

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: SB 914

INTRODUCER: Senator Harrell

SUBJECT: Department of Highway Safety and Motor Vehicles

DATE: February 8, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Proctor</u>	<u>Vickers</u>	<u>TR</u>	Favorable
2.	<u>Wells</u>	<u>Hrdlicka</u>	<u>ATD</u>	Recommend: Favorable
3.	<u>Wells</u>	<u>Sadberry</u>	<u>AP</u>	Favorable

I. Summary:

SB 914 makes the following revisions relating to the Department of Highway Safety and Motor Vehicles (DHSMV):

- Revises certain dates associated with the texting and driving annual report of the DHSMV;
- Requires an *operator* of a motor vehicle to provide proof of insurance upon the request of a law enforcement officer;
- Expands the existing Private Rebuilt Vehicle Inspection Program to Bay, Broward, Duval, Escambia, Hillsborough, Leon, Manatee, Marion, Orange, Palm Beach, and Volusia counties;
- Provides a fee exemption for a surviving spouse transferring a motor vehicle title solely into their name when only the deceased spouse is named on the title;
- Provides that charter buses are apportionable vehicles subject to the requirements of the International Registration Plan;
- Prohibits individuals who have registration stops associated with toll violations from either renewing their registrations or replacing their license plates until satisfying the toll violation;
- Requires mobile home and recreational vehicle dealers, manufacturers, distributors, and importers to deliver to the DHSMV copies of renewed, continued, changed, or new insurance policies, surety or cash bonds, or irrevocable letters of credit within a specified time period; and
- Revises certain minimum insurance requirements for commercial vehicles that carry passengers to comply with federal requirements.

The bill may have an indeterminate fiscal impact. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2022.

II. Present Situation:

Texting and Driving Annual Report

When a law enforcement officer issues a citation for operating a motor vehicle while using a wireless communications device, the law enforcement officer must record the race and ethnicity of the violator. All law enforcement agencies must maintain such information and report the information to the DHSMV in a form and manner determined by the DHSMV. Beginning February 1, 2020, the DHSMV is required to annually report the data collected to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The data collected 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.¹

Proof of Insurance to Law Enforcement

Florida law states that a law enforcement officer may only ask for proof of insurance if the operator of the vehicle is also the owner or registrant of the vehicle.² The DHSMV has stated this limitation impacts the Florida Highway Patrol's ability to enforce the requirement to have insurance.³

Privatized Rebuilt Vehicle Inspection Program

The 2013 Florida Legislature created s. 319.141, F.S., for the implementation of a Pilot Rebuilt Motor Vehicle Inspection Program. The DHSMV was required to set standards and certify private sector inspection facilities in Miami-Dade and Hillsborough counties by October 1, 2013. The surety bond amount for the Pilot Rebuilt Motor Vehicle Inspection Program facility operators was set at \$50,000. The program was to evaluate alternatives for rebuilt inspection services to be offered by the private sector, including the feasibility of using private facilities, the cost impact to consumers, and the potential savings to the DHSMV. The DHSMV was required to submit a report to the President of the Senate and the Speaker of the House of Representatives providing the results of the pilot program by February 1, 2015.⁴

The 2015 Florida Legislature revised s. 319.141, F.S., defining the term "rebuilt inspection services" and providing that by July 1, 2015, the DHSMV must oversee a pilot program in Miami-Dade County. The surety bond amount for the Pilot Rebuilt Motor Vehicle Inspection Program facility operators was increased from \$50,000 to \$100,000, and the facility operator was required to secure and maintain a facility at a permanent structure at an address recognized by the United States Postal Service where the only services provided at the facility were rebuilt inspection services. The operator of the facility was further required to annually attest that they were not employed by or had an ownership interest or other financial arrangement with the

¹ Section 316.305(5), F.S.

² Section 316.646(2), F.S.

³ Department of Highway Safety and Motor Vehicles, *2022 Agency Legislative Bill Analysis for SB 914*, (December 29, 2021), p. 6 (on file in the Senate Committee on Transportation).

