

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 871 Department of Highway Safety and Motor Vehicles
SPONSOR(S): Infrastructure & Tourism Appropriations Subcommittee, Brannan
TIED BILLS: IDEN./SIM. **BILLS:** SB 914

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|------------------|---------|--|
| 1) Tourism, Infrastructure & Energy Subcommittee | 16 Y, 0 N | Johnson | Keating |
| 2) Infrastructure & Tourism Appropriations Subcommittee | 14 Y, 0 N, As CS | Hicks | Davis |
| 3) Commerce Committee | | | |

SUMMARY ANALYSIS

The bill addresses several matters involving the Department of Highway Safety and Motor Vehicles (DHSMV). The bill:

- Provides law enforcement agencies additional time to submit required data concerning violations of the Ban on Texting While Driving Law and provides DHSMV additional time to compile this information and submit an annual report.
- Requires any operator of a motor vehicle to provide proof of insurance when requested by a law enforcement officer.
- Extends the private rebuilt vehicle inspection program, currently only authorized in Miami-Dade County, to 11 additional counties.
- Provides that a charter bus is an "apportionable vehicle" to make Florida law consistent with the International Registration Plan.
- Prohibits persons with certain unpaid violations from obtaining a replacement motor vehicle registration or license plate to avoid a registration stop.
- Establishes timeframes within which various dealers and manufacturers of recreational vehicles and mobile homes must report to DHSMV changes in required insurance and surety bonds.
- Adds minimum insurance requirements for commercial motor vehicles carrying passengers, referring to requirements in federal regulations.

The bill will have an indeterminate fiscal impact on local and state government revenues and an insignificant impact on state government expenditures. It does not appear to impact local government expenditures. See Fiscal Analysis section.

The bill has an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Texting While Driving Report Due Date

Current Situation

Florida's Ban on Texting While Driving Law prohibits, with specified exceptions, a person from operating a motor vehicle while manually typing or entering multiple letters, numbers, symbols, or other characters into a wireless communications device¹ or while sending or reading data on such a device for the purpose of nonvoice interpersonal communication. This includes texting, e-mailing, and instant messaging.²

When a law enforcement officer issues a citation for a violation of this law, the officer must record the race and ethnicity of the violator. All law enforcement agencies must maintain and report such information to the Department of Highway Safety and Motor Vehicles (DHSMV). DHSMV must annually, by February 1 of each year, report the data collected to the Governor, the President of the Senate, and the Speaker of the House of Representatives. This data must be reported at least by statewide totals for local law enforcement agencies, state law enforcement agencies, and state university law enforcement agencies. The statewide total for local law enforcement agencies must combine the data for the county sheriffs and the municipal law enforcement agencies.³

Effect of the Bill

The bill revises the deadline for DHSMV's annual report on violations of the Ban on Texting While Driving Law. It requires law enforcement agencies to provide the race and ethnicity of violators to DHSMV by April 1 of each year. On July 1, 2023, and on July 1 of each year thereafter, DHSMV must report the data to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Proof of Motor Vehicle Insurance

Current Situation

Under Florida law, any person required to carry motor vehicle insurance must have proof of such insurance in his or her immediate possession while operating a motor vehicle.⁴

If it appears to a law enforcement officer or other person authorized to issue traffic citations that the vehicle operator is also the owner or registrant of the vehicle, the operator must show proper proof of insurance upon demand.⁵

Effect of the Bill

The bill requires any operator of a motor vehicle, regardless of whether the person is the owner of the vehicle, to show proof of insurance upon the demand of a law enforcement officer or other person authorized to issue traffic violations.

¹ For purposes of s. 316.305, F.S., the term "wireless communications device" means any handheld device used or capable of being used in a handheld manner, that is designed or intended to receive or transmit text or character-based messages, access or store data, or connect to the Internet or any communications service and that allows text communications.

² S. 316.305(3), F.S.

