

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 725 Commercial Motor Vehicles

**SPONSOR(S):** State Affairs Committee, Transportation & Infrastructure Subcommittee, Payne

**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	13 Y, 0 N, As CS	Roth	Vickers
2) Transportation & Tourism Appropriations Subcommittee	8 Y, 0 N	Cobb	Davis
3) State Affairs Committee	20 Y, 0 N, As CS	Roth	Williamson

### SUMMARY ANALYSIS

This bill revises numerous provisions relating to commercial motor vehicles (CMV). In summary, the bill:

- Defines the term “platoon” for purposes of Chapter 316, F.S., and exempts certain operators of platoons from state laws relating to “following too closely” and use of television receiver prohibitions.
- Authorizes a motor vehicle platoon to be operated on Florida roadways after an operator provides notification to the Department of Transportation and the Department of Highway Safety and Motor Vehicles (DHSMV).
- Updates various CMV regulations to address compatibility concerns with federal law.
- Provides that certain CMV regulations do not apply to covered farm vehicles.
- Removes exceptions regarding the visibility of headlamps and turn signals by waste collection vehicles under specified circumstances.
- Provides that, beginning December 31, 2019, certain requirements relating to the use of electronic logging devices and hours of service support documents take effect.
- Removes language requiring intrastate CMVs that are not carrying hazardous materials to comply with certain federal regulations providing maximum drive time requirements.
- Removes duplicative language including a \$100 fine for falsifying hours of service records.
- Removes a provision requiring a motor carrier to maintain documentation of driving times if a driver is not released from duty within 12 hours after arriving for duty.
- Requires charter buses operating interstate to register as apportionable vehicles.
- Provides a time period by which a vehicle that has an apportioned registration will be issued a license plate, cab card, and validation sticker.
- Provides that an apportionable license plate will be replaced every five years, that the registration period is every 12 months, that the current \$28 fee applies to the validation sticker, and that the license plate may be replaced at no charge if it is damaged or worn.
- Creates a Fleet Vehicle Temporary Tag pilot program.
- Provides that if an offender uses any type of device to defeat, block, disable, jam, or interfere with a GPS or similar system he or she commits grand theft in the first degree.
- Incorporates violations for texting or using a handheld phone device while operating a CMV.

According to DHSMV, the bill will have a negative, but insignificant fiscal impact to state expenditures. Additionally, the bill may have a positive fiscal impact to state revenues. See Fiscal Analysis for discussion.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Platoons

###### Current Situation

Platooning is an emerging automated driving technology that allows vehicles to communicate with one another in order to electronically “link” to each other in a line at close proximity, where the lead vehicle controls the speed and braking of the following vehicles.<sup>1</sup> Vehicles platoon by using an onboard computer connected to a vehicle-to-vehicle (V2V) communications device that receives and transmits data from one car to another using Dedicated Short-Range Communications (DSRC),<sup>2</sup> a two-way wireless communications capability permitting very high data transmission.<sup>3</sup> DSRC is used by both V2V communications as well as vehicle-to-infrastructure communications to provide connectivity among vehicles and between infrastructure to prevent crashes and enable safety, mobility, and environmental sustainability.<sup>4</sup> The National Highway Traffic Safety Administration (NHTSA) published a Notice of Proposed Rulemaking in January 2017, proposing to mandate V2V communications for new light vehicles and standardize the message and format of V2V transmissions to create a standard system, which enables vehicle manufacturers to develop safety applications using V2V communications.<sup>5</sup> NHTSA has reported that V2V communication “shows great promise in helping to avoid crashes, ease traffic congestion, and improve the environment.”<sup>6</sup>

One form of V2V technology is driver-assistive truck platooning (DATP), which allows trucks to communicate with one another and to travel as close as 30 feet apart with automatic acceleration and braking, which creates a draft, reducing wind resistance and fuel consumption.<sup>7</sup> In 2016, s. 316.0896, F.S., was created to require the Florida Department of Transportation (DOT), in consultation with the Department of Highway Safety and Motor Vehicles (DHSMV), to study the use and safe operation of DATP technology,<sup>8</sup> develop and conduct a pilot project to test the use and safe operation of vehicles equipped to operate using DATP, and submit results of the study and any findings or recommendations from the pilot project to the Governor and Legislature. DOT developed the pilot project as a demonstration and operational phase to evaluate:

- Impacts of DATP on surrounding traffic and infrastructure;
- Feasibility of conducting enforcement responsibilities when DATP trucks are operating; and
- Administrative aspects of permitting DATP systems.<sup>9</sup>

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<sup>1</sup> U.S. Department of Transportation, Volpe Center, *How an Automated Car Platoon Works* (July 31, 2017), available at <https://www.volpe.dot.gov/news/how-automated-car-platoon-works> (last visited February 27, 2019).

