

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 Appropriations Subcommittee on Transportation, Tourism, and Economic Development

BILL: SB 7090

INTRODUCER: Infrastructure and Security Committee

SUBJECT: Department of Highway Safety and Motor Vehicles

DATE: April 15, 2019 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Proctor	Miller		IS Submitted as Committee Bill
1.	Wells	Hrdlicka	ATD	Pre-meeting
2.			AP	

I. Summary:

SB 7090 is a comprehensive bill relating the Department of Highway Safety and Motor Vehicles (DHSMV). The bill:

- Allows the DHSMV to provide expedited shipping of driver license and identification (ID) cards at the request of the customer for online transactions;
- Allows the DHSMV to provide a replacement ID card, if the previous ID card was stolen;
- Extends the renewal window for ID cards to match driver licenses;
- Expands penalties to dealerships who employ a control person whose dealer license has been revoked;
- Creates a third degree felony for false information on an application for driver license;
- Clarifies the use of the term “crash” in ch. 316, F.S. related to State Uniform Traffic Control;
- Establishes subpoena authority for the DHSMV to obtain testimony and documents from third-party entities that cannot be obtained under current law;
- Authorizes the DHSMV and tax collectors to collect and use cellular telephone numbers and email addresses to contact customers for business reasons other than vehicle renewals;
- Updates Florida Statutes to resolve compatibility concerns from the Federal Motor Carrier Safety Administration (FMCSA) between existing state law and federal regulations;
- Incorporates violations for texting or using a handheld phone device while operating a commercial motor vehicle as a serious disqualifying offense to align with federal regulations;
- Revises the definition of “apportionable vehicle” to bring Florida’s statutory definition of “apportionable vehicle” in alignment with the requirements of the International Registration Plan;
- Revises the issuance time frame for apportioned plates beginning in 2023, and provides for free replacement for damaged or worn apportioned plates;
- Reestablishes the Rebuilt Motor Vehicle Inspection Program and expands the program statewide;
- Exempts platoon operators from state laws relating to “following too closely” and use of television receivers;

- Permits a platoon to be operated on Florida roadways after an operator provides notification to the Department of Transportation and the DHSMV;
- Permits a district school board, by majority vote, to extend the period of enforcement for a school speed zone to 45 minutes before and after school;
- Requires the DHSMV to provide tax collectors and their approved agents and vendors with real-time access to data that other third parties receive from the DHSMV related to registration of vehicles, mobile homes, and vessels;
- Provides additional options for the tax collectors to purchase validation stickers and paper stock used in producing vehicle registrations;
- Creates a Fleet Vehicle Temporary Tag Pilot Program; and
- Clarifies application of the DHSMV's Mobile/Manufactured Home Repair and Remodeling Code.

The bill will have a total indeterminate, but insignificant, impact to state and local revenues and expenditures. See Section V.

The bill is effective July 1, 2019.

II. Present Situation:

Due to the disparate issues in the bill, the present situation for each area is discussed below in conjunction with the Effect of the Proposed Changes.

III. Effect of Proposed Changes:

Definitions - Crash and Serious Bodily Injury

Present Situation

Chapter 31, F.S., related to State Uniform Traffic Control, contains the term “crash” over 150 times, but does not contain a definition for the term. The absence of a standard definition leads to inconsistent policies and procedures across law enforcement agencies that investigate crashes and among courts that adjudicate cases involving crashes.

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

Effect of Proposed Changes

The bill amends s. 316.003, F.S., by establishing a definition for the term “crash” (**section 1**). “Crash” is defined as the operation of a motor vehicle, motorized scooter, or moped which results in property damage or death, bodily injury, or complaint of bodily injury to any person. The term “crash” includes separation of the operator or an occupant from a motor vehicle, motorized scooter, or moped, or trailer being drawn by a motor vehicle, while in motion, which results in property damage or death, bodily injury, or complaint of bodily injury to any person.