⁴ Chapter 2013-160, s. 21, Laws of Fla.

owner, operator, manager, or employee of a motor vehicle repair shop, motor vehicle dealer, towing company, vehicle storage, vehicle auction, insurance company, salvage yard, metal retailer or metal rebuilder to prohibit the facility operator from receiving kickbacks from the entities for referring customers for rebuilt title inspection services. Participants in the program were required to maintain records of each rebuilt vehicle examination processed at the facility for at least five years, and the DHSMV was required to immediately terminate any operator from the pilot program who did not meet the minimum requirements. Prior to a change in ownership of a rebuilt inspection facility, the current operator was required to give the DHSMV a 45-day written notice of the intended sale. The prospective owner was required to meet the eligibility requirements and execute a new memorandum of understanding with the DHSMV prior to operating the facility. The revised section of law was repealed on July 1, 2018.⁵

The 2019 Florida Legislature reenacted s. 319.141, F.S., implementing the Private Rebuilt Vehicle Inspection Program (PRVIP) in Miami-Dade County for rebuilt inspection services offered by the private sector.⁶ There are 14 PRVIP facilities currently operating in Miami-Dade County.⁷

There has been a steady increase of the number of rebuilt inspections conducted at the PRVIP locations. Since the implementation of the PRVIP, a large number of rebuilt inspections previously conducted at the DHSMV Opa-locka Regional Office have shifted to the PRVIPs.⁸

Although the PRVIP is limited under s. 319.141, F.S., to provide privatized rebuilt inspections services in Miami-Dade County only, these facilities have provided services to meet customer demand statewide; however, customers must travel from various counties to Miami-Dade County where the PRVIP facilities are authorized and operating.

During Fiscal Year 2020-2021, the PRVIP facilities in Miami-Dade County conducted 69,261 rebuilt inspections which represents 81 percent of the 85,751 inspections conducted statewide.⁹

Surviving Spouse Title Transfer

Section 319.32, F.S., sets forth the fees, service charges, and disposition of funds for certificates of title. Generally the fee for each original and duplicate certificate of title is \$70, with an extra \$2 to note a lien on the certificate, \$1 to cover the cost of materials, and \$2.50 for shipping and handling.¹⁰ Additionally, there is a \$4.25 service charge for each certificate of title application.

The \$70 fee is distributed between the State Transportation Trust Fund and the General Revenue Fund, excluding \$1 that is deposited into the Highway Safety Operating Trust Fund to fund the

⁵ Chapter 2015-163, s. 6, Laws of Fla.

⁶ Chapter 2019-169, s. 5, Laws of Fla.

⁷ Department of Highway Safety and Motor Vehicles, *2022 Agency Legislative Bill Analysis for SB 914*, p. 2.

⁸ *Ibid.*

⁹ *Ibid.*

¹⁰ Vehicles for hire (those registered under s. 320.08(6), F.S.) pay a \$49 fee for title certificates; salvage certificates are \$2; and lienholder assignments are \$3. Vehicles previously registered outside the stat pay an additional \$10 fee.

DHSMV's efforts to prevent and detect odometer fraud.¹¹ The DHSMV or the tax collector who processes the application retains the \$4.25 service charge.¹²

Additionally, expedited service for title transfers, issuances, duplicates, and recordation of liens is an option available for a \$10 fee. If requested, expedited service ensures the title is issued within five working days after receipt of the application.¹³

The 2017 Florida Legislature revised s. 319.32(7), F.S., prohibiting the DHSMV and tax collectors from charging a fee, except for the expedited title fee, if applicable, for removing a deceased spouse from a motor vehicle title when the co-owner is the surviving spouse.¹⁴ Current law does not allow the exemption to be applied when only the deceased spouse is named on the title and the surviving spouse is applying to change the title. In order for a surviving spouse to receive title to a motor vehicle that was only titled in the deceased spouse, he or she must present an application and an original or certified copy of a death certificate and a copy of the marriage certificate unless the name of the surviving spouse is shown on the death certificate.¹⁵

Registration of Charter Buses

The International Registration Plan (IRP) is a reciprocity agreement among states of the U.S., the District of Columbia, and provinces of Canada which recognizes the registration of commercial motor vehicles registered by other jurisdictions. It provides for payment of apportioned licensing fees based on the total distance operated in all member jurisdictions.¹⁶

The current definition of an apportionable vehicle excludes buses used in transportation of chartered parties (charter buses).¹⁷ A ballot was passed by the IRP membership, effective January 1, 2016, which removes the charter bus exemption from the IRP definition of apportionable vehicle.¹⁸ Therefore, the current Florida statutory definition of an apportionable vehicle is inconsistent with the IRP definition.