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

<sup>3</sup> Seeking Alpha, *DSRC: The Future of Safer Driving*, (May 14, 2015), available at <https://seekingalpha.com/instablog/400846-marty-chilberg/4000126-dsrc-the-future-of-safer-driving> (last visited February 27, 2019).

<sup>4</sup> *Id.*

<sup>5</sup> Federal Register, *Federal Motor Vehicle Safety Standards; V2V Communications*, 82 Fed. Reg. 3854 (January 12, 2017), available at <https://www.federalregister.gov/documents/2017/01/12/2016-31059/federal-motor-vehicle-safety-standards-v2vcommunications> (last visited February 27, 2019).

<sup>6</sup> National Highway Traffic Safety Administration, *Vehicle-to-Vehicle Communications*, available at <http://www.safercar.gov/v2v/index.html> (last visited February 27, 2019).

<sup>7</sup> Go by Truck Global News, *Driver Survey: Platooning*, (November 18, 2014) available at <http://www.gobytrucknews.com/driver-survey-platooning/123> (last visited February 27, 2019).

<sup>8</sup> Section 316.003(21), F.S., defines “driver-assistive truck platooning technology” as “[v]ehicle automation and safety technology that integrates sensor array, wireless vehicle-to-vehicle communications, active safety systems, and specialized software to link safety systems and synchronize acceleration and braking between two vehicles while leaving each vehicle’s steering control and systems command in the control of the vehicle’s driver in compliance with the National Highway Safety Administration rules regarding vehicle-to-vehicle communications.”

<sup>9</sup> See RFI Document at MyFlorida.com, *Request for Information from DOT – Driver Assistive Truck Platooning Pilot Project* (July 6, 2017), at p. 1, available at [http://www.myflorida.com/apps/vbs/vbs\\_www.ad\\_r2.view\\_ad?advertisement\\_key\\_num=134408](http://www.myflorida.com/apps/vbs/vbs_www.ad_r2.view_ad?advertisement_key_num=134408), (last visited February 27, 2019).

The pilot project was conducted with Peloton Technology, one developer of DATP vehicle systems. According to Peloton Technology, the demonstration of its DATP technology occurred on the Florida Turnpike and covered over 1,000 miles using two trucks traveling at a separation distance of approximately 65 feet.<sup>10</sup>

On March 29, 2018, the project team provided a document on DATP considerations in light of the platooning demonstration on the Florida Turnpike. The project team concluded that the DATP pilot project has given state officials a degree of confidence that platooning can be done safely without disruption to surrounding traffic. Based on discussions with DATP vendors and early-adoption fleets, only a small number of DATP-equipped vehicles are expected to be deployed on Florida highways during the first year after DATP following distances are allowed. This gives the State the opportunity to evaluate the approach to DATP deployment and coordinate with manufacturers and trucking fleets to develop best legislative and operational approaches as the technology continues to mature, in addition to defining optimum approaches to communicating with the public. Florida has the opportunity to take a leadership position in creating an approach that accelerates early deployment.<sup>11</sup>

According to Peloton, nine states have confirmed allowance for commercial deployment of DATP.<sup>12</sup> At least 10 states with “following too closely” laws, including Florida,<sup>13</sup> exempt vehicles equipped with a DATP system or a platooning system from such state law.<sup>14</sup> Georgia and Tennessee were the first states to welcome fully platooning, passing legislation in 2017. Arkansas, North Carolina, South Carolina and Texas followed by making commercial platooning legal with exceptions. Michigan’s automated vehicle law included a platooning-friendly exemption. Alabama, Indiana, Kentucky, Louisiana, Mississippi, Nevada, Oregon, Utah, and Wisconsin enacted rule exemptions in 2018.<sup>15</sup> Several states and the federal government are continuing testing of DATP and other platooning systems.

Section 316.0895, F.S., prohibits a driver of a motor vehicle to follow another vehicle more closely than is reasonable and prudent. It is unlawful, when traveling upon a roadway outside a business or residence district, for a motor truck, motor truck drawing another vehicle, or vehicle towing another vehicle or trailer to follow within 300 feet of another vehicle.

