

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/CS/HB 1053 Highway Safety and Motor Vehicles

**SPONSOR(S):** State Affairs Committee, Transportation & Tourism Appropriations Subcommittee, Transportation & Infrastructure Subcommittee, Brannan

**TIED BILLS:** HB 1055 **IDEN./SIM. BILLS:** SB 7090

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	15 Y, 0 N, As CS	Roth	Vickers
2) Transportation & Tourism Appropriations Subcommittee	11 Y, 0 N, As CS	Hicks	Davis
3) State Affairs Committee	22 Y, 0 N, As CS	Roth	Williamson

### SUMMARY ANALYSIS

The bill amends various statutes relating to highway safety and motor vehicles. The bill:

- Creates a definition for the term “crash” and substitutes it for the term “accident” throughout the Florida Statutes;
- Updates numerous commercial motor vehicle regulations to address compatibility concerns with federal law;
- Requires charter buses operating interstate to register as apportionable vehicles;
- Provides that an apportionable license plate will be replaced every five years and that the license plate may be replaced at no charge if it is damaged or worn;
- Updates statutes to reflect that the Department of Highway Safety and Motor Vehicles (DHSMV), rather than the Department of Transportation, is the state agency responsible for establishing safety standards for nonpublic sector buses;
- Provides DHSMV with subpoena authority to investigate certain fraudulent activities;
- Authorizes DHSMV to collect and utilize e-mail addresses to contact customers for certain purposes;
- Provides DHSMV additional authority to enforce regulations relating to motor vehicle dealers;
- Authorizes identification cards to be replaced for free when stolen;
- Strengthens the penalties for providing fraudulent information on an application for a driver license;
- Clarifies requirements for mobile and manufactured home repair and remodeling;
- Repeals provisions relating to special license plates for former federal and state legislators;
- Provides tax collectors and their agents with the same real-time access to data for tags, titles, and registrations that DHSMV provides to all other third-parties;
- Provides tax collectors additional procurement options in purchasing materials used in producing vehicle registration documents;
- Authorizes DHSMV to issue specialty license plates for fleet vehicles and motor vehicle dealer vehicles;
- Authorizes vehicles registered to volunteer fire fighters to use red or red and white lights;
- Provides changes to the financial responsibility requirements relating to for-hire motor vehicles; and
- Authorizes an electronic copy of a vehicle rental or lease agreement to be accepted as proof of possession of such documentation.

The bill appears to have an insignificant negative fiscal impact on state and local revenues and an indeterminate negative impact on state expenditures. See Fiscal Analysis for details.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1053e.SAC

DATE: 4/22/2019

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Crash and Serious Bodily Injury**

###### Current Situation

Although chapter 316, F.S., related to State Uniform Traffic Control, contains the term “crash” and “accident” throughout the chapter, the terms are not defined. The absence of standard definitions leads to inconsistent policies and procedures across law enforcement agencies that investigate crashes and among courts that adjudicate cases involving crashes.

Chapter 316, F.S., defines “serious bodily injury” in ss. 316.192, 316.027, and 316.1933, F.S. However, the term is not defined in s. 316.003, F.S., which is the definitions section of ch. 316, F.S.

###### Proposed Changes

The bill creates a definition for the term “crash.” “Crash” is defined as:

The operation of a motor vehicle, motorized scooter, or moped which results in property damage or death, bodily injury, or complaint of bodily injury to any person. The term "crash" includes separation of the operator or an occupant from a motor vehicle, motorized scooter, or moped, or trailer being drawn by a motor vehicle, while in motion, which results in property damage or death, bodily injury, or complaint of bodily injury to any person. The term "crash" does not include such operation:

(a) On private property, if such operation does not result in death or serious bodily injury, unless the operator is suspected of driving under the influence;

(b) On a closed course used for commercial or recreational purposes, such as a commercial driving school or racetrack, unless the operator is suspected of driving under the influence; or

(c) If such property damage or death, bodily injury, or complaint of bodily injury to any person results from an intentional act of a law enforcement officer to force a motor vehicle or moped to stop or reduce speed, such as use of a pursuit termination device or the precision immobilization technique, except that the term "crash" includes such operation that results in death, bodily injury, or complaint of bodily injury to, or damage to property of, anyone other than the operator or an occupant being forced to stop or reduce speed or the law enforcement officer.

The term "crash" also does not include the death or suffering of a medical episode by the operator or an occupant of a motor vehicle or moped if operation of the motor vehicle or moped did not result in such death or medical episode and does not result in property damage or death, bodily injury, or complaint of bodily injury to any other person.

The bill changes the word “accident” to “crash” throughout the statutes as appropriate.

The bill also deletes the various definitions of the term “serious bodily injury” and creates a single definition of the term in s. 316.003, F.S. “Serious bodily injury” is defined as a physical injury to any person which creates a substantial risk of death, significant personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

## **Autocycles**

### Current Situation

The National Highway Traffic Safety Administration (NHTSA) does not currently have a vehicle classification for autocycles.<sup>1</sup> At the federal level, autocycles fall under the definition of “motorcycle” and must generally comply with applicable motorcycle manufacturing and safety standards.<sup>2</sup> In the absence of federal guidance on the regulation of autocycles, states are making efforts to define what is an autocycle, address safety requirements and passenger restrictions, regulate operator licensing and operation of autocycles on roadways, and distinguish autocycles from motorcycles in crash reporting.<sup>3</sup>

Florida law defines the term “autocycle” as a three-wheeled motorcycle that is equipped with a roll cage or roll hoops, a seat belt for each occupant, antilock brakes, a steering wheel, and seating that does not require the operator to straddle or sit astride it. The autocycle must be manufactured in accordance with the applicable federal motorcycle safety standards by a manufacturer registered with the NHTSA. Autocycle drivers are not required to hold a motorcycle endorsement or motorcycle license.<sup>4</sup>

### Proposed Changes

The bill amends the definition of the term “autocycle” to provide that it as having a “steering mechanism” rather than a “steering wheel”.

## **Vehicle Lights**

### Current Situation

Section 316.235, F.S., authorizes certain additional lighting equipment on motor vehicles; however, it does not address lamps or devices underneath a motor vehicle. A violation of s. 316.235, F.S., is a noncriminal traffic infraction, punishable as a nonmoving violation<sup>5</sup> with a base fine of \$30.

### Proposed Changes

The bill authorizes a motor vehicle to be equipped with one or more lamps or devices underneath the motor vehicle as long as such lamps or devices do not emit light in violation of current law regarding lights on law enforcement vehicles,<sup>6</sup> flashing lights,<sup>7</sup> or multiple-beam road lighting equipment.<sup>8</sup>

## **Volunteer Firefighter Lights**

### Current Situation

Vehicles of the fire department and fire patrol, vehicles of medical staff physicians or technicians of licensed medical facilities, ambulances, buses, and taxicabs may show or display red lights.<sup>9</sup> Privately owned vehicles belonging to an active firefighter member of a volunteer firefighting company or association, while en route to the fire station for the purpose of proceeding to a fire or other emergency or to a fire or other emergency, or a privately owned vehicle belonging to a medical staff physician or technician of a licensed medical facility, while responding to an emergency, may display or use red warning signals visible from the front and from the rear of such vehicle, subject to the following restrictions and conditions:

- No more than two red warning signals may be displayed;

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<sup>1</sup> Steven Lambert and Douglas Shinkle, *Transportation Review: Autocycles*, National Conference of State Legislatures (April 17, 2017), available at <http://www.ncsl.org/research/transportation/transportation-review-autocycles.aspx> (last visited April 18, 2019).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Sections 322.03(4) and 322.12, F.S.

<sup>5</sup> Chapter 318, F.S., relates to the disposition of traffic infractions.

<sup>6</sup> Section 316.2397(1), F.S.

<sup>7</sup> Section 316.2397(7), F.S.

<sup>8</sup> Section 316.238, F.S.

<sup>9</sup> Section 316.2397(3), F.S.