The term “crash” does not include such operation:

- On private property, if such operation does not result in death or serious bodily injury, unless the operator is suspected of violating s. 316.193, F.S., relating to driving under the influence.
- On a closed course used for commercial or recreational purposes, such as a commercial driving school or racetrack, unless the operator is suspected of violating s. 316.193, F.S., relating to driving under the influence.
- If such property damage or death, bodily injury, or complaint of bodily injury to any person results from an intentional act of a law enforcement officer to force a motor vehicle or moped to stop or reduce speed, such as use of a pursuit termination device or the precision immobilization technique. However, the term “crash” does include such operation that results in death, bodily injury, or complaint of bodily injury to, or damage to property of, anyone other than the operator or an occupant being forced to stop or reduce speed or the law enforcement officer.

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

The bill amends ss. 316.027, 316.0271, 316.061, 316.194, 316.622, 316.640, 316.655, 321.05, 321.065, 321.23, 322.0602, 322.36, 323.001, 323.002, 324.011, 324.022, 324.023, 324.051, and 324.242, F.S., changing the word “accident” to “crash” (**sections 2, 3, 4, 11, 14, 15, 16, 36, 37, 38, 40, 46, 49, 50, 51, 52, 53, 54, and 55**).

The bill also amends s. 316.003, F.S., by defining “serious bodily injury” to be an injury to any person which consists of a physical condition that creates a substantial risk of death, significant personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ (**section 1**). This definition is similar to those already in current law in ch. 316, F.S.

The bill amends ss. 316.027, 316.192, 316.193, 316.1933, and 318.19, F.S., deleting the definition of “serious bodily injury” or reference thereto (**sections 2, 8, 9, 10, and 18**).

Federal Motor Carrier Safety Administration Compatibility

Present Situation

Federal Motor Carrier Safety Regulations

The primary mission of the Federal Motor Carrier Safety Administration (FMCSA), within the U.S. Department of Transportation, is to prevent commercial motor vehicle-related fatalities and injuries.¹

¹ Federal Motor Carrier Safety Administration, *About Us*, updated March 31, 2014, available at <https://www.fmcsa.dot.gov/mission/about-us> (last visited Mar. 1, 2019).

Section 316.003(13), F.S., defines “commercial motor vehicle” (CMV) 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,² as amended.

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 certain parts of title 49 of the Code of Federal Regulations (CFR), Federal Motor Carrier Safety Regulations.

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 similar parts of title 49 of the CFR, Federal Motor Carrier Safety Regulations, as those rules and regulations existed on December 31, 2012.

Motor Carrier Safety Assistance Program Review of Florida Statutes

In 2007, the FMCSA conducted a Motor Carrier Safety Assistance Program (MSCAP) Review of Florida and concluded that Florida Statutes have multiple compatibility issues with federal commercial motor vehicle (CMV) safety regulations.³ To remain compatible with the Federal Motor Carrier Safety Regulations, states generally have up to three years from the effective date of new federal requirements to adopt and enforce such requirements.⁴ States that remain incompatible risk losing federal funding.

Section 316.302(1)(b), F.S., provides an exception from 49 C.F.R. s. 390.5 as it relates to the definition of a bus, defined as “any motor vehicle designed, constructed, and/or used for the transportation of passengers, including taxicabs.”⁵ Florida law excludes taxicabs from the definition of a bus.⁶ The MCSAP Review noted that Florida Statutes “exempting, from the definition of a bus, taxicabs as it applies to the intrastate private transportation of passengers, is not compatible” with federal law.⁷

Federal law prohibits certain lamps and reflective devices from being obscured on CMVs.⁸ However, s. 316.215(5), F.S., provides an exception from this requirement for front-end loading collection vehicles that are engaged in collecting solid waste or recyclable or recovered materials and are being operated at less than 20 miles per hour with hazard-warning lights activated. According to the MCSAP Review, federal law provides no such exemption.⁹

² 49 U.S.C. ss. 1801 *et seq.*

³ 2007 Florida State MCSAP Review, *Summary Findings, Recommendations, and Noteworthy Practices* (June 2007) (Copy on file with Senate Committee on Infrastructure and Security).

⁴ 49 C.F.R. *Appendix A to Part 355 – Guidelines for the Regulatory Review – State Determinations* (2016).

⁵ 49 C.F.R. s. 390.5T.

⁶ Section 316.003(6), F.S.