Section 316.303, F.S., prohibits a motor vehicle operated on the highways of this state to be equipped with television-type receiving equipment that is visible from the driver’s seat; however, this prohibition does not apply to an electronic display:

- Used in conjunction with a vehicle navigation system;
- Used in a vehicle equipped with autonomous technology in autonomous mode; or
- Used in a vehicle equipped and operating with DATP technology.

### Proposed Changes

The bill amends s. 316.003, F.S., removing the definition of “driver-assistive truck platooning technology,” and adds a definition for the term “platoon.” The bill defines “platoon” as a group of individual motor vehicles traveling in a unified manner at electronically coordinated speeds at following distances that are closer than defined under s. 316.0895(2), F.S.

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<sup>10</sup> Peloton, *Peloton Technology demonstrates driver-assistive truck platooning system to Florida transportation leaders in connection with Florida Pilot Project* (Dec. 20, 2017), available at <https://peloton-tech.com/driver-assistive-truck-platooning-demonstration-florida-transportation-leaders-connection-florida-pilot-project/> (last visited February 27, 2019).

<sup>11</sup> Crane, Bridge, & Bishop, *Driver Assistive Truck Platooning: Considerations for Florida State Agencies*, (March 29, 2018), at 187-89 (on file with the Transportation & Infrastructure Subcommittee).

<sup>12</sup> Peloton, *supra*, FN 10.

<sup>13</sup> *See* s. 316.0895, F.S.

<sup>14</sup> Alan Adler, *Most States Ban Truck Platooning, But Report Shows Momentum Shift*, Trucks, (July 25, 2018), available at <https://www.trucks.com/2018/07/25/cei-truck-platooning-regulation-shift/> (last visited February 28, 2019).

<sup>15</sup> *Id.*

The bill repeals s. 316.0896, F.S., which establishes the assistive truck platooning technology pilot project conducted by DOT in consultation with DHSMV.

The bill creates s. 316.0897, F.S., providing that a platoon may be operated on Florida roadways after an operator provides notification to DOT and DHSMV. Additionally, it provides that Florida's "following too closely" law<sup>16</sup> does not apply to the operator of a non-lead vehicle in a platoon.

The bill amends s. 316.303, F.S., to add that the prohibition on television receivers does not apply to an electronic display used by an operator of a platoon.

## **Length and Load Requirements for Automobile Transporters and Towaway Trailers**

### Current Situation

On December 4, 2015, the Fixing America's Surface Transportation (FAST) Act was signed into law.<sup>17</sup> The FAST Act revises the definition of the term "automobile transporter" to allow for the transport of general freight on a return trip ("backhaul"), so long as the vehicle still complies with Interstate System weight restrictions. The FAST Act also prohibits states from imposing a length limitation of less than 80 feet and adjusts allowable front and rear overhangs on certain automobile transporters.<sup>18</sup>

The FAST Act provides that a state may not prohibit a towaway trailer transporter combination of less than 82 feet from traveling on the National Network. A "towaway trailer transporter combination" is a combination of vehicles consisting of a trailer transporter towing unit and two trailers or semitrailers with the total weight of the property and combination not exceeding 26,000 pounds.<sup>19</sup>

Florida law defines a "stinger-steered automobile or boat transporter" as "an automobile or boat transporter configured as a semitrailer combination wherein the fifth wheel is located on a drop frame located behind and below the rearmost axle of the power unit." An automobile or boat transporter semitrailer may not exceed 50 feet in length, exclusive of the load; however, the load may extend up to an additional six feet beyond the rear of the trailer. The 50-foot length limitation does not apply to non-stinger-steered automobile or boat transporters that are 65 feet or less in overall length, exclusive of the load carried thereon, or to stinger-steered automobile or boat transporters that are 75 feet or less in overall length, exclusive of the load carried thereon.<sup>20</sup>

Section 316.515(3), F.S., provides that the load upon any vehicle operated alone, or the load upon the front vehicle of a combination of vehicles, may not extend more than three feet beyond the front wheels of the vehicle or the front bumper of the vehicle if it is equipped with a bumper.

