

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS
FINAL BILL ANALYSIS**

BILL #: CS/CS/HB 725 Commercial Motor Vehicles
SPONSOR(S): State Affairs Committee; Transportation & Infrastructure Subcommittee; Payne and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 1638

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
FINAL HOUSE FLOOR ACTION: 111 Y's 0 N's			
GOVERNOR'S ACTION: Approved			

SUMMARY ANALYSIS

CS/CS/HB 725 passed the House on April 17, 2019, as amended. The bill was amended in the Senate on May 3, 2019, and returned to the House. The House concurred in the Senate amendment and subsequently passed the bill as amended on May 3, 2019.

The bill updates the following commercial motor vehicle (CMV) regulations to address compatibility concerns with federal law:

- 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 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.

The bill also provides that certain CMV regulations do not apply to covered farm vehicles and authorizes, consistent with federal regulations, CMVs with electric battery power systems to increase their weight limit by 2,000 pounds.

The bill requires charter buses operating interstate to register as apportionable vehicles. The bill also requires the Department of Transportation in conjunction with the Department of Highway Safety and Motor Vehicles (DHSMV) to develop a permitting program for the use of certain oversized and overweight semitrailer combinations for transporting farm products on specified roads.

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.

The bill was approved by the Governor on June 26, 2019, ch. 2019-149, L.O.F., and will become effective on October 1, 2019.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Compatibility with Federal Motor Carrier Safety Regulations

Present 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 and injuries.¹ 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.² 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.³ 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.⁴ The MCSAP grant funding for the 2017-18 FY was \$14,718,042 and the funding for the 2018-19 FY was \$15,033,312.⁵

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,⁶ as amended.⁷

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

¹ Federal Motor Carrier Safety Administration, available at <https://www.fmcsa.dot.gov/mission/about-us> (last visited February 28, 2019).

² 2007 Florida State MCSAP Review (copy on file with Transportation & Infrastructure Subcommittee).

³ Letter from Federal Motor Carrier Safety Administration (August 10, 2018) (Copy on file with Transportation & Infrastructure Subcommittee).

⁴ *Id.*

⁵ 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).

⁶ 49 U.S.C. ss. 1801 et seq.

⁷ Section 316.003(13), F.S.

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
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."⁸ 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."⁹

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,¹⁰ which does not contain a similar exemption, and that federal regulations expressly prohibit lamps and reflectors from being obscured.¹¹

Federal regulations provide that, with some exceptions, CMV drivers be at least 21 years of age.¹² Federal regulations also provide maximum drive time requirements for property carrying vehicles.¹³ 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 placarding¹⁴ 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.¹⁵ 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.¹⁶

These provisions do not apply to drivers of utility service vehicles.¹⁷

⁸ 49 C.F.R. 390.5.

⁹ MCSAP Review, *supra* FN 2 at FL/FI-1.

¹⁰ 49 C.F.R. 393 Subpart B.

¹¹ MCSAP Review, *supra* FN 2 **Error! Bookmark not defined.** at FL/FI-7.

¹² 49 C.F.R. s. 391.11(b)(1).

¹³ 49 C.F.R. s. 395.3(a) and (b).

¹⁴ 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.

¹⁵ 49 C.F.R. s. 395.

¹⁶ Section 316.302(2)(b), F.S.

¹⁷ 49 C.F.R. s. 395.2, defines "utility service vehicle" as any commercial motor vehicle:

Section 316.302(2)(c), F.S., provides that, except as provided in the federal hours of service rules,¹⁸ a person operating a CMV solely in intrastate commerce, not transporting any hazardous material, may not drive after having been on duty more than 70 hours in any period of seven consecutive days, or more than 80 hours in any period of eight consecutive days, if the motor carrier operates every day of the week. Upon request of DHSMV, motor carriers are required to furnish time records or other written verification so that DHSMV can determine compliance with the hours of service requirements. Falsification of time records is subject to a civil penalty not to exceed \$100.

Section 316.302(2)(d), F.S., provides that a person operating a CMV solely in intrastate commerce, 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 status¹⁹ if the requirements of certain federal rules regarding short-haul operations²⁰ 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,²¹ 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.²²

Effect of the Bill

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.²³ The bill also amends s. 316.302(1), F.S., removing the exception for the federal definition of

(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.