Vehicle Registration/Toll Stop

Any governmental entity, including, without limitation, a clerk of court, has statutory authority to submit to the DHSMV a registration stop (also known as a toll stop) for individuals who have

¹¹ Sections 319.32(5) and 319.324, F.S.; Section 319.32(5), F.S., provides that \$47 of each fee collected for an original or duplicate certificate of title is deposited into the State Transportation Trust Fund, which may receive up to \$200 million in any fiscal year. The remainder of the fee and any fees in excess of the \$200 million are deposited into the General Revenue Fund.

¹² Section 319.32(2)(b), F.S.

¹³ Section 319.323, F.S.

¹⁴ Chapter 2017-89, Laws of Fla.

¹⁵ Department of Highway Safety and Motor Vehicles, *Application for Surviving Spouse Transfer of Florida Certificate of Title for a Motor Vehicle* (July 2017), <https://www.flhsmv.gov/pdf/forms/82152.pdf> (last visited January 13, 2022).

¹⁶ International Registration Plan, Inc., *Motor Carrier FAQs*, <http://www.irponline.org/> (last visited January 13, 2022).

¹⁷ Section 320.01(24), F.S.

¹⁸ International Registration Plan, Inc., *Charter Buses to be Covered by IRP Jan. 1, 2016* (April 17, 2015), https://cdn.ymaws.com/www.irponline.org/resource/resmgr/education_training/charter_comm_4.17.15.pdf (last visited January 13, 2022); Department of Highway Safety and Motor Vehicles, *2022 Agency Legislative Bill Analysis for SB 914*, p. 3.

failed to pay a toll or have not complied with toll fines.¹⁹ Current law prohibits those individuals from renewing or otherwise extending the registration period of a motor vehicle registration (license plate). However, it allows for them to process a license plate replacement where the individual receives a new plate with a different configuration that is not tied to the toll stop, thereby allowing them to circumvent the process.²⁰

The current count of motor vehicle toll stops in the DHSMV's database is 1,236,137. Of those 698,692 are from the Central Florida Expressway Authority, 463,831 are from the Miami-Dade Expressway Authority, 69,890 are from the Tampa Hillsborough Expressway Authority, 2,143 are from the Department of Transportation, and 1,397 are from the Orlando-Orange County Expressway Authority (predecessor to the Central Florida Expressway Authority). Some plates had multiple toll violation stops – 3,877 in all.²¹

According to the DHSMV over the last two years 3,713 registrations had their plates replaced via a “replace registration” transaction while an open toll stop existed (10/28/2019 to 10/28/2021), thus circumventing the toll stop process.²²

Garage Liability Insurance

Specifically motor vehicle dealerships and recreational vehicle dealers are required to have garage liability insurance or general liability insurance coupled with a business automobile policy. This ensures that they have coverage for the day-to-day operations of businesses in the automotive industry that are not covered under most commercial or business liability insurances, including providing coverage for all dealer-owned vehicles driven by prospective purchasers.²³

Florida law requires a motor vehicles dealers to provide proof of coverage and a recreational vehicle dealer to provide a statement that it has coverage for the duration of the licensure period when it makes its licensure application and then again at the beginning of each renewal period. Motor vehicle dealers are specifically required to notify the DHSMV of any renewal or continuation of or change in the policy within 10 calendar days.

However, for recreational vehicle dealers the statute does not require any notification to the DHSMV of any material change in policy coverage and thus does not address the issue of a gap in coverage during the licensure period. Gaps in coverage can, and do, occur as a result of various actions – an applicant may cancel a policy in the middle of the term or the insurer itself may cancel the policy in the middle of the term for nonpayment of the premium or other reasons.

This technicality may allow these dealers to meet the requirement of proof of coverage at the beginning of the licensure period, allow the coverage to lapse during the licensure period, and then reinstate coverage at the beginning of the next licensure period. The cancellation and later reinstatement of a policy creates a gap wherein the applicant has no insurance coverage. A gap in insurance coverage at any time during the licensure period has the potential to result in direct

¹⁹ Section 320.03(8), F.S.

²⁰ Department of Highway Safety and Motor Vehicles, *2022 Agency Legislative Bill Analysis for SB 914*, p. 3.

²¹ Information on file with the Senate Transportation Committee.

²² *Id.* and Department of Highway Safety and Motor Vehicles, *2022 Agency Legislative Bill Analysis for SB 914*, p. 3.