### Proposed Changes

The bill authorizes the transport of general freight on a return trip by an automobile transporter, as long as the vehicle still complies with Interstate System weight restrictions. It prohibits the state from imposing a length limitation of less than 80 feet and extends the front bumper overhang allowance on a stinger-steered automobile transporter from the current three feet to the federal allowance of four feet. The transport still has to comply with existing weight limitations. Finally, the bill creates a definition for "towaway trailer transporter combinations" that is consistent with provisions contained in the FAST Act.

## **Compatibility with Federal Motor Carrier Safety Regulations**

### Current Situation

The primary mission of the Federal Motor Carrier Safety Administration (FMCSA), an agency within the United States Department of Transportation, is to prevent commercial motor vehicle-related fatalities

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<sup>16</sup> Section 316.0895, F.S.

<sup>17</sup> 49 U.S.C. § 31111.

<sup>18</sup> 49 U.S.C. § 31111(a)(1) and (b)(1)(G).

<sup>19</sup> 49 U.S.C. § 31111(a)(6)-(7) and (b)(1)(H).

<sup>20</sup> Section 316.515(3), F.S.

and injuries.<sup>21</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 vehicle (CMV) safety regulations.<sup>22</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>23</sup> The letter stated that, effective February 16, 2019, failure to adopt compatible electronic logging devices regulations may jeopardize Florida's eligibility for Fiscal Year (FY) 2019-2020 MCSAP funding.<sup>24</sup> The MCSAP grant funding for the 2017-18 FY was \$14,718,042 and the funding for the 2018-19 FY was \$15,033,312.<sup>25</sup>

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

- Has a gross vehicle weight rating of 10,000 pounds or more;
- Is designed to transport more than 15 passengers, including the driver; or
- Is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act,<sup>26</sup> as amended.<sup>27</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 a 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

<sup>21</sup> Federal Motor Carrier Safety Administration, available at <https://www.fmcsa.dot.gov/mission/about-us> (last visited February 28, 2019).

<sup>22</sup> 2007 Florida State MCSAP Review (Copy on file with Transportation & Infrastructure Subcommittee).

<sup>23</sup> Letter from Federal Motor Carrier Safety Administration (August 10, 2018) (Copy on file with Transportation & Infrastructure Subcommittee).

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

<sup>25</sup> Email from Jennifer Langston, Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, RE: DHSMV Package, (February 21, 2019) (on file with the Transportation & Infrastructure Subcommittee).

<sup>26</sup> 49 U.S.C. ss. 1801 et seq.

<sup>27</sup> Section 316.003(13), F.S.

Part	Heading
396	Inspection, Repair, and Maintenance
397	Transportation of Hazardous Materials; Driving and Parking Rules

Federal regulations define “bus” as “any motor vehicle designed, constructed, and/or used for the transportation of passengers, including taxicabs.”<sup>28</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>29</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>30</sup> which does not contain a similar exemption, and that federal regulations expressly prohibit lamps and reflectors from being obscured.<sup>31</sup>

Federal regulations provide that, with some exceptions, CMV drivers be at least 21 years of age.<sup>32</sup> Federal regulations also provide maximum drive time requirements for property carrying vehicles.<sup>33</sup> Section 316.302(2)(a), F.S., provides that a person operating a CMV solely in intrastate commerce and not transporting any hazardous material in amounts that require placarding<sup>34</sup> are not required to comply with the age requirement or maximum drive time requirements for property-carrying vehicles.

Federal regulations provide hours of service rules for CMV drivers.<sup>35</sup> Florida law 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>36</sup>

These provisions do not apply to drivers of utility service vehicles.<sup>37</sup>

Section 316.302(2)(c), F.S., provides that, except as provided in the federal hours of service rules,<sup>38</sup> a person operating a CMV solely in intrastate commerce, not transporting any hazardous material, may not drive after having been on duty more than 70 hours in any period of seven consecutive days, or more than 80 hours in any period of eight consecutive days, if the motor carrier operates every day of the week. Upon request of DHSMV, motor carriers are required to furnish time records or other written verification so that DHSMV can determine compliance with the hours of service requirements. Falsification of time records is subject to a civil penalty not to exceed \$100.

<sup>28</sup> 49 C.F.R. 390.5.

<sup>29</sup> MCSAP Review, *supra* FN 22 at FL/FI-1.

<sup>30</sup> 49 C.F.R. 393 Subpart B.

<sup>31</sup> MCSAP Review, *supra* FN 22 at FL/FI-7.

<sup>32</sup> 49 C.F.R. s. 391.11(b)(1).