³ S. 316.305(5), F.S. A copy of the report for January 1, 2020, through December 31, 2020 is available at: https://www3.flhsmv.gov/pdf/cabinetreports/TextingWhileDrivingReport_2020.pdf (last visited Jan. 12, 2022).

⁴ S. 316.646(1), F.S.

⁵ S. 316.646(2), F.S.

Private Rebuilt Vehicle Inspection Program

Current Situation

A rebuilt vehicle inspection is an examination of a rebuilt vehicle, specified documents, photographs of damage, receipts and invoices of certain repairs made, and proof that notice of rebuilding of the vehicle has been reported to the National Motor Vehicle Title Information System.⁶

In 2013, the Legislature directed DHSMV to implement and evaluate a pilot program allowing rebuilt vehicle inspection services to be offered by the private sector. The Private Rebuilt Vehicle Inspection Program (PRVIP) was implemented in Miami-Dade County from October 1, 2013, through June 30, 2015, and was subsequently extended through June 30, 2018. The program expired on July 1, 2018, since no legislation was enacted to continue it. Consequently, all rebuilt vehicle inspections reverted to DHSMV, resulting in an increase in DHSMV-provided rebuilt vehicle inspection services for Fiscal Year 2018-2019.⁷ In 2019, the pilot program was reenacted and amended.⁸ The program still applies to only Miami-Dade County.⁹

A PRVIP participant must sign a memorandum of understanding with DHSMV allowing the participant to conduct rebuilt motor vehicle inspections and specifying the requirements for oversight, bonding and insurance, procedures, and forms, and requiring the electronic transmission of documents. The annual authorization period for PRVIP participation runs from October 1 through September 30 each year and requires participants to annually renew their authorizations. Currently, there are 14 authorized facilities operating under PRVIP.¹⁰

Under PRVIP, DHSMV must conduct an onsite facility inspection at least once per quarter and must immediately terminate any participant from the program who fails to meet the minimum eligibility requirements.¹¹

In July 2021, DHSMV issued its report on the effectiveness of the PRVIP Program. Although the program was only authorized for Miami-Dade County, customers from other counties also utilize the PRVIPs. Therefore, to meet customer demand, DHSMV recommended that locations in additional counties be authorized in statute. In addition to Miami-Dade County, DHSMV has offices in Escambia, Bay, Leon, Marion, Duval, Orange, Hillsborough, Volusia, Palm Beach, Broward and Manatee counties and could provide required oversight to prospective PRVIPs in those counties.¹²

Effect of the Bill

The bill requires DHSMV, by October 1, 2022, to expand the PRVIP to Bay, Broward, Duval, Escambia, Hillsborough, Leon, Manatee, Marion, Orange, Palm Beach and Volusia counties.

The bill also removes an obsolete requirement that DHSMV, by July 1, 2021, submit a report on PRVIP.

Charter Buses/Appportionable Vehicles

Current Situation

The International Registration Plan (IRP) is a reciprocity agreement among states of the United States, the District of Columbia, and provinces of Canada which recognizes the registration of commercial

⁶ S. 319.141(1)(b), F.S.

⁷ Department of Highway Safety and Motor Vehicles (DHSMV), *Private Rebuilt Inspection Program*, July 1, 2021. p. 2. <https://www.flhsmv.gov/pdf/cabinetreports/privaterebuiltreport.pdf> (last visited Dec. 16, 2021).

⁸ Chapter 2019-169, Laws of Florida.

⁹ S. 319.141(2), F.S.

¹⁰ DHSMV, *supra* note 7.

¹¹ S. 319.141(8), F.S.