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

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

A violation of s. 316.2398, F.S., is a nonmoving violation and volunteer firefighters must be dismissed from the firefighting organization by the organization's chief executive officer.<sup>12</sup>

The term "authorized emergency vehicle" means a vehicle that is equipped with extraordinary audible and visual warning devices, that is authorized to display red or blue lights, and that is on call to respond to emergencies. It includes, but is not limited to, ambulances, law enforcement vehicles, fire trucks, and other rescue vehicles. The term does not include wreckers, utility trucks, or other vehicles used only incidentally for emergency purposes.<sup>13</sup>

### Proposed Changes

The bill authorizes vehicles registered to volunteer fire fighters to use red *or red and white* lights under certain circumstances. The bill also revises the definition of the term "authorized emergency vehicle" to conform to changes made by the bill.

## **Commercial Motor Vehicles**

### Current Situation

The primary mission of the Federal Motor Carrier Safety Administration (FMCSA), an agency within the U.S. Department of Transportation, is to prevent commercial motor vehicle-related fatalities and injuries.<sup>14</sup> In 2007, FMCSA presented to Florida a Motor Carrier Safety Assistance Program (MCSAP) review, which concluded that Florida Statutes have multiple compatibility concerns with federal commercial motor vehicles (CMV) safety regulations.<sup>15</sup> In August 2018, FMCSA sent a letter to DHSMV reminding the department of its failure to comply with the 2016 amended Federal Motor Carrier Safety Regulations on minimum performance and design standards for hours-of-service electronic logging devices.<sup>16</sup> The letter stated that, effective February 16, 2019, failure to adopt compatible electronic logging device regulations may jeopardize Florida's eligibility for Fiscal Year (FY) 2019 MCSAP funding.<sup>17</sup> The MCSAP grant funding for FY 2017-18 was \$14,718,042 and the funding for FY 2018-19 was \$15,033,312.<sup>18</sup>

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

- Has a gross vehicle weight rating of 10,000 pounds or more;
- Is designed to transport more than 15 passengers, including the driver; or

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

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

<sup>12</sup> Section 316.2398(5), F.S.

<sup>13</sup> Section 322.01(4), F.S.

<sup>14</sup> Federal Motor Carrier Safety Administration, available at <https://www.fmcsa.dot.gov/mission/about-us> (last visited February 28, 2019).

<sup>15</sup> 2007 Florida State MCSAP Review (Copy on file with Transportation & Infrastructure Subcommittee).

<sup>16</sup> Letter from Federal Motor Carrier Safety Administration (August 10, 2018) (Copy on file with Transportation & Infrastructure Subcommittee).

<sup>17</sup> *Id.*

<sup>18</sup> E-mail from Jennifer Langston, Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, RE: DHSMV Package, (February 21, 2019).

- Is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act,<sup>19</sup> as amended.<sup>20</sup>

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

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

Section 316.302(1)(b), F.S., provides that, with certain exceptions, all owners or drivers of CMVs engaged in *intrastate* commerce are subject to the following parts of 49 C.F.R., except as it relates to the definition of bus, as those rules and regulations existed on December 31, 2012:

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

Federal regulations define "bus" as any motor vehicle designed, constructed, or used for the transportation of passengers, including taxicabs.<sup>21</sup> In its 2007 review, FMCSA found that Florida's exemption for taxicabs was not compatible with federal regulations, which includes taxicabs in the definition of "bus."<sup>22</sup>

In its 2007 review, FMCSA also found that the statutory provision exempting trucks transporting solid waste and recyclable materials with specified mechanisms operating at speeds of less than 20 miles per hour from certain lighting provisions is incompatible with federal regulations,<sup>23</sup> which does not contain a similar exemption, and federal regulations expressly prohibit lamps and reflectors from being obscured.<sup>24</sup>

Federal regulations provide that, with some exceptions, CMV drivers must be at least 21 years of age.<sup>25</sup> Federal regulations also provide maximum drive time requirements for property carrying vehicles.<sup>26</sup>

<sup>19</sup> 49 U.S.C. ss. 1801 et seq.

<sup>20</sup> Section 316.003(13), F.S.

<sup>21</sup> 49 C.F.R. 390.5.

<sup>22</sup> MCSAP Review, *supra* FN 15 at FL/FI-1.

<sup>23</sup> 49 C.F.R. 393 Subpart B.

<sup>24</sup> MCSAP Review, *supra* FN 15 at FL/FI-7.

<sup>25</sup> 49 C.F.R. s. 391.11(b)(1).

<sup>26</sup> 49 C.F.R. s. 395.3(a) and (b).

Section 316.302(2)(a), F.S., provides that a person operating a CMV solely in intrastate commerce and not transporting any hazardous material in amounts that require placarding<sup>27</sup> are not required to comply with the above-referenced federal regulations.

Federal regulations provide hours of service rules for CMV drivers.<sup>28</sup> Florida law also provides that, except as provided in federal regulations, a person operating a CMV solely in intrastate commerce and not transporting any hazardous material may not drive:

- More than 12 hours following 10 consecutive hours off duty; or
- For any period after the end of the 16th hour after coming on duty following 10 consecutive hours off duty.<sup>29</sup>

These provisions do not apply to drivers of utility service vehicles.<sup>30</sup>

Section 316.302(2)(c), F.S., provides that, except as provided in the federal hours of service rules,<sup>31</sup> a person operating a CMV solely in intrastate commerce, not transporting any hazardous material, may not drive after having been on duty more than 70 hours in any period of seven consecutive days or more than 80 hours in any period of eight consecutive days if the motor carrier operates every day of the week. Upon request of DHSMV, motor carriers must furnish time records or other written verification so that DHSMV can determine compliance with the hours of service requirements. Falsification of time records is subject to a civil penalty not to exceed \$100.

Section 316.302(2)(d), F.S., provides that a person operating a CMV solely in intrastate commerce not transporting any hazardous material within a 150 air-mile radius is not required to comply with federal provisions regarding a driver's record of duty status<sup>32</sup> if the requirements of certain federal rules regarding short-haul operations<sup>33</sup> are met. If a driver is not released from duty within 12 hours after the driver arrives for duty, the motor carrier must maintain documentation of the driver's driving times throughout the duty period.

Section 316.302(2)(f), F.S., provides that a person who is operating a CMV having a declared gross vehicle weight of less than 26,001 pounds operating solely in intrastate commerce and who is not transporting hazardous materials or who is transporting petroleum products<sup>34</sup> is exempt from s. 316.302(1), F.S. However, such person must comply with 49 C.F.R. parts 382, 392, and 393 and with 49 C.F.R. ss. 396.3(a)(1) and 396.9.

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<sup>27</sup> Placarding is required pursuant to 49 C.F.R. part 172. In this analysis, everywhere there is a discussion regarding the transportation of hazardous materials, it is assumed to be in amounts that require placarding.

<sup>28</sup> 49 C.F.R. s. 395.

<sup>29</sup> Section 316.302(2)(b), F.S.

<sup>30</sup> 49 C.F.R. s. 395.2, defines "utility service vehicle" as any commercial motor vehicle:

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

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

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

<sup>31</sup> 49 C.F.R. s. 395.1.

<sup>32</sup> 49 C.F.R. 395.8.

<sup>33</sup> 49 C.F.R. s. 395.1(e)(1)(iii) and (v) are various rules relating to short-haul operations.

<sup>34</sup> Section 376.301(33), F.S., defines "petroleum product" as "any liquid fuel commodity made from petroleum, including, but not limited to, all forms of fuel known or sold as diesel fuel, kerosene, all forms of fuel known or sold as gasoline, and fuels containing a mixture of gasoline and other products, excluding liquefied petroleum gas and American Society for Testing and Materials grades no. 5 and no. 6 residual oils, bunker C residual oils, intermediate fuel oils used for marine bunkering with a viscosity of 30 and higher, asphalt oils, and petrochemical feedstocks."