<sup>33</sup> 49 C.F.R. s. 395.3(a) and (b).

<sup>34</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>35</sup> 49 C.F.R. s. 395.

<sup>36</sup> Section 316.302(2)(b), F.S.

<sup>37</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>38</sup> 49 C.F.R. s. 395.1.

Section 316.302(2)(d), F.S., provides that a person operating a CMV solely in intrastate commerce, and 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>39</sup> if the requirements of certain federal rules regarding short-haul operations<sup>40</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>41</sup> is exempt from s. 316.302(1), F.S. However, such person must comply with 49 C.F.R. parts 382, 392, and 393 and with 49 C.F.R. ss. 396.3(a)(1) and 396.9.

In its 2007 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 could require placarding, while federal regulations do not allow drivers of vehicles requiring placarding to be exempt from applicable requirements.<sup>42</sup>

### Proposed Changes

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

The bill provides that s. 316.302(1), F.S., applies to CMVs except as it relates to covered farm vehicles.<sup>43</sup> It amends s. 316.302(1)(b), F.S., removing the exception for the federal definition of a bus and updating the date of adoption to December 31, 2018, which updates the state law referencing the applicable federal rules applicable to intrastate CMV vehicles. The bill amends s. 316.302(1)(d), F.S., removing exceptions regarding headlamps and turn signals by waste collection vehicles under specified circumstances.

The bill creates s. 316.302(1)(e), F.S., providing that the requirement for electronic logging devices and hours of service support documents do not go into effect for motor carriers engaged in intrastate commerce and not carrying hazardous materials until December 31, 2019.

The bill amends s. 316.302(2)(a), F.S., no longer requiring intrastate CMVs that are not carrying hazardous materials to comply with certain federal regulations providing maximum drive time requirements. Therefore, these vehicles will not be required to comply with 49 C.F.R. 395.3,

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<sup>39</sup> 49 C.F.R. 395.8.

<sup>40</sup> 49 C.F.R. s. 395.1(e)(1)(iii) and (v) are various rules relating to short-haul operations.

<sup>41</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."

<sup>42</sup> MCSAP Review, *supra* FN 22 at FL/FI-3.

<sup>43</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.
- 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.

documenting the maximum driving time for operators of property carrying vehicles. These drivers continue to be subject to the maximum driving times required by state law.

The bill amends s. 316.302(2)(c), F.S., by removing the \$100 fine for falsifying hours of service records, because it is duplicative of the fine provided in the CMV penalties statute.<sup>44</sup>

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

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

## **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>45</sup> The IRP allows a carrier to register once for all the jurisdictions, rather than registering with each jurisdiction separately.<sup>46</sup> The IRP jurisdictions voted in favor of amending the definition of "apportionable vehicle," which went into 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>47</sup>

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

Section 320.01(24), F.S., defines "apportionable vehicle" as any vehicle<sup>49</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 designed, used, or maintained primarily for the transportation of property and:

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

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

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<sup>44</sup> Section 316.3025(3)(b)1., F.S.

<sup>45</sup> International Registration Plan, Inc., *About IRP*, available at <http://www.irponline.org/?page=AboutIRP> (last visited February 28, 2019).

<sup>46</sup> International Registration Plan, Inc., *IRP Registration*, available at <http://www.irponline.org/?page=Registration> (last visited February 28, 2019).

<sup>47</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>48</sup> Email from Department of Highway Safety and Motor Vehicles, February 16, 2017 (on file with the Transportation & Infrastructure Subcommittee).

<sup>49</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.



## Proposed Changes

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

## **International Registration Plan**

### Current Situation

Florida law requires all apportionable vehicles domiciled in Florida to be registered in accordance with the IRP and to display required license plates.<sup>50</sup>

Section 320.06, F.S., provides for motor vehicle registration certificates, license plates, and validation stickers. Upon receiving an initial application for registration and payment of the appropriate license tax<sup>51</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>52</sup> for each vehicle registered.<sup>53</sup>

Most license plates are issued for a 10-year period. Upon renewal, the license plate is replaced. However, a vehicle with an apportioned<sup>54</sup> registration is issued an annual license plate and a cab card denoting the declared gross vehicle weight for each apportioned jurisdiction in which the vehicle is authorized to operate.<sup>55</sup>

Section 320.0607, F.S., provides for replacement license plates, validation decals, or mobile home stickers. It requires that upon the issuance of an original license plate (whether every 10 years or annually for apportioned vehicles), the applicant pay a \$28 fee to be deposited into the Highway Safety Operating Trust Fund.