¹² DHSMV *supra* note 7 at 4.

motor vehicles (CMVs) registered by other jurisdictions. The plan provides for payment of apportioned licensing fees based on the total distance that these vehicles are operated in all member jurisdictions.¹³

For purposes of motor vehicle licensing, Florida law defines the term “apportionable vehicle” as any vehicle, except recreational vehicles, vehicles displaying restricted plates, city pickup and delivery vehicles, buses used in transportation of chartered parties, and government-owned vehicles, which is used or intended for use in two or more IRP member jurisdictions that allocate or proportionally register vehicles and which is used for the transportation of persons for hire or is designed, used, or maintained primarily for the transportation of property and meets certain weight and axle requirements.¹⁴

In 2016, the IRP removed the charter bus exemption from its definition of apportionable vehicle. Therefore, Florida statutes are inconsistent with the current IRP definitions.¹⁵

Effect of the Bill

The bill provides that charter buses are no longer exempted from the statutory definition of “apportionable vehicle,” making Florida’s statutory definition consistent with the IRP.

Motor Vehicle Registration Stop

Current Situation

Under Florida law, if the name of an applicant for a motor vehicle registration appears on a DHSMV list of persons with unpaid tolls,¹⁶ unpaid parking fines,¹⁷ unpaid red light camera violations,¹⁸ or wrecker liens,¹⁹ a license plate or revalidation sticker may not be issued until that person’s name no longer appears on the list or until the person presents a receipt from the governmental entity or the clerk of court showing that the outstanding fines have been paid or liens have been satisfied. This applies only to the annual renewal of a motor vehicle registration and does not apply to the transfer of a registration of a motor vehicle sold by a licensed motor vehicle dealer, except for the transfer of registrations which include the annual renewals.²⁰

While current law prohibits individuals with the above stops from renewing their registration, the law lets them obtain a replacement license plate, allowing them to circumvent the collection process.²¹

According to DHSMV, between October 2019 and October 2021, 3,994 registrations had their license plates replaced via a “replace registration” transaction while an open stop existed. Of these, over 3,700 were for unpaid toll violations.²²

Effect of the Bill

The bill provides that these prohibitions against renewing a motor vehicle registration apply both to an annual renewal of a registration and the replacement of the motor vehicle registration or license plate.

Garage Liability Insurance/Surety Bonds

Current Situation

¹³ International Registration Plan, Inc., *Welcome to IRP, Inc.* <https://www.irponline.org/> (last visited Nov. 3, 2021).

¹⁴ S. 320.01(24), F.S.

¹⁵ DHSMV, Agency Analysis of 2022 House Bill 871, p. 3. (Dec. 17, 2021).

¹⁶ S. 316.1001(4), F.S.

¹⁷ S. 316.1967(6), F.S.

¹⁸ S. 318.15(3), F.S.

¹⁹ S. 713.78(13), F.S.

²⁰ S. 320.03(8), F.S.

²¹ Attachment to E-mail from Kevin Jacobs, Legislative Affairs Director, DHSMV, 2022 Legislative Concepts, p. 1. (Jan. 25, 2022).

²² Email from Kevin Jacobs, Legislative Affairs Director, DHSMV, fyi – toll stop legislation part of HSMV bill (Jan. 10, 2022).

Florida law requires mobile home dealers, recreational vehicle dealers, mobile home manufacturers, and recreational vehicle manufacturers, distributors, or importers to provide certain surety bonds, cash bonds, or irrevocable letters of credit to DHSMV, which must be conditioned on the dealer, manufacturer, distributor, or importer's compliance with specified laws and certain provisions in contracts regarding the sale of mobile homes or recreational vehicles.²³

An application for a license as a recreational vehicle dealer must contain a statement that the applicant is insured under a garage liability insurance²⁴ policy, which must include, at a minimum, \$25,000 combined single limit liability coverage, including bodily injury and property damage protection, and \$10,000 personal injury protection, if the applicant is to be licensed as a dealer in, or intends to sell, recreational vehicles.²⁵