In its 2007 review findings, FMCSA determined that s. 316.302(2)(f), F.S., is not compatible with federal regulations since it exempts vehicles transporting petroleum products and the state definition of petroleum products includes liquids that may require placarding, while federal regulations do not allow drivers of vehicles requiring placarding to be exempt from applicable requirements.<sup>35</sup>

Section 316.3025, F.S., also codifies a federal prohibition on CMV drivers using handheld devices while operating a CMV.<sup>36</sup> However, s. 322.61, F.S., relating to offenses disqualifying someone from driving a CMV was not amended to list using a handheld device while operating a CMV as a serious disqualifying offense regarding a commercial driver license. Current law provides penalties associated with texting and using a handheld mobile telephone while driving a CMV. A driver violating the federal prohibitions against texting<sup>37</sup> or using a handheld mobile telephone<sup>38</sup> while operating a CMV, may be assessed a civil penalty and commercial driver license disqualification<sup>39</sup> as follows:

- First violation: \$500;
- Second violation: \$1,000 and a 60-day commercial driver license disqualification;<sup>40</sup>
- Third and subsequent violations: \$2,750 and a 120-day commercial driver license disqualification.

If while operating a CMV, a person is convicted of two or more of the following offenses within a three-year period, that person is disqualified from operating a CMV for a period of 60 days for:

- A violation of any state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with a crash resulting in death;
- Reckless driving;<sup>41</sup>
- Unlawful speed of 15 miles per hour or more above the posted speed limit;
- Improper lane change;<sup>42</sup>
- Following too closely;<sup>43</sup>
- Driving a commercial vehicle without obtaining a commercial driver license;
- Driving a commercial vehicle without the proper class of commercial driver license or commercial learner's permit or without the proper endorsement; or
- Driving a commercial vehicle without a commercial driver license or commercial learner's permit in possession.<sup>44</sup>

### Proposed Changes

The bill addresses issues related to Florida's CMV regulations and their incompatibility with federal law.

The bill provides that s. 316.302(1), F.S., applies to CMVs except as it relates to covered farm vehicles.<sup>45</sup> It amends s. 316.302(1)(b), F.S., removing the exception for the federal definition of a bus

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<sup>35</sup> MCSAP Review, *supra* FN 15 at FL/FI-3.

<sup>36</sup> Chapter 2013-160, L.O.F.

<sup>37</sup> 49 C.F.R. 329.80.

<sup>38</sup> 49 C.F.R. 392.82.

<sup>39</sup> Section 320.01(15), F.S., defines "disqualification" as "a prohibition, other than an out-of-service order, that precludes a person from driving a commercial motor vehicle."

<sup>40</sup> Commercial driver license disqualification is pursuant to 49 C.F.R. part 383.

<sup>41</sup> Reckless driving is defined in s. 316.192, F.S.

<sup>42</sup> Improper lane change is defined in s. 316.085, F.S.

<sup>43</sup> Following too closely is defined in s. 316.0895, F.S.

<sup>44</sup> A license or learner permit is required to drive a commercial motor vehicle pursuant to s. 322.03, F.S.

<sup>45</sup> Section 316.003(15), F.S., defines "covered farm vehicles" as a straight truck, or an articulated vehicle, which is all of the following:

- Registered in a state with a license plate, or any other designation issued by that state, which allows law enforcement officers to identify it as a farm vehicle.
- Operated by the owner or operator of a farm or ranch or by an employee or a family member of an owner or operator of a farm or ranch in accordance with s. 316.302(3), F.S.
- Used to transport agricultural commodities, livestock, machinery, or supplies to or from a farm or ranch.

and updating the date of adoption to December 31, 2018, which updates the state law referencing the applicable federal rules applicable to intrastate CMV vehicles. The bill removes exceptions regarding headlamps and turn signals by waste collection vehicles under specified circumstances beginning December 31, 2019. The bill also provides that the requirement for electronic logging devices and hours of service support documents do not go into effect for motor carriers engaged in intrastate commerce and not carrying hazardous materials until December 31, 2019.

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

The bill removes the \$100 fine for falsifying hours of service records, because it is duplicative of the fine provided in the CMV penalties statute.<sup>46</sup>

The bill includes a reference to 49 C.F.R. 395.1(e)(1)(ii) and (iii) (A) and (C) and removing the requirement that a motor carrier maintain documentation of the driver's driving times if a driver is not released from duty within 12 hours after arriving for duty.

The bill includes the terms "gross vehicle weight rating" and "gross combined vehicle weight rating" and removing the provision regarding transporting petroleum products to conform to federal law.

The bill adds texting while driving and use of hand-held mobile telephones to the list of offenses that may cause a person to be disqualified from operating a CMV.

## **Regulation of Nonpublic Sector Buses**

### Current Situation

The Department of Transportation (DOT) must establish and revise standards contained in federal law<sup>47</sup> to ensure the safe operation of nonpublic sector buses. The standards must be directed toward ensuring that:

- Nonpublic sector buses are safely maintained, equipped, and operated.
- Nonpublic sector buses are carrying the insurance required by law and carrying liability insurance on the checked baggage of passengers not to exceed the standard adopted by the United States Department of Transportation.
- Florida license tags are purchased for nonpublic sector buses pursuant to state law.
- Employers check the driving records of their drivers of nonpublic sector buses at least once each year to ascertain whether the driver has a suspended or revoked driver license.

DOT personnel may conduct compliance reviews for determining compliance with these requirements. A civil penalty not to exceed \$5,000 in the aggregate may be assessed against any person who violates any provision of this section or who violates any rule or order of DOT. A civil penalty not to exceed \$25,000 in the aggregate may be assessed for violations found in a follow-up compliance review conducted within a 24-month period. A civil penalty not to exceed \$25,000 in the aggregate may be assessed and the motor carrier may be enjoined pursuant to s. 316.3026, F.S., if violations are found after a second follow-up compliance review within 12 months after the first follow-up compliance review.

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- Not used in for-hire motor carrier operations; however, for-hire motor carrier operations do not include the operation of a vehicle meeting certain requirements by a tenant pursuant to a crop-share farm lease agreement to transport the landlord's portion of the crops under that agreement.

<sup>46</sup> Section 316.3025(3)(b)1., F.S.

<sup>47</sup> 49 C.F.R. parts 382, 385, and 390-397.

### Proposed Changes

The bill updates the statute to reflect that DHSMV, not the Department of Transportation, has statutory authority to adopt rules for the safe operations of CMVs and conduct compliance reviews. This change acknowledges that DHSMV is the agency responsible for the safe operations of nonpublic sector buses.

The bill cross-references the applicable Code of Federal Regulations, removes duplicative standards for nonpublic sector buses, and removes the time periods for follow-up compliance investigations. The bill also authorizes law enforcement officers with a current safety inspector certification from the Commercial Vehicle Safety Alliance to inspect nonpublic sector buses and remove them from service if continued operation would present an unduly hazardous operating condition.

### **Subpoena and Investigative Authority**

#### Current Situation

DHSMV has jurisdiction over multiple chapters of Florida Statutes, but does not have subpoena authority to investigate fraud involving motor vehicle registrations, titles, driver licenses, motor vehicle dealers, and other areas of jurisdictional responsibility. Therefore, documents and testimony from third-party entities (banks, tow companies, etc.) cannot be obtained or used for necessary investigative functions.

#### Proposed Changes

The bill authorizes DHSMV to exercise the power of subpoena and to administer oaths or affirmations, examine witnesses, require affidavits, take depositions, and compel the attendance of witnesses and the production of books, papers, documents, records, and other evidence. The subpoena must be used for investigations or examinations conducted by DHSMV and may be served by an authorized representative of DHSMV.

If a person refuses to obey the subpoena, DHSMV may petition a court in the county in which the person or business is located. The court will direct the person to obey the subpoena, and award any costs incurred by DHSMV to obtain the order.