### Proposed Changes

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 amends s. 320.06, F.S., providing 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, 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, which is replacing the license plate, is \$28 that will be deposited into the Highway Safety Operating Trust Fund. If the license plate is damaged or worn, it may be replaced at no charge by applying to DHSMV and surrendering the current license plate.

The bill amends s. 320.0607(5), F.S., providing that upon implementation of a new operating system for apportioned vehicle registration, 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.

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<sup>50</sup> Section 320.0715(1), F.S.

<sup>51</sup> License taxes are provided for in s. 320.08, F.S.

<sup>52</sup> Section 320.0706, F.S., requires the display of license plates on the front and the rear of some trucks.

<sup>53</sup> Section 320.06(1)(a), F.S.

<sup>54</sup> Section 320.06(3)(a), F.S., requires apportioned license plate to have the word “apportioned” at the bottom of the license plate.

<sup>55</sup> Section 320.06(1)(b)1., F.S.

## Fleet Vehicle Temporary Tag Pilot Program

### Current Situation

Section 320.131, F.S., provides that DHSMV is authorized and empowered to design, issue, and regulate the use of temporary tags for use in certain cases provided in law when a permanent plate may not be immediately available. It also provides penalties for the misuse of temporary tags. Generally, a temporary tag is valid for 30 days.<sup>56</sup> Temporary tags cost \$2 each, of which \$1 is deposited into the Brain and Spinal Cord Injury Program Trust Fund and \$1 into the Highway Safety Operating Trust Fund.<sup>57</sup> DHSMV uses a print-on-demand electronic temporary tag registration, record retention, and issue system that is required to be used by every department-authorized issuer of temporary tags.<sup>58</sup> These issuers include motor vehicle dealers and tax collectors who frequently issue temporary tags on behalf of DHSMV.

### Proposed Changes

The bill amends s. 320.131, F.S., and creates a Fleet Vehicle Temporary Tag Pilot Program. The bill provides that DHSMV may partner with a county tax collector to conduct a pilot program that provides up to 50 temporary tags at a time to fleet companies who have at least 3,500 fleet vehicles registered in Florida. DHSMV must establish a memorandum of understanding (MOU) that allows a maximum of three companies to participate in the pilot program.

The bill provides that:

- The temporary tags are for exclusive use on the company's fleet vehicles, and may not be used on any other vehicle;
- Each temporary tag be used on only one vehicle;
- Upon issuance of the vehicle's permanent license plate and registration, the temporary tag becomes invalid and must be removed from the vehicle and destroyed;
- Upon a finding by DHSMV that a temporary tag has been misused under this program, DHSMV may terminate the MOU with the company, invalidate all temporary tags issued to the company, and require such company to return any unused temporary tags.

The issuance of a temporary tag must be reported to DHSMV within two business days after the issuance of the tag, and the tax collector must keep a record of each temporary tag issued. This program is repealed October 1, 2022, unless saved from repeal through reenactment by the Legislature.

## Cargo Theft

### Current Situation

Section 812.014(2)(a), F.S., provides penalties associated with commercial vehicle theft of cargo. An offender commits grand theft in the first degree<sup>59</sup> if:

- The property stolen is valued at \$100,000 or more or is a semitrailer that was deployed by a law enforcement officer;
- Is cargo valued at \$50,000 or more that has entered the stream of interstate or intrastate commerce from the shipper's loading platform to the consignee's receiving dock; or
- If the offender commits any grand theft and:
  - In the course of committing the offense the offender uses a motor vehicle as an instrumentality, other than merely as a getaway vehicle, to assist in committing the offense and thereby damages the real property of another; or

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<sup>56</sup> Section 320.131(2), F.S.

<sup>57</sup> *Id.*

<sup>58</sup> Section 320.131(9), F.S.

<sup>59</sup> Sections 775.082, 775.083, and 775.084, F.S. provide that grand theft in the first degree is punishable as a felony of the first degree, which is a term of imprisonment not to exceed 30 years or a fine not to exceed \$10,000. Additionally, the person may be subject to enhanced penalties for certain habitual felony offenders

- In the course of committing the offense the offender causes damage to the real or personal property of another in excess of \$1,000.