Current law does not provide a timeframe for mobile home dealers, recreational vehicle dealers, mobile home manufacturers, or recreational vehicle manufacturers, importers, or distributors to submit to DHSMV the required surety or cash bonds or irrevocable letters of credit. Further, there is no required timeframe for recreational vehicle dealers to submit to DHSMV the required proof of garage liability insurance. Thus, DHSMV often must contact these entities to obtain this information. Failure to have the required garage liability insurance or surety bond, cash bond, or letter of credit submitted violates Florida law and may expose consumers and other stakeholders to financial loss.²⁶

In 2021, the Legislature codified insurance and surety bond requirements for motor vehicle dealers but did not include mobile home dealers, or recreational vehicle dealers, manufacturers, importers, and distributors.²⁷

Effect of the Bill

The bill requires that, within 10 calendar days of any renewal or continuation of or material change in a surety bond, a cash bond, or irrevocable letter of credit or issuance of a new surety bond, mobile home dealers and mobile home and recreational vehicle manufacturers, distributors, and importers must deliver to DHSMV, in a DHSMV-prescribed manner, a copy of the renewed, continued, changed, or new surety bond, cash bond, or irrevocable letter of credit.

The bill requires recreational vehicle dealers and mobile home dealers who deal in recreational vehicles to carry garage liability insurance for the period of their DHSMV license and within 10 calendar days after any renewal, continuation of, or material change to such policy, or issuance of a new policy, to deliver to DHSMV, in a DHSMV-prescribed manner, the new policy.

According to DHSMV, this timeframe will help ensure that mobile home and recreational vehicle manufacturers, distributors, and importers submit and maintain any required garage liability insurance or surety bonds, cash bonds, or letters of credit in place at the time of an original application or renewal of a dealer license and when changes take place during the period of DHSMV licensure.²⁸

Commercial Motor Vehicle – Liability Insurance

Current Situation

Under Florida law, commercial motor vehicles must be insured with the following minimum levels of combined bodily liability insurance and property damage liability insurance in addition to any other insurance requirements:

²³ Ss. 320.77(16), 320.771(16), and 320.8225(5), F.S.

²⁴ Garage liability insurance is specifically designed for automotive repair shops, dealerships, towing companies, and service stations. This insurance includes general liability which covers bodily injury and property damage for others.

²⁵ S. 320.771(3)(j), F.S.

²⁶ DHSMV, *supra* note 21 at 4.

²⁷ Attachment to E-mail from Kevin Jacobs, Legislative Affairs Director, DHSMV, 2022 Legislative Concepts, p. 2. (Jan. 25, 2022).

²⁸ DHSMV, *supra* note 21 at 6.

- \$50,000 per occurrence for a commercial motor vehicle with a gross vehicle weight of 26,000 pounds or more, but less than 35,000 pounds.
- \$100,000 per occurrence for a commercial motor vehicle with a gross vehicle weight of 35,000 pounds or more, but less than 44,000 pounds.
- \$300,000 per occurrence for a commercial motor vehicle with a gross vehicle weight of 44,000 pounds or more.
- All commercial motor vehicles subject to regulations of the United States Department of Transportation must be insured in an amount equivalent to the minimum levels of financial responsibility as set forth in those regulations.

A violation is a noncriminal traffic infraction, punishable as a nonmoving violation.²⁹

Federal regulations separately provide the minimum required levels of financial responsibility for motor carriers carrying property and for motor carriers carrying passengers.³⁰ The minimum levels currently required by federal regulations for-hire motor carriers of passengers operating in interstate or foreign commerce are:³¹

| Vehicle Seating Capacity | Minimum Limits |
|--|----------------|
| (1) Any vehicle with a seating capacity of 16 passengers or more, including the driver | \$5,000,000 |
| (2) Any vehicle with a seating capacity of 15 passengers or less, including the driver | \$1,500,000 |

Current law does not incorporate these federal regulations; therefore, Florida law does not conform to federal regulations.