For the purpose of any investigation, examination, or proceeding initiated by DHSMV under chapters 319, 320, and 322, F.S., DHSMV may designate agents to serve subpoenas and other processes and administer oaths or affirmations. A witness subpoenaed under this section is entitled to witness fees as established in statute for a witness in a civil case.

### **Tax Collector Access to Real-Time Data**

#### Current Situation

##### *Florida Real Time Vehicle Information System*

DHSMV maintains the Florida Real Time Vehicle Information System (FRVIS) that facilitates the collection of taxes and fees for tags, titles, and registrations associated with motor vehicles and vessels.<sup>48</sup> Local tax collector and tag agent offices throughout the state process tag, title, and registration transactions through FRVIS.<sup>49</sup> According to DHSMV, FRVIS processed approximately 404.6 million transactions for the collection of approximately \$3.026 billion in revenue from taxes and fees associated with tags, titles, and registrations for motor vehicles and vessels during Fiscal Year 2017-2018, including amounts retained by local tax collector and tag agent offices.<sup>50</sup> These funds,

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<sup>48</sup> Department of Highway Safety and Motor Vehicles, *Florida Real Time Vehicle Information System (FRVIS): Information Technology Operational Audit*, at 1 (April 2014), available at [https://flauditor.gov/pages/pdf\\_files/2014-183.pdf](https://flauditor.gov/pages/pdf_files/2014-183.pdf) (last visited March 21, 2019).

<sup>49</sup> *Id.* at 1-2.

<sup>50</sup> E-mail from Kevin Jacobs, Deputy Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, RE: FRVIS, (March 21, 2019).

together with all other sources of DHSMV's revenue, are distributed through FRVIS to various state agencies, including DHSMV and non-state entities in accordance with Florida law.<sup>51</sup>

FRVIS is composed of two processing environments. The first is a distributed environment that consists of the servers at local tax collector and tag agent offices that process tag, title, and registration transactions throughout the state. The second environment is the host portion that consists of the back-end processing conducted centrally at DHSMV's primary data center.<sup>52</sup>

#### *Registration Duties of Tax Collectors*

Tax collectors are authorized agents of DHSMV that issue registration certificates, registration license plates, validation stickers, and mobile home stickers to applicants.<sup>53</sup> DHSMV may require each tax collector to give a bond, payable to the department, conditioned that the tax collector faithfully and truly perform the duties imposed upon him or her according to the requirements of law and DHSMV rules and regulations.<sup>54</sup> Each tax collector must keep a full and complete record and account of all validation stickers, mobile home stickers, or other properties received by him or her from DHSMV.<sup>55</sup> FRVIS must be installed in every tax collector's and license tag agent's office in accordance with a schedule established by DHSMV and contingent upon funds being made available for the system by the state.<sup>56</sup>

Tax collectors must issue registration certificates and vessel numbers and decals to applicants, subject to the requirements of law and in accordance with the rules of DHSMV.<sup>57</sup> Each tax collector must keep a full and complete record and account of all vessel decals or other properties received by him or her from DHSMV and must make prompt remittance of moneys collected by him or her at the times and in the manner prescribed by law.<sup>58</sup>

#### Proposed Changes

The bill requires DHSMV to provide tax collectors acting on its behalf, and tax collector-approved agents and vendors, with real-time access to data that other third parties receive from DHSMV related to registration certificates, registration license plates, validation stickers, and vessel numbers and decals. DHSMV must enter into a memorandum of understanding (MOU) with the entity before access is granted and the MOU may not be more restrictive than any MOU between DHSMV and other third-party vendors.

### **Use of E-Mail Addresses for Business Purposes**

#### Current Situation

DHSMV may collect e-mail addresses and use e-mail, in lieu of the United States Postal Service, to provide certain renewal notices, including registration renewal notices, driver license renewal notices, and vessel registration renewal notices. However, current law does not allow e-mail addresses to be used for other business purposes.<sup>59</sup>

#### Proposed Changes

The bill authorizes DHSMV to collect and use e-mail addresses to contact customers for business reasons other than vehicle registration, vessel registration, and driver license renewal notices.

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<sup>51</sup> DHSMV, *supra* at 2, FN 48.

<sup>52</sup> *Id.*

<sup>53</sup> Section 320.03(1), F.S.

<sup>54</sup> Section 320.03(2), F.S.

<sup>55</sup> Section 320.03(3), F.S.

<sup>56</sup> Section 320.03(4)(b), F.S.

<sup>57</sup> Section 328.73(1), F.S.

<sup>58</sup> Section 328.73(2), F.S.

<sup>59</sup> Sections 319.40, 320.95, 322.08(10), 328.30, and 328.80, F.S.

## Apportionable Vehicles

### Current Situation

The International Registration Plan (IRP) is a registration reciprocity agreement among all of the states in the continental United States, the District of Columbia, and certain Canadian provinces.<sup>60</sup> The IRP allows a carrier to register once for all the jurisdictions, rather than dealing with each jurisdiction separately.<sup>61</sup> The IRP jurisdictions voted in favor of amending the definition of “apportionable vehicle,” which took effect January 1, 2016. The amendment removed the exemption from IRP registration for charter buses. All charter buses operating interstate are now required to obtain IRP registration or purchase trip permits.<sup>62</sup>

According to DHSMV, Congress has incentivized states to participate in the IRP by requiring participation as a condition for being able to establish, maintain, or enforce their own CMV registration laws and regulations, which limit within their own state, the operation of CMVs registered in another state.<sup>63</sup>

An “apportionable vehicle” is any vehicle<sup>64</sup> used or intended for use in two or more member jurisdictions that allocate or proportionally register vehicles and used for the transportation of persons for hire or is designed, used, or maintained primarily for the transportation of property and:<sup>65</sup>

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

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

Florida law requires all apportionable vehicles domiciled in Florida to register in accordance with the IRP and to display required license plates.<sup>66</sup> Upon receiving an initial application for registration and payment of the appropriate license tax<sup>67</sup> and other fees, DHSMV assigns the motor vehicle a registration license number and issues to the owner or lessee a certificate of registration and one license plate, unless two plates are required,<sup>68</sup> for each vehicle registered.<sup>69</sup>

Most license plates are issued for a 10-year period and are replaced at renewal. However, a vehicle with an apportioned<sup>70</sup> registration is issued an annual license plate and a cab card denoting the declared gross vehicle weight for each apportioned jurisdiction in which the vehicle is authorized to

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<sup>60</sup> International Registration Plan, Inc., *About IRP*, available at <http://www.irponline.org/?page=AboutIRP> (last visited February 28, 2019).

<sup>61</sup> International Registration Plan, Inc., *IRP Registration*, available at <http://www.irponline.org/?page=Registration> (last visited February 28, 2019).

<sup>62</sup> Department of Highway Safety and Motor Vehicles, *2017 Legislative Concepts*, p. 2, available at [https://www.flhsmv.gov/pdf/cabinetreports/legislative\\_concepts\\_2017.pdf](https://www.flhsmv.gov/pdf/cabinetreports/legislative_concepts_2017.pdf) (last visited February 28, 2019).

<sup>63</sup> E-mail from Department of Highway Safety and Motor Vehicles, February 16, 2017 (copy on file with Transportation & Infrastructure Subcommittee).

<sup>64</sup> Recreational vehicles displaying restricted plates, city pickup and delivery vehicles, buses used in transportation of chartered parties, and government-owned vehicles are not apportionable vehicles.

<sup>65</sup> Section 320.01(24), F.S.

<sup>66</sup> Section 320.0715(1), F.S.

<sup>67</sup> License taxes are provided for in s. 320.08, F.S.

<sup>68</sup> Section 320.0706, F.S., requires the display of license plates on the front and the rear of some trucks.

<sup>69</sup> Section 320.06(1)(a), F.S.