The Florida Highway Patrol's (FHP) Bureau of Criminal Investigations and Intelligence within DHSMV investigates commercial vehicle and cargo theft and other forms of criminal activity related to DHSMV and FHP. The Bureau works with local, state, and federal partners in an effort to combat such activity.<sup>60</sup>

Global positioning system (GPS) jammers are devices using radio frequency transmitters in order to intentionally block, jam, or interfere with a GPS. It is illegal to market, sell, or use GPS jammers in the United States.<sup>61</sup> Such devices have been linked to CMV cargo thefts throughout the country.<sup>62</sup> GPS tracking is used as a safeguard by CMV companies to track cargo being shipped to various locations. A GPS jammer can disrupt the tracking device from as far as 65 feet away.<sup>63</sup> GPS jammers prevent the tracker from wirelessly reporting any location or status data to the company.<sup>64</sup> With the tracking information no longer reporting the location of the cargo, thieves can steal the cargo without the company being able to track and pursue their cargo.

### Proposed Changes

The bill amends s. 812.014, F.S., and provides that if in the course of committing an offense of theft an offender uses any type of device to defeat, block, disable, jam, or interfere with a GPS or similar system designed to identify the location of the cargo of the vehicle or trailer carrying the cargo, he or she commits grand theft in the first degree.

### **Disqualification from Operating a CMV**

#### Current Situation

In 2013, the Legislature amended s. 316.3025, F.S., codifying a federal prohibition on CMV drivers using handheld devices while operating a CMV.<sup>65</sup> However, s. 322.61, F.S., relating to offenses disqualifying someone from driving a CMV was not amended to list using a handheld device while operating a CMV as a serious disqualifying offense regarding a commercial driver license.

Section 316.3025(6)(a), F.S., provides penalties associated with texting and using a handheld mobile telephone while driving a CMV. A driver violating the federal prohibitions against texting<sup>66</sup> or using a handheld mobile telephone<sup>67</sup> while operating a CMV, may be assessed a civil penalty and commercial driver license disqualification<sup>68</sup> as follows:

- First violation: \$500.
- Second violation: \$1,000 and a 60-day commercial driver license disqualification.<sup>69</sup>
- Third and subsequent violations: \$2,750 and a 120-day commercial driver license disqualification.

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<sup>60</sup> Department of Highway Safety and Motor Vehicles, *Bureau of Criminal Investigation and Intelligence (BCII)*, available at <https://www.flhsmv.gov/florida-highway-patrol/specialized-areas/bureau-of-criminal-investigations-and-intelligence-bcii/> (last visited February 28, 2019).

<sup>61</sup> GPS.gov, *Information About GPS Jamming*, available at <http://www.gps.gov/spectrum/jamming/> (last visited February 28, 2019).

<sup>62</sup> Federal Bureau of Investigation, Private Industry Notification 141002-001, *Cargo Thieves use GPS Jammers to Mask GPS Trackers* (October 2, 2014), available at <https://info.publicintelligence.net/FBI-CargoThievesGPS.pdf> (last visited February 28, 2019).

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> Chapter 2013-160, L.O.F.

<sup>66</sup> 49 C.F.R. 329.80.

<sup>67</sup> 49 C.F.R. 392.82.

<sup>68</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>69</sup> Commercial driver license disqualification is pursuant to 49 C.F.R. part 383.

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

- A violation of any state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with a crash resulting in death;
- Reckless driving;<sup>70</sup>
- Unlawful speed of 15 miles per hour or more above the posted speed limit;
- Improper lane change;<sup>71</sup>
- Following too closely;<sup>72</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>73</sup>

#### Proposed Changes

The bill amends s. 322.61(1), F.S., incorporating texting while driving and use of hand-held mobile telephones to the list of offenses that can disqualify a person from operating a CMV. The change will align with federal regulations.

#### B. SECTION DIRECTORY:

**Section 1:** Amends s. 316.003, F.S., relating to definitions.

**Section 2:** Repeals s. 316.0896, F.S., relating to assistive truck platooning technology pilot project.

**Section 3:** Creates s. 316.0897, F.S., relating to platoons.

**Section 4:** Amends s. 316.302, F.S., relating to commercial motor vehicles; safety regulations; transporters and shippers of hazardous materials; enforcement.