¹⁸ 49 C.F.R. s. 395.1.

¹⁹ 49 C.F.R. 395.8.

²⁰ 49 C.F.R. s. 395.1(e)(1)(iii) and (v) are various rules relating to short-haul operations.

²¹ 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."

²² MCSAP Review, *supra* FN 2 at FL/FI-3.

²³ 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.

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

The bill 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 amends s. 316.302(2), 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, 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.²⁴

The bill also adds a reference to 49 C.F.R. 395.1(e)(1)(ii) and (iii) (A) and (C) and removes 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 adds the terms "gross vehicle weight rating" and "gross combined vehicle weight rating" and removes the provision regarding transporting petroleum products to conform to federal law.

Weight and Size Requirements

Present Situation

On December 4, 2015, the Fixing America's Surface Transportation (FAST) Act was signed into law.²⁵ 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.²⁶

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.²⁷

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-

-
- 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.

²⁴ Section 316.3025(3)(b)1., F.S.

²⁵ 49 U.S.C. § 31111.

²⁶ 49 U.S.C. § 31111(a)(1) and (b)(1)(G).

²⁷ 49 U.S.C. § 31111(a)(6)-(7) and (b)(1)(H).

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.²⁸

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.

Chapter 316, F.S., sets out the maximum gross weight imposed on the highways by the wheels of any one axle of a vehicle²⁹ as well as the maximum width, height, and length.³⁰ In addition, Florida law provides that any officer of the Florida Highway Patrol, having reason to believe that the weight, width, height, or length of a vehicle and load is unlawful, is authorized to require the driver to stop and submit to a weighing or measurement.^{31, 32} The overall gross weight of any vehicle or combination of vehicles may not exceed 80,000 pounds,³³ except that the actual gross vehicle weight for vehicles fueled by natural gas may not exceed 82,000 pounds.³⁴

An oversize or overweight vehicle or load may not operate on a public road in the state unless the owner or operator of the vehicle has obtained a special permit from the Department of Transportation (DOT) or a local authority.³⁵ DOT or a local authority has the discretion to issue a special permit in writing authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight exceeding the maximum specified size and weight.³⁶ Every special permit must be carried in the vehicle to which it refers and must be open to inspection by any law enforcement agent or authority granting the permit.³⁷

Effect of the Bill

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. The bill authorizes stinger-steered automobile transporters to be 80 feet or less in overall length and extends the front bumper overhang allowance 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.

The bill authorizes, consistent with federal regulations, commercial motor vehicles with electric battery power systems to increase their weight limit by 2,000 pounds. Upon request by any weight inspector or law enforcement officer, the vehicle operator must present written certification that identifies the weight of the electric battery system fueling system.

Additionally, the bill requires DOT, in conjunction with DHSMV, to develop by January 1, 2020, a permitting program that authorizes the operation of certain truck tractor, semitrailer, and trailer combinations within the geographic boundary of the Everglades Agricultural Area. Each semitrailer and trailer unit may be up to 48 feet in length and must:

- Be used for the primary purpose of transporting farm product;
- Travel on a route that has been approved for public safety purposes by DOT;

²⁸ Section 316.515(3), F.S.

²⁹ Section 316.535, F.S.

³⁰ Section 316.515, F.S.

³¹ Section 316.545(1), F.S.

³² Section 316.516(1), F.S.

³³ Section 316.535(4), F.S.

³⁴ Section 316.545(3)(c)2., F.S.

³⁵ Section 316.550(1)&(2), F.S.

³⁶ Section 316.550(2), F.S.

³⁷ Section 316.550(7), F.S.

- Operate within a 60-mile radius of where the truck was loaded; and
- Meet specific weight limitations, with the gross weight not to exceed 155,000 pounds.

The permitting program may not be implemented or continued if the program adversely affects the allocation of federal funds to the state and will expire on January 1, 2025, unless reauthorized by the Legislature.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Manufacturers of CMVs with electric batteries as well as agricultural transporters who utilize the permitting program may see an indeterminate positive economic impact from the CMV weight and size exemptions.

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 fiscal year (FY) 2017-18 was \$14,718,042 and the funding for FY 2018-19 was \$15,033,312.³⁸

³⁸ 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).