Effect of the Bill

The bill requires all commercial motor vehicles subject to the regulations of the United States Department of Transportation, 49 C.F.R., part 387, subpart B, relating to motor carriers of passengers, as these regulations may be amended, to be insured in an amount equivalent to the minimum levels of financial responsibility set forth in federal regulations. This will allow DHSMV to enforce federal insurance requirements on buses and other commercial motor vehicles carrying passengers.³²

²⁹ S. 627.7415, F.S.

³⁰ 49 C.F.R. part 387, subpart A, provides minimum levels of financial responsibility for commercial motor carriers carrying property. Subpart B, provides minimum levels of financial responsibility for motor carriers carrying passengers.

³¹ 80 FR 63709, Oct. 21, 2015, as amended at 83 FR 22876, May 17, 2018.

³² DHSMV, *supra* note 21 at 6.

Effective Date

The bill has an effective date of July 1, 2022.

B. SECTION DIRECTORY:

- Section 1:** Amends s. 316.305, F.S., relating to wireless communications devices; prohibition.
- Section 2:** Amends s. 316.646, F.S., relating to security required; proof of security and display thereof.
- Section 3:** Amends s. 319.141, F.S., relating to the rebuilt motor vehicle inspection program.
- Section 4:** Amends s. 320.01, F.S., providing definitions.
- Section 5:** Amends s. 320.03, F.S., relating to registration; duties of tax collectors; International Registration Plan.
- Section 6:** Amends s. 320.77, F.S., relating to license required of mobile home dealers.
- Section 7:** Amends s. 320.771, F.S., relating to license required of recreational vehicle dealers.
- Section 8:** Amends s. 320.8225, F.S., relating to mobile home and recreational vehicle manufacturer, distributor, and importer license.
- Section 9:** Amends s. 627.7415, F.S., relating to commercial motor vehicles, additional liability insurance coverage.
- Section 10:** Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill will have the following indeterminate impacts on state revenues:

- Including charter buses in the definition of an apportionable vehicle may result in an indeterminate decrease in revenues to DHSMV, as registration fees for charter buses will be apportioned between the states within which these vehicles operate.
- Prohibiting individuals who have motor vehicle registration stops from replacing their vehicle registration and license plate until satisfying the stop may result in increased payments of fees and fines resulting in an indeterminate increase in revenues to the state.

2. Expenditures:

Expanding PRVIP could impact staffing and resources at regional offices where the program is implemented, but these needs would be determined based on the number of authorized PRVIP facilities in each region. This oversight can be accomplished using existing resources.³³

Programming would be required to prevent a license plate from being replaced when there is an existing toll stop; however, the programming costs can be absorbed within existing resources.

³³ DHSMV *supra* note 9 at 4.
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B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Prohibiting a license plate from being replaced when there is an existing toll stop may result in an indeterminate increase in revenues to tax collectors.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Expanding the PRVIP to additional counties may have a positive impact on business opportunities for residents in those counties and simultaneously may have a negative impact on PRVIP operators in Miami-Dade County, as vehicles may be inspected at locations in counties closer to the registered owner's location.

D. FISCAL COMMENTS:

According to DHSMV, the bill will have a moderate impact on its technology resources and resources dedicated to its motorist modernization projects.³⁴ These costs are associated with training, updated procedures, and programming costs. However, these costs can be absorbed using existing resources.³⁵

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to impact county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 16, 2022, the Infrastructure & Tourism Appropriations Subcommittee adopted one amendment to the bill and reported the bill favorably as a committee substitute. The amendment removed a negative fiscal impact on state revenues by eliminating a provision that would allow a surviving spouse to transfer a motor vehicle title into his or her name, at no charge, when only the deceased spouse's name is listed on the title.

This analysis is drafted to the committee substitute as approved by the Infrastructure & Tourism Appropriations Subcommittee.

³⁴ DSHMV, *supra* note 22 at 8.

³⁵ Email from Kevin Jacobs, Legislative Affairs Director, DHSMV, RE: HB 871 DHSMV Package (Jan. 3, 2022).