**Section 5:** Amends s. 316.303, F.S., relating to television receivers.

**Section 6:** Amends s. 316.515, F.S., relating to maximum width, height, length.

**Section 7:** Amends s. 320.01, F.S., relating to definitions.

**Section 8:** Amends s. 320.06, F.S., relating to registration certificates, license plates, and validation stickers generally.

**Section 9:** Amends s. 320.0607, F.S., relating to replacement license plates, validation decal, or mobile home sticker.

**Section 10:** Amends s. 320.131, F.S., relating to temporary tags.

**Section 11:** Amends s. 655.960, relating to definitions.

**Section 12:** Amends s. 812.014, F.S., relating to theft.

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<sup>70</sup> Reckless driving is defined in s. 316.192, F.S.

<sup>71</sup> Improper lane change is defined in s. 316.085, F.S.

<sup>72</sup> Following too closely is defined in s. 316.0895, F.S.

<sup>73</sup> A license or learner permit is required to drive a commercial motor vehicle pursuant to s. 322.03, F.S.

**Section 13:** Amends s. 322.61, F.S., relating to disqualification from operating a commercial motor vehicle.

**Section 14:** Provides an effective date of October 1, 2019.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

There is currently a \$2 temporary tag fee for certain vehicles, whose revenues are divided evenly between the Highway Safety Operating Trust Fund and the Brain and Spinal Cord Injury Program Trust Fund. To the extent that fleet companies choose to utilize this new authority to purchase temporary tags for their vehicles, there may be an indeterminate, positive fiscal impact on the Highway Safety Operating Trust Fund and the Brain and Spinal Cord Injury Program Trust Fund.

#### 2. Expenditures:

According to DHSMV, the creation of the temporary tag for fleet vehicles will require approximately 87 programming hours, or the equivalent of \$3,045 in FTE. This cost can be absorbed within existing resources.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

County tax collectors are currently authorized to collect a \$3 surcharge for each temporary tag issuance. To the extent that fleet companies choose to utilize this new authority to purchase temporary tags for their vehicles, there may be an indeterminate, positive fiscal impact on local government revenues.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons who use any type of device to defeat, block, disable, jam, or interfere with a GPS device in the course of committing an offense of theft will be subject to enhanced penalties. This same provision may serve to deter theft and enhance productivity for the CMV industry.

There may be a positive fiscal impact on operators of motor vehicle platoons and manufacturers of platooning technology that will be authorized to operate on Florida roadways.

Additionally, there may be a positive fiscal impact on fleet companies who qualify to be part of the Fleet Vehicle Temporary Tag pilot program because such companies will be able to receive up to 50 temporary tags at a time, which can reduce the amount of time a replacement fleet vehicle is inoperable while awaiting permanent registration and title.

### D. FISCAL COMMENTS:

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 the 2019-2020 FY MCSAP funding. The MCSAP grant funding for the 2017-18 FY was \$14,718,042 and the funding for the 2018-19 FY was \$15,033,312.<sup>74</sup>

### 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. RULE-MAKING AUTHORITY:

None.

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

The bill creates s. 316.0897, F.S., relating to platoons and provides that certain provisions do not apply to the operator of a nonlead vehicle in a platoon. The bill goes on to provide that the term "platoon" is defined as provided in s. 316.003, F.S. This reference to the definition of the term "platoon" is not necessary because the bill is amending chapter 316, F.S., which means the definition provided in s. 316.003, F.S., applies unless otherwise stated.

In addition, the bill does not specify how platoon operators are to provide the required notification to DOT and DHSMV. It is also unclear how law enforcement will be able to identify that a vehicle is operating in a platoon, thus exempt from certain traffic law requirements.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 6, 2019, the Transportation & Infrastructure Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Provided updated technical language for CMV interstate and intrastate safety regulations.
- Removed duplicative language exempting persons from intrastate requirements.
- Incorporated violations for texting or using a handheld phone device while operating a CMV as a serious disqualifying offense to align with federal regulations.
- Removed the time certain date for disbursement of the apportionable plate annual validation sticker.

On March 28, 2019, the State Affairs Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Authorized the transport of general freight on a return trip by an automobile transporter.
- Prohibited the state from imposing a length limitation of less than 80 feet on transporters.
- Extended the front bumper overhang allowance on a transporter from three feet to four feet.
- Created a definition for "towaway trailer transporter combinations".

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

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<sup>74</sup> Email from Jennifer Langston, Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, RE: DHSMV Package, (February 21, 2019) (on file with the Transportation & Infrastructure Subcommittee).