<sup>70</sup> Section 320.06(3)(a), F.S., requires apportioned license plate to have the word “apportioned” at the bottom of the license plate.

operate.<sup>71</sup> An applicant must pay a fee of \$28 when issued a license plate or upon renewal to be deposited into the Highway Safety Operating Trust Fund.<sup>72</sup>

### Proposed Changes

The bill removes the exception for charter buses from the definition of “apportionable vehicle.” This will require charter buses operating interstate to register as apportionable vehicles. Pursuant to the revised IRP, all charter buses operating interstate are now required to obtain an IRP registration or purchase trip permits.

The bill repeals s. 320.06(1)(b)2., F.S., upon implementation of a new operating system for apportioned vehicle registration, which provides that an apportioned vehicle must be issued an annual license plate and cab card denoting the declared gross vehicle weight.

Additionally, the bill provides that upon implementation of a new operating system for apportioned vehicle registration, a vehicle registered in accordance with the IRP, will be issued a license plate for a five-year period, an annual cab card denoting the declared gross vehicle weight for each apportioned jurisdiction, and an annual validation sticker showing the month and year of expiration. The license plate and validation sticker will be issued based on the applicant’s appropriate renewal period. The registration period for an apportionable vehicle is for 12 months and the validation sticker is valid for 12 months. The annual fee for an original and renewed validation sticker (rather than license plate) is \$28, which is deposited into the Highway Safety Operating Trust Fund. If the license plate is damaged or worn, it may be replaced at no charge by applying to DHSMV and surrendering the current license plate. The \$28 fee for a replacement license plate does not apply to vehicles registered under the IRP and issued an apportionable license plate. Instead, vehicles registered under the IRP will be issued an annual cab card and validation sticker for the same \$28 fee.

### **Validation Stickers and Paper Stock**

#### Current Situation

DHSMV must provide tax collectors and license plate agents with the necessary number of validation stickers for plates.<sup>73</sup> To do this, DHSMV analyzes past usage and anticipated future renewal needs in each county. This estimate is then compared against each order placed in the FRVIS system and then processed on a weekly basis for delivery. A tax collector or license plate agent may request an amount in excess of the anticipated need (exception for increased delivery), which DHSMV must process within a week.<sup>74</sup>

#### Proposed Changes

The bill authorizes tax collectors and their agents to have the option to purchase validation stickers and paper stock used to produce vehicle registrations directly from DHSMV’s contracted vendor. In addition, the stickers and paper stock may be purchased from other vendors if such items meet DHSMV’s specifications and are procured at prices at or lower than the pricing reflected in existing contracts for such items.

DHSMV must reimburse the tax collectors and their agents for these purchases, but reimbursement may not be made at prices higher than the pricing contained in DHSMV’s existing contract. Tax collectors and their agents must invoice DHSMV in arrears for the validation stickers and vehicle registrations as they are issued.

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<sup>71</sup> Section 320.06(1)(b)1., F.S.

<sup>72</sup> Section 320.0607, F.S.

<sup>73</sup> Section 320.06(2), F.S.

<sup>74</sup> Conversation with Robert Kynoch, Jennifer Langston, and Kevin Jacobs, DHSMV, April 2019.

## Specialty License Plates

### Current Situation

#### *Specialty License Plates*

The first Florida specialty license plates were enacted in 1986 and included the creation of the Challenger plate and 10 Florida collegiate plates. Today, there are over 120 specialty license plates available to any owner or lessee of a motor vehicle who is willing to pay the additional use fee for the privilege, typically \$25 annually.<sup>75</sup> There is currently no limit on the number of specialty license plates DHSMV may issue nor the number of specialty license plates that the Legislature may approve.

#### *Federal and State Legislators*

Section 320.0807, F.S., provides for special license plates for the Governor and federal and state legislators. Upon application by any current or former President of the Senate or current or former Speaker of the House of Representatives, and payment of the appropriate fees,<sup>76</sup> DHSMV may issue a license plate stamped "Senate President" or "House Speaker" followed by the number assigned by DHSMV or chosen by the applicant if it is not already in use. Upon application by any former Member of Congress or former member of the state Legislature and payment of the appropriate registration fees, plus a one-time fee of \$500, DHSMV may issue a former Member of Congress, State Senator, or State Representative a license plate stamped "Retired Congress," "Retired Senate," or "Retired House," as appropriate, for a vehicle owned by the former member. To qualify for a Retired Congress, Retired Senate, or Retired House prestige license plate, a former member must have served at least four years as a Member of Congress, State Senator, or State Representative. Four hundred fifty dollars of the one-time \$500 fee collected is distributed to the Florida Historic Capitol's direct-support organization<sup>77</sup> to benefit the Florida Historic Capitol Museum, and the remaining \$50 is deposited into the Highway Safety Operating Trust Fund.

#### *Fleet Plates*

Section 320.06, F.S., requires dealer license plates to be imprinted with "Florida" at the top and "Dealer" at the bottom. Section 320.0657, F.S., provides for permanent registration for fleet license plates. The term "fleet" means nonapportioned motor vehicles owned or leased by a company and used for business purposes.<sup>78</sup> According to DHSMV, in order to participate in the fleet vehicle program the company must have a minimum of 200 vehicles or a minimum of 25 trailers or semitrailers used exclusively to haul agricultural products.<sup>79</sup>

The owner or lessee of a fleet of motor vehicles must be issued permanent fleet license plates upon application in the manner and time prescribed and DHSMV approval and payment of the appropriate license tax. All vehicles with a fleet license plate must have the company's name or logo and unit number displayed so that they are readily identifiable.<sup>80</sup> Fleet license plates must have the word "Fleet" appearing at the bottom and the word "Florida" appearing at the top. The plates must conform in all respects to ch. 320, F.S., except as specified.<sup>81</sup>

Section 320.08, F.S., provides the license taxes for various types of motor vehicles, and provides that the fee for a dealer license plate is \$17.<sup>82</sup>

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<sup>75</sup> The annual use fees for specific specialty license plates are provided in s. 320.08056(4), F.S.

<sup>76</sup> The fees are prescribed in s. 320.0805, F.S.

<sup>77</sup> The Florida Historic Capitol direct support organization is established pursuant to s. 272.136, F.S.

<sup>78</sup> Section 320.0657(1), F.S.

<sup>79</sup> Email from Kevin Jacobs, Deputy Director of Legislative Affairs, Department of Highway Safety and Motor Vehicles, RE: HB 505-Transportation Credentials, (January 30, 2019).

<sup>80</sup> Section 320.0657(2)(a), F.S.

<sup>81</sup> Section 320.0657(2)(b), F.S.

<sup>82</sup> Section 320.08(12), F.S.

### Proposed Changes

The bill repeals the authorization for a “Senate President” or “House Speaker” special license plate and special license plates for former members of Congress, former State Senators, and former State Representatives.

The bill authorizes “Dealer” and “Fleet” specialty license plates. The bill provides that a dealer specialty license plate is not required to say “dealer” at the bottom of the license plate.

The bill authorizes the use of fleet specialty license plates. The bill provides that for the additional annual use fee for the specific specialty license plate, fleet companies may purchase specialty license plates in lieu of the standard fleet license plates. Fleet companies are responsible for all costs associated with the specialty license plates, including all annual use fees, processing fees, fees associated with switching license plate types, and other applicable fees. The bill provides similar requirements regarding dealer specialty license plates.

The bill provides that DHSMV may authorize dealer and fleet specialty license plates. With the permission of the organization sponsoring specialty license plate, a dealer or fleet company may purchase specialty license plates for use on dealer or fleet vehicles.

Notwithstanding s. 320.08058, F.S., a dealer or fleet specialty license plate must include the letters “DLR” or “FLT” on the right side of the license plate. Dealer and fleet specialty license plates must be ordered directly through DHSMV.

### **Motor Vehicle Rental or Lease**

#### Current Situation

Section 320.0605(1), F.S., requires that at all times while a vehicle is being used or operated on the roads of Florida, the operator of the vehicle must be in the possession of:

- The registration certificate or an official copy;
- A true copy of rental or lease documentation issued for a motor vehicle or issued for a replacement vehicle in the same registration period;
- A temporary receipt printed upon self-initiated electronic renewal of a registration via the Internet; or
- A cab card issued for a vehicle registered under the International Registration Plan.