²³ See ss. 320.27(3) and 320.771(3)(j), F.S.

consumer harm, as any vehicles taken for test drives or driven as program models, any consumer-owned vehicles damaged while on the applicant's lot, or any other property or personal injury situations that would otherwise be covered under a garage liability policy are not otherwise covered. Failure to have the proper insurance submitted or remain continuous is a violation of Florida law and may cause an entity to be uninsured, thereby exposing consumers and stakeholders to financial loss.²⁴

Surety Bond Requirements

Before any license is issued or renewed to a mobile home or a recreational vehicle dealer, manufacturer, distributor, or importer the applicant or licensee must deliver to the DHSMV a good and sufficient surety bond, cash bond, or irrevocable letter of credit, executed by the applicant or licensee as principal and in a form approved by the DHSMV.²⁵

Before a license can be issued or renewed, the applicant or licensee must submit a surety bond, cash bond, or letter of credit from a financial institution, or a proper continuation certificate sufficient to assure satisfaction of claims against the licensee for failure to comply with appropriate code standards, failure to provide warranty service, or violation of any provisions of the applicable statute in ch. 320, F.S. The surety bond, cash bond, or letter of credit must be to the DHSMV, in favor of any retail customer who suffers a loss arising out of such failures. The DHSMV may disapprove any bond or letter of credit that does not provide appropriate assurances. Licensees must notify the DHSMV if the bond or irrevocable letter of credit is cancelled.²⁶

Currently, there is no required timeframe for to a mobile home or a recreational vehicle dealer, manufacturer, distributor, or importer to submit its surety or cash bond or irrevocable letter of credit to the DHSMV. The lack of having a required timeframe consistently may result in these entities failing to submit proof of their liability insurance or surety bonds and results in the DHSMV having to contact these entities, sometimes repeatedly, to obtain this information. Failure to have a bond or irrevocable letter of credit submitted or remain continuous is a violation of Florida law and may expose consumers and stakeholders to financial loss.²⁷

Commercial Motor Vehicle Insurance

All commercial motor vehicles subject to regulations of the U.S. Department of Transportation must be insured in an amount equivalent to the minimum levels of financial responsibility as set forth in 49 C.F.R. Part 387.²⁸ The federal law sets forth minimum limits for coverage for for-hire motor carriers of passengers and household goods, fleet vehicles, transit service providers, and commodity transporters among others. For example the minimum levels currently provided motor carriers of passengers operating in interstate or foreign commerce are:²⁹

²⁴ Department of Highway Safety and Motor Vehicles, *2022 Agency Legislative Bill Analysis for SB 914*, p. 4.

²⁵ Sections 320.77(16), 320.771(16), and 320.8225(5), F.S.

²⁶ *Id.*

²⁷ Department of Highway Safety and Motor Vehicles, *2022 Agency Legislative Bill Analysis for SB 914*, p. 4.

²⁸ Section 627.7415(4), F.S.

²⁹ See 49 C.F.R. 387.33, 387.33T, 387.303, and 387.303T.

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

Florida law does not currently incorporate 49 C.F.R. Part 387, Subpart B, and therefore is not in compliance.

III. Effect of Proposed Changes:

Texting and Driving Annual Report (Section 1)

The bill amends s. 316.305, F.S., to provide that law enforcement agencies must submit the required information to the DHSMV annually by April 1 and the DHSMV must annually report statewide totals by July 1. The first annual report is due July 1, 2023. According to the DHSMV, this revised schedule will allow for a more complete collection from law enforcement agencies of all texting and driving data required to be included in the annual report. The DHSMV will still report the texting and driving data on an annual basis once all data from law enforcement agencies is received.³⁰

Proof of Insurance to Law Enforcement (Section 2)

The bill amends s. 316.646, F.S., to require any operator of a motor vehicle, as opposed to only the owner, to provide proof of insurance when requested by a law enforcement officer.

Privatized Rebuilt Vehicle Inspection Program (Section 3)

The bill amends s. 319.141, F.S., to expand the PRVIP to additional counties. Beginning October 1, 2022, private rebuilt inspection services will be allowed in the following counties: Bay, Broward, Duval, Escambia, Hillsborough, Leon, Manatee, Marion, Orange, Palm Beach, and Volusia. The expanded program would still be implemented under the established statutory requirements, policies, and procedures. The bill repeals an obsolete report by the DHSMV.

Surviving Spouse Title Transfer (Section 4)

The bill amends s. 319.32, F.S., to expand the exemption for title fees to a surviving spouse transferring a title solely into his or her own name when only the deceased spouse is named on the title, except for the expedited title fee, if applicable.

