:**

The CS adds the following issues to the bill:

- Allows a person without a driver license to operate an autonomous vehicle in autonomous mode if the person cannot take control of the vehicle;
- Applies certain insurance coverage requirements, should legislation addressing insurance for transportation network companies (TNCs) become law, to autonomous vehicles used by TNCs to provide transportation, regardless of whether a human operator is physically present in the vehicle when the ride occurs;
- Authorizes a board of county commissioners to require, by ordinance, that the clerk of court collect an additional \$5 with each *criminal*, instead of *civil* traffic penalty, which is used to fund driver education programs in schools;
- Changes “construction zone” to “work zone” for the purpose of double speeding penalties in such zones if required signs are posted and workers are present;
- Requires tax collectors perform the same motor vehicle registration and driver license services for non-county residents as they do for their home county residents;
- Expands the allowable operations and authorized agents of the DHSMV electronic filing system;
- Revises the eligibility requirement for the agricultural restricted license plate to allow certain agricultural trucks that operate within the state, instead of within a 150-mile radius of the truck’s home address, be eligible for the restricted license plate;

- Authorizes a trailer to be considered a motor vehicle for purposes of receiving specified license plates;
- Clarifies the definition of motor vehicle dealers and motor vehicle brokers;
- Requires DHSMV work with the Agency for State Technology to provide digital proof of driver licenses;
- Allows for-hire passenger vehicles be insured by an eligible surplus lines insurer and modifies certain insurance limits; and
- Prohibits a person from using any device prohibited by the Federal Communications Commission that would cause interference with the legal use of a global positioning system to track vehicles.

The CS also:

- Amends the bill to allow the number of warning signals on a volunteer firefighter or medical staff vehicle to be determined by the responding agency;
- Delays the requirements for electronic logging devices and hours of service support documents for certain intrastate motor carriers until December 31, 2018; and
- Provides that tax collectors shall retain subsequent driver examination fees and specified driver license fees, *less the eight percent General Revenue Service Charge*.

**CS by Transportation on March 22, 2017:**

The CS adds several issues to the bill. Specifically, the CS:

- Creates a definition for an autocycle, requires occupants of autocycles to wear safety belts, and exempts drivers of autocycles from being required to have a motorcycle endorsement or motorcycle license, or from completing motorcycle knowledge and skills testing;
- Allows volunteer firefighters to use red and white, in addition to red, warning signals;
- Allows a person driving a rental vehicle who is stopped by a law enforcement officer or agent of the DHSMV to show an electronic copy of a rental agreement;
- Changes references to the organization “Prevent Blindness” to “Preserve Vision”;
- Creates a Purple Heart motorcycle special license plate;
- Creates a Bronze Star license plate;
- Removes specialty license plates from statute that have been discontinued by the DHSMV; and
- Allows a person diagnosed with PTSD or TBI to be eligible to receive a “D” designation on his or her ID card.

The CS modifies changes to the bill sections on the Issuance of Apportionable Vehicle Plates. The CS removes language from current law indicating that the cab card denotes the declared gross vehicle weight *for each jurisdiction in which the vehicle is authorized to operate*. The CS also changes that a \$28 annual fee is for an original and a renewed validation sticker, instead of for the annual cab card.

**B. Amendments:**

None.

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

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