The certificate or document must be exhibited upon demand of any authorized law enforcement officer or agent of DHSMV, except for a registered fleet vehicle.<sup>83</sup> This provision does not apply during the first 30 days after purchase of a replacement vehicle. A violation is a noncriminal traffic infraction, punishable as a nonmoving violation.<sup>84</sup>

Section 320.0605(2), F.S., specifies that the rental or lease documentation must include:

- 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.

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<sup>83</sup> A fleet vehicle registered under s. 320.0657, F.S., provides for the permanent registration of fleet license plates.

<sup>84</sup> Chapter 318, F.S., relates to the disposition of traffic infractions.

Section 322.38, F.S., establishes the requirements for an individual who wishes to rent a motor vehicle to another. These requirements include that the individual inspect the driver license of the person to whom the vehicle is rented, and compare and verify the signature thereon with the signature of such person written in his or her presence before the vehicle is rented. Further, the individual must keep a record of the registration number of the motor vehicle rented, the name and address of the person renting, and the number, date, and place of issue.

#### Proposed Changes

The bill authorizes an operator to possess an electronic copy of the motor vehicle registration or rental or lease documentation in a format authorized by DHSMV to be displayed upon request of a law enforcement officer or an agent of DHSMV. Displaying the electronic copy does not constitute consent for the officer or agent to access any information on the device other than the displayed documentation. The person who presents the device to the officer assumes liability for any resulting damage to the device.

The bill also provides that rather than requiring the rental or lease documentation to include the date of rental and time of exit from the rental facility, the documentation will only have to include the date and time of rental. Additionally, the documentation will not require the rental station identification.

The bill eliminates the requirement that a person renting a motor vehicle to another verify the latter individual's signature on his or her driver license and adds the requirement that the individual renting the vehicle to another verify that the renter's driver license is unexpired. The bill also eliminates the requirement that the individual renting the vehicle to another record the date on which the driver license was issued.

Additionally, the bill provides that a rental car company renting a motor vehicle through digital, electronic, or other means, which allows the renter to obtain possession of the vehicle without direct contact with an agent or employee of the company, or where the renter does not execute a rental contract at the time he or she takes possession of the vehicle, is deemed to have met the license inspection requirements if the renter verifies he or she is duly licensed and the license is unexpired. Such verification may occur when the renter enrolls in a rental company's membership program, master agreement, or other means of establishing use of the company's services or at any time thereafter.

### **Motor Vehicle Dealer Licensing and Enforcement**

#### Current Situation

DHSMV has the authority to revoke a motor vehicle dealership license for failure to comply with certain statutory requirements.<sup>85</sup> However, dealers who have previously had their dealer license revoked are often able to re-establish themselves in other dealerships. DHSMV reports that it lacks the authority to act against individuals who operate in this capacity. Current law allows DHSMV to file for an injunction against an individual who fails to comply with the law. However, DHSMV does not have the authority to petition the court to prohibit the individual who operated the dealership from operating in a similar capacity in the future.

#### Proposed Changes

The bill creates a definition of "control person" to mean:

A person who has significant power, directly or indirectly, to direct the management or policies of a company, whether through ownership, by contract, or otherwise. The term includes a person who is an owner, director, general partner, officer, manager, or employee exercising decision-making responsibility or exercising similar executive status or functions but does not include an employee whose function is only clerical or ministerial or in sales under the

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<sup>85</sup> Section 320.27, F.S.  
**STORAGE NAME:** h1053e.SAC  
**DATE:** 4/22/2019

supervision of an owner or manager or other person exercising decision-making responsibility.

The bill authorizes DHSMV to deny an initial or renewal application for a dealer license. The bill also allows DHSMV to deny an application or suspend or revoke a license upon proof that the applicant or licensee has:

- Been convicted of a felony and has either not completed the resulting felony sentence or completed the felony sentence less than 10 years after the date of licensure application.
- Previously owned a majority interest in, or acted as a control person of, a motor vehicle dealer that within the past 10 years has been the subject of any decision, finding, injunction, suspension, revocation, denial, judgment, or administrative order by any court, administrative law judge, or state agency that resulted in a finding of violation of any federal or state law relating to unlicensed activity, or fraud in connection with the sale of a motor vehicle, or knowingly employs or contracts such a person as a control person, or knowingly employs or contracts as a control person a person who has been convicted of a felony and has either not completed the resulting felony sentence or completed the felony sentence less than 10 years from the date of licensure application.

Lastly, the bill provides that if the court grants an injunction, the court may bar, permanently or for a specific period, any person found to have violated any federal or state law relating to unlicensed activity or fraud in connection with the sale of a motor vehicle. If a person is barred, the person may not continue in any capacity within the industry. The person will have no management, sales, or other role in the operation of a dealership.

## **Establishment of Uniform Standards for Mobile Homes**

### Current Situation

Section 320.8232(2), F.S., requires the repair and remodeling code to ensure safe and livable housing and provides that it may not be more stringent than those standards required to be met in the manufacture of mobile homes. The provisions of the code must include, but are not limited to, standards for structural adequacy, plumbing, heating, electrical systems, and fire and life safety.

Rule 15C-2.0081, F.A.C., provides more specificity by providing the guidelines that must be used to assure safe and livable housing. The rule provides that additions must be free standing and self-supporting with only the flashing attached to the main unit unless the added unit has been designed to be married to the existing unit. Anchoring of additions must comply with requirements for similar type construction. Repair or remodeling of a mobile home must require the use of material and design equivalent to the original construction. The structure must include, but not be limited to, roof system, walls, floor system, windows, and exterior doors of the mobile home. Additionally, the rule provides that electrical and plumbing repairs and replacements must require the use of material and design equivalent to the original construction.

### Proposed Changes

The bill changes the reference to the “repair and remodel code” to the “Mobile and Manufactured Home Repair and Remodeling Code,” which has been adopted by rule by DHSMV. The bill also provides that all repair and remodeling of mobile and manufactured homes must be done in accordance with DHSMV rules.

## **Truancy Reporting**

### Current Situation

A minor is not eligible for driving privileges unless that minor:

- Is enrolled in a public school, nonpublic school, or home education program and satisfies relevant attendance requirements;

- Has received a high school diploma, a high school equivalency diploma, a special diploma, or a certificate of high school completion;
- Is enrolled in a study course in preparation for the high school equivalency examination and satisfies relevant attendance requirements;
- Is enrolled in other educational activities approved by the district school board and satisfies relevant attendance requirements;
- Has been issued a certificate of exemption; or
- Has received a hardship waiver.

DHSMV may not issue a driver license or learner's permit to, or must suspend the driver license or learner's permit of, any minor concerning whom DHSMV receives notification of noncompliance with the above requirements.<sup>86</sup>

DHSMV must report quarterly to each school district the legal name, sex, date of birth, and social security number of each student whose driving privileges have been suspended for one of the reasons above.<sup>87</sup> According to DHSMV, the reporting function is now automated for all school districts to access in real time.<sup>88</sup>

#### Proposed Changes

The bill removes obsolete language related to the manual reporting of students whose driving privileges have been suspended for truancy.

### **Stolen Identification Cards**

#### Current Situation

If a learner's permit or driver license is stolen, the owner of the card may obtain a replacement at no charge upon furnishing satisfactory proof to DHSMV that the card was stolen.<sup>89</sup> There is no statutory authority to issue a free replacement identification card when stolen.

#### Proposed Changes

The bill allows identification cards to be replaced at no charge when stolen.