³⁰ Department of Highway Safety and Motor Vehicles, 2022 Agency Legislative Bill Analysis for SB 914, p. 5.

Registration of Charter Buses (Section 5)

The bill amends s. 320.01, F.S., to remove a charter bus as a vehicle exempt from the definition of an apportionable vehicle to comply with the revised requirements of the International Registration Plan.

Vehicle Registration/Toll Stop (Section 6)

The bill amends s. 320.03, F.S., to stop the practice of individuals who have toll stops on their registrations of replacing their vehicle registrations and license plates. Such persons may not renew or *replace* their vehicle registrations and license plates until satisfying the toll stop. This is intended to deter individuals from circumventing the current requirements and avoiding the payment of toll fees.

Garage Liability Insurance (Section 8)

The bill amends s. 320.771, F.S., to require a recreational vehicle dealer to submit *evidence*, instead of a statement, of insurance under a garage liability insurance policy. The policy must be for the license period. The bill also requires the dealer to deliver to the DHSMV copies of renewed, continued, changed, or new insurance policies within 10 days after the renewal, continuation, or material change, ensuring continuous insurance coverage.

Surety Bond Requirements (Sections 7, 8, and 9)

The bill amends ss. 320.77, 320.771, and 320.8225, F.S., to require a mobile home or a recreational vehicle dealer, manufacturer, distributor, or importer to deliver to the DHSMV a copy of renewed, continued, changed, or new surety or cash bond or irrevocable letter of credit, as applicable, within 10 days after the renewal, continuation, or material change, ensuring continuous coverage.

Commercial Motor Vehicle Insurance (Section 10)

The bill amends s. 627.7415, F.S., to include a reference to 49 C.F.R. Part 387, Subpart B, which prescribes minimum insurance requirements for commercial vehicles, including those that carry passengers. This provision would allow enforcement of federal insurance requirements for buses and other commercial vehicles that carry passengers.

Effective Date (Section 11)

The bill takes effect July 1, 2022.

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

This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure 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.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Expanding the PRVIP to Bay, Broward, Duval, Escambia, Hillsborough, Leon, Manatee, Marion, Orange, Palm Beach, and Volusia counties may have a positive indeterminate impact on business opportunities for residents in those counties, and simultaneously it may have a negative indeterminate impact on PRVIP operators in Miami-Dade County as vehicles may be inspected at locations in counties closer the registered owners' locations.

Surviving spouses transferring a vehicle title into their name when only the deceased spouse is named on the title, except for the expedited title fee, will be exempt from the \$70 transfer fee.

Prohibiting individuals who have toll stops from replacing their vehicle registrations and license plates until satisfying the toll stop will require payment of toll fees and fines that are otherwise avoided by a registered owner of a vehicle.

Mobile home and recreational vehicle dealers, manufacturers, distributors, and importers may incur insignificant expenses associated with delivering to the DHSMV copies of renewed, continued, changed, or new insurance policies or surety bonds.

C. Government Sector Impact:

Removing a charter bus as a vehicle exempt from the definition of an apportionable vehicle to comply with the requirements of the International Registration Plan may have

an indeterminate, though likely insignificant, negative fiscal impact to the DHSMV, as registration fees will be apportioned between the states the charter bus operates within.

Prohibiting individuals who have toll stops from replacing their vehicle registrations and license plates until satisfying the toll stop may result in an increase payment of toll fees and fines that are otherwise avoided by the registered owner of a vehicle. This may result in an indeterminate positive fiscal impact to the state and impacted toll authorities.

Allowing a surviving spouse to transfer a vehicle title into their name when only the deceased spouse is named on the title without the payment of a title transfer fee may have an indeterminate negative fiscal impact on tax collectors, the Highway Safety Operating Trust Fund, the State Transportation Trust Fund, and the General Revenue Fund.

The DHSMV has stated that this bill would have a moderate impact on resources, including programming to include the title fee exemption for surviving spouses and the prohibition of those with toll stops from replacing registrations and plates, which can be done within existing resources dedicated to their current IT modernization projects.³¹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.305, 316.646, 319.141, 319.32, 320.01, 320.03, 320.77, 320.771, 320.8225, and 627.7415.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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

³¹ Department of Highway Safety and Motor Vehicles, *2022 Agency Legislative Bill Analysis for SB 914*, p. 8.