### **Penalties for False Information on Application for Driver License**

#### Current Situation

A person may not have or display a blank, stolen, fictitious, counterfeit, or unlawfully issued driver license or identification card.<sup>90</sup> Likewise, a person may not sell, manufacture, or deliver a blank, forged, stolen, fictitious, counterfeit, or unlawfully issued driver license or identification card.<sup>91</sup> It is unlawful for a person to use a false or fictitious name in any application for a driver license or identification card or knowingly to make a false statement, knowingly conceal a material fact, or otherwise commit a fraud in any such application.<sup>92</sup>

A person who violates any of the above provisions is guilty of a felony of the third degree, except that a person who gives a false age in any application for a driver license or identification card, or who

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<sup>86</sup> Section 322.091(1), F.S.

<sup>87</sup> Section 322.091(5), F.S.

<sup>88</sup> Department of Highway Safety and Motor Vehicles, *2019 Legislative Concepts* (on file with Transportation & Infrastructure Subcommittee).

<sup>89</sup> Section 322.17(1)(b), F.S.

<sup>90</sup> Section 322.212(1)(a), F.S.

<sup>91</sup> Section 322.212(1)(d), F.S.

<sup>92</sup> Section 322.212(5)(a), F.S.

possesses a driver license, identification card, or any instrument in the likeness thereof on which the date of birth has been altered, is guilty of a misdemeanor of the second degree.<sup>93</sup>

In addition to any other penalties provided above, a person who provides false information when applying for a commercial driver license or commercial learner's permit, or is convicted of fraud in connection with testing for a commercial driver license or commercial learner's permit, is disqualified from operating a CMV vehicle for one year.<sup>94</sup>

### Proposed Changes

The bill provides that in addition to any other penalties provided, if a person provides false information when applying for a driver license, identification card, commercial driver license, or commercial learner's permit or is convicted of fraud in connection with testing for a driver license, commercial driver license, or commercial learner's permit, such person's driving privilege is suspended for one year.

## **For-hire Passenger Vehicle Insurance**

### Current Situation

Section 324.031, F.S., provides that the owner or operator of a taxicab, limousine, jitney, or any other for-hire passenger transportation vehicle may prove financial responsibility by providing satisfactory evidence of holding a motor vehicle liability policy issued by an insurance carrier that is a member of the Florida Insurance Guaranty Association (FIGA).<sup>95</sup> A person required to maintain motor vehicle insurance who is the owner or registrant of a vehicle that operates as a taxicab and who operates one or more for-hire passenger vehicles may prove financial responsibility with evidence of holding a motor vehicle insurance liability policy with minimum limits of \$125,000/250,000/50,000.<sup>96</sup> However, a motor vehicle owner or lessee required to maintain insurance under s. 324.021(9)(b), F.S., which includes lessors of motor vehicles and owners who loan their motor vehicles, and who operates at least 300 for-hire passenger vehicles may prove financial responsibility through self-insurance.<sup>97</sup>

### Proposed Changes

The bill provides that a for-hire passenger 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 FIGA, or by an eligible nonadmitted insurer that has a superior, excellent, exceptional, or equivalent financial strength rating by a rating agency acceptable to the Office of Insurance Regulation. The bill authorizes an additional minimum limit for a motor vehicle insurance liability policy of \$100,000/300,000/50,000 and reduces the minimum number of for-hire passenger vehicles an owner or lessee must operate to be eligible to self-insure, from 300 vehicles to 150 vehicles.

## **B. SECTION DIRECTORY:**

**Section 1:** Amends s. 117.10, F.S., relating to law enforcement and correctional officers; administration of oaths.

**Section 2:** Amends s. 316.003, F.S., relating to definitions.

**Section 3:** Amends s. 316.027, F.S., relating to crash involving death or personal injuries.

**Section 4:** Amends s. 316.0271, F.S., relating to yellow dot critical motorist medical information program; yellow dot decal, folder, and information form.

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<sup>93</sup> Section 322.212(6), F.S.

<sup>94</sup> Section 322.212(7), F.S.

<sup>95</sup> The Florida Insurance Guaranty Association is created in s. 631.55, F.S.

<sup>96</sup> Section 324.032(1)(a), F.S. Section 324.032, F.S., provides it is notwithstanding the provisions of s. 324.031, F.S.

<sup>97</sup> Section 324.032(2), F.S. The maximum amount of self-insurance permissible under this section is \$300,000 on a per occurrence basis, and the self-insurer must maintain adequate excess insurance issued by an authorized or eligible insurer licensed or approved by the Office of Insurance Regulation.

**Section 5:** Amends s. 316.061, F.S., relating to crashes involving damage to vehicle or property.

**Section 6:** Amends s. 316.192, F.S., relating to reckless driving.

**Section 7:** Amends s. 316.193, F.S., relating to driving under the influence; penalties.

**Section 8:** Amends s. 316.1933, F.S., relating to blood test for impairment or intoxication in cases of death or serious bodily injury; right to use reasonable force.

**Section 9:** Amends s. 316.194, F.S., relating to stopping, standing or parking outside of municipalities.

**Section 10:** Amends s. 316.224, F.S., relating to color of clearance lamps, identification lamps, side marker lamps, backup lamps, reflectors, and deceleration lights.

**Section 11:** Amends s. 316.235, F.S., relating to additional lighting equipment.

**Section 12:** Amends s. 316.2397, F.S., relating to certain lights prohibited; exceptions.

**Section 13:** Amends s. 316.2398, F.S., relating to display or use of red warning signals; motor vehicles of volunteer firefighters or medical staff.

**Section 14:** Amends s. 316.302, F.S., relating to commercial motor vehicles; safety regulations; transporters and shippers of hazardous materials; enforcement.

**Section 15:** Effective December 31, 2019, paragraph (d) of subsection (1) of section 316.302, F.S., will be amended.

**Section 16:** Amends s. 316.622, F.S., relating to farm labor vehicles.

**Section 17:** Amends s. 316.640, F.S., relating to enforcement.

**Section 18:** Amends s. 316.655, F.S., relating to penalties.

**Section 19:** Amends s. 316.70, F.S., relating to nonpublic sector buses; safety rules.

**Section 20:** Amends s. 318.19, F.S., relating to Infractions requiring a mandatory hearing.

**Section 21:** Amends s. 319.25, F.S., relating to cancellation of certificates.

**Section 22:** Amends s. 319.40, F.S., relating to transactions by electronic or telephonic means.

**Section 23:** Amends s. 320.01, F.S., relating to definitions.

**Section 24:** Amends s. 320.03, F.S., relating to registration; duties of tax collectors; International Registration Plan.

**Section 25:** Amends s. 320.06, F.S., relating to registration certificates, license plates, and validation stickers generally.

**Section 26:** Amends s. 320.0605, F.S., relating to certificate of registration; possession required; exception.

**Section 27:** Amends s. 320.0607, F.S., relating to replacement license plates, validation decal, or mobile home sticker.

**Section 28:** Amends s. 320.0657, F.S., relating to permanent registration; fleet license plates.

**Section 29:** Amends s. 320.08, F.S., relating to license taxes.

**Section 30:** Amends s. 320.08056, F.S., relating to specialty license plates.

**Section 31:** Amends s. 320.0807, F.S., relating to special license plates for Governor and federal and state legislators.

**Section 32:** Amends s. 320.27, F.S., relating to motor vehicle dealers.

**Section 33:** Amends s. 320.822, F.S., relating to definitions.

**Section 34:** Amends s. 320.8232, F.S., relating to establishment of uniform standards for used recreational vehicles and repair and remodeling code for mobile homes.

**Section 35:** Amends s. 320.861, F.S., relating to inspection of records; production of evidence; subpoena power.

**Section 36:** Amends s. 320.95, F.S., relating to transactions by electronic or telephonic means.

**Section 37:** Amends s. 321.05, F.S., relating to duties, functions, and powers of patrol officers.

**Section 38:** Amends s. 321.065, F.S., relating to traffic accident investigation officers; employment; standards.

**Section 39:** Amends s. 321.23, F.S., relating to public records; fees for copies; destruction of obsolete records; photographing records; effect as evidence.

**Section 40:** Amends s. 322.01, F.S., relating to definitions.

**Section 41:** Amends s. 322.0602, F.S., relating to Youthful Drunk Driver Visitation Program.

**Section 42:** Amends s. 322.08, F.S., relating to application for license; requirements for license and identification card forms.

**Section 43:** Amends s. 322.091, F.S., relating to attendance requirements.

**Section 44:** Amends s. 322.17, F.S., relating to replacement license and permits.

**Section 45:** Amends s. 322.212, F.S., relating to unauthorized possession of, and other unlawful acts in relation to, driver license or identification card.

**Section 46:** Amends s. 322.36, F.S., relating to permitting unauthorized operator to drive.

**Section 47:** Amends s. 322.38, F.S., relating to renting motor vehicle to another.

**Section 48:** Amends s. 322.61, F.S., relating to disqualification from operating a commercial motor vehicle.

**Section 49:** Creates s. 322.71, F.S., relating to investigations; subpoenas and other process; oaths; rules.

**Section 50:** Amends s. 323.001, F.S., relating to wrecker operator storage facilities; vehicle holds.

**Section 51:** Amends s. 323.002, F.S., relating to county and municipal wrecker operator systems; penalties for operation outside of system.

**Section 52:** Amends s. 324.011, F.S., relating to purpose of chapter.

**Section 53:** Amends s. 324.022, F.S., relating to financial responsibility for property damage.

**Section 54:** Amends s. 324.023, F.S., relating to financial responsibility for bodily injury or death.

**Section 55:** Amends s. 324.031, F.S., relating to manner of proving financial responsibility.

**Section 56:** Amends s. 324.032, F.S., relating to manner of proving financial responsibility; for-hire passenger transportation vehicles.

**Section 57:** Amends s. 324.051, F.S., relating to reports of crashes; suspensions of licenses and registrations.

**Section 58:** Amends s. 324.242, F.S., relating to personal injury protection and property damage liability insurance policies; public records exemption.

**Section 59:** Amends s. 328.30, F.S., relating to transactions by electronic or telephonic means.

**Section 60:** Amends s. 328.40, F.S., relating to administration of vessel registration and titling laws; records.

**Section 61:** Amends s. 328.73, F.S., relating to registration; duties of tax collectors.

**Section 62:** Amends s. 328.80, F.S., relating to transactions by electronic or telephonic means.

**Section 63:** Amends s. 627.7415, F.S., relating to commercial motor vehicles; additional liability insurance coverage.

**Section 64:** Amends s. 655.960, F.S., relating to definitions.

**Section 65:** Amends s. 784.07, F.S., relating to assault or battery of law enforcement officers, firefighters, emergency medical care providers, public transit employees or agents, or other specified officers; reclassification of offenses; minimum sentences.

**Section 66:** Amends s. 856.015, F.S., relating to open house parties.

**Section 67:** Except as otherwise expressly provided in this act, this act shall take effect July 1, 2019.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

Indeterminate. The bill eliminates the registration fees and the \$500 one-time fee associated with the issuance of special license plates for former members of Congress, former State Senators, and former State Representatives. DHSMV estimates that this impact on revenue is negligible. In addition, the bill provides for the replacement of a stolen identification card at no charge to the owner of the card. DHSMV estimates a negative, but insignificant impact on the General Revenue Fund and the Highway Safety Operating Trust Fund. The number of transactions is unknown.

2. Expenditures:

The bill authorizes DHSMV to exercise the power of subpoena as it relates to the investigation of fraud involving motor vehicle registrations, titles, driver licenses, motor vehicle dealers, and other areas of jurisdictional responsibility. All costs related to this new function can be absorbed within existing resources.

The bill makes providing altered or counterfeit documents or participating in dishonest or deceptive actions in any application for a driver license or identification card a third degree felony. The Criminal Justice Impact Conference has not yet estimated a prison bed impact for this bill.

DHSMV may incur indeterminate programming costs implementing real-time data access to tax collectors and tax collector-approved agents and vendors; however, such costs can be absorbed within existing resources.

The authorization for tax collectors to purchase validation stickers and paper stock is expected to be cost neutral to DHSMV, as reimbursement by the department cannot be greater than the pricing in DHSMV's existing contract for such items.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Tax collectors may experience an insignificant decrease in revenue collections due to the replacement of a stolen identification card at no charge to the owner of the card. The number of transactions is unknown.

2. Expenditures:

Tax collectors and tax collector-approved agents and vendors may see a positive indeterminate fiscal impact due to having real-time access to data and thus being able to provide services that is more efficient.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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

Classifying charter buses as apportionable vehicles may change the registration fees for these vehicles; however, the actual impact for any specific vehicle will be based on motor vehicle details, jurisdictions where the vehicle travels, and the mileage percentages in each of the jurisdictions.<sup>98</sup> Individuals whose identification cards are stolen will see a reduction in costs since they will be able to obtain a replacement card at no cost.

D. FISCAL COMMENTS:

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<sup>98</sup> E-mail from Department of Highway Safety and Motor Vehicles, February 16, 2017 (copy on file with Transportation & Infrastructure Subcommittee).  
**STORAGE NAME:** h1053e.SAC  
**DATE:** 4/22/2019

According to DHSMV, failure to comply with the 2016 amended FMCSA regulations on minimum performance and design standards for hours-of-service electronic logging devices may jeopardize Florida's eligibility for FY 2019 MCSAP funding. The MCSAP grant funding for FY 2017-2018 was \$14,718,042 and the funding for FY 2018-2019 was \$15,033,312.<sup>99</sup> The provisions of the bill bring the state law into compliance.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

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

##### 2. Other:

None.

#### B. RULEMAKING AUTHORITY:

None.

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

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 12, 2019, the Transportation & Infrastructure Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Removed the private rebuilt motor vehicle inspection program;
- Created uniform requirements for mobile home permitting and repair;
- Repealed provisions relating to special license plates for former federal and state legislators;
- Clarified requirements for certain motor vehicle dealer employees; and
- Removed authorization for an expedited shipping service fee.

On April 2, 2019, the Transportation & Tourism Appropriations Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment removed a provision from the bill relating to s. 322.051, F.S., extending the renewal timeframe for Florida identification cards from 90 days to 12 months.

On April 18, 2019, the State Affairs Committee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Provided an extension of the current exception regarding headlamps and turn signals on waste collection vehicles;
- Revised various sections related to commercial motor vehicle compliance with federal requirements;
- Removed unnecessary rulemaking authority granted to DHSMV;
- Provided tax collectors and their agents with the same real-time access to data for tags, titles, and registrations for motor vehicles and vessels that DHSMV provides to all other third-parties;

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<sup>99</sup> E-mail from Jennifer Langston, Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, RE: DHSMV Package, (February 21, 2019).

- Provided tax collectors additional options for purchasing materials used in producing vehicle registration documents;
- Amended the definition of the term “autocycle” to clarify it has a “steering mechanism” rather than a “steering wheel”;
- Clarified that the Mobile and Manufactured Home Repair and Remodeling Code, which has been adopted by rule, is uniform statewide and required all repairs and remodeling to conform to the code;
- Authorized DHSMV to issue specialty license plate for fleet vehicles and motor vehicle dealer vehicles;
- Authorized vehicles registered to volunteer fire fighters to use red or red and white lights under certain circumstances;
- Authorized a motor vehicle to be equipped with one or more lamps or devices underneath the motor vehicle subject to certain requirements;
- Provided changes to the financial responsibility requirements relating to taxi cabs;
- Authorized an electronic copy of a vehicle rental or lease agreement be accepted as proof of possession of such documentation;
- Revised the definition of the term “serious bodily injury”;
- Provided that if a person fails to obey a DHSMV subpoena, the court will award costs incurred by DHSMV in obtaining an order directing the person to obey the subpoena; and
- Removed language barring a person whose motor vehicle license is revoked from deriving income from a dealership.

This analysis is written to the committee substitute as approved by the State Affairs Committee.