⁷ 2007 Florida State MCSAP Review, at p. 2, *FL/FI-1*.

⁸ 49 C.F.R. s. 393.9(b). *See also* s. 316.302(1)(d), F.S.

⁹ 2007 Florida State MCSAP Review, at p. 4, *FL/FI-7*.

Federal regulations provide hours of service rules for CMV drivers.¹⁰ Section 316.302(2), F.S., provides prohibitions to the length of time CMV drivers may drive, as well as exemptions from federal requirements for specified vehicles.

Section 316.302(2)(d), F.S., provides that a person operating a CMV solely in intrastate commerce not transporting any hazardous material within a 150 air-mile radius is not required to comply with federal provisions regarding a driver's record of duty status¹¹ if the requirements of certain federal rules regarding short-haul operations¹² 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. The MCSAP Review found that the exemption and alternate records requirement contained in s. 316.302(2)(d), F.S., does not comply with federal regulations because the federal exemption for such drivers also requires that the driver return to the work reporting location and is released from work within 12 consecutive hours.¹³

Federal law allows a state to exempt a CMV from all or part of its laws or regulations relating to intrastate commerce if the vehicle's gross vehicle weight, gross vehicle weight rating, gross combined weight, or gross combined weight rating is less than 26,001 pounds and the vehicle is not transporting hazardous materials requiring a placard.¹⁴ However, s. 316.302(2)(f), F.S., provides exemptions from federal laws or regulations for a person who operates a CMV solely in intrastate commerce, having a *declared* gross vehicle weight of less than 26,001 pounds, and who is not transporting hazardous materials in an amount that requires placarding or who is transporting petroleum products.¹⁵ According to the MCSAP Review, the state interprets this statute as exempting such vehicles transporting petroleum products even if a hazardous materials placard is required, which is not in compliance with federal regulations.¹⁶

Section 316.203(2)(j), F.S., exempts a person operating a CMV solely in intrastate commerce not transporting any hazardous material from the federal law prohibition and limited waiver requirements for drivers with diabetes.¹⁷ While states are permitted to provide waivers to the driver physical qualification standards, the MCSAP Review found that Florida's exemption does not conform to the variances allowed in federal law.¹⁸

Effect of Proposed Changes

The bill amends various provisions of s. 316.302(1) and (2), F.S., to address issues related to Florida's CMV regulations, including issues raised in the MCSAP Review (**section 12**).

¹⁰ 49 C.F.R. part 395.

¹¹ 49 C.F.R. 395.8.

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

¹³ 2007 Florida State MCSAP Review, at p. 5, *FL/FI-8*.

¹⁴ 49 C.F.R. s. 350.341(a)

¹⁵ 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."

¹⁶ 2007 Florida State MCSAP Review, at p. 3, *FL/FI-3*.

¹⁷ 49 C.F.R. 391.41(b)(3), 391.43(e), and 391.64.

¹⁸ 2007 Florida State MCSAP Review, at p. 4, *FL/FI-5*. See also 49 C.F.R. 350.341(h).

The bill amends s. 316.302(1)(a), F.S., to also apply parts 383 (Commercial Driver License Standards; Requirements and Penalties) and 386 (Rules of Practice for FMCSA Proceedings) of title 49 of the CFR to all owners and drivers of CMVs operating on the state's public highways while engaged in *interstate* commerce.

The bill amends s. 316.302(1)(b), F.S., removing the exception for the federal definition of a bus. The bill also applies part 386 (Rules of Practice for FMCSA Proceedings) of title 49 of the CFR to all owners or drivers of CMVs engaged in *intrastate* commerce and updates reference to the federal law to be as they existed on December 31, 2018 (instead of December 31, 2012).

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 documents¹⁹ do not go into effect for motor carriers engaged in *intrastate* commerce not carrying hazardous materials in amounts requiring placarding until December 31, 2019.

Section 316.302(2)(a), F.S., exempts a person operating a CMV solely in *intrastate* commerce and not transporting any hazardous material in amounts that require placarding²⁰ from complying with federal law maximum drive time requirements for property carrying vehicles.²¹ The statute references subsections (a) and (b) of 49 CFR 395.3, and not subsections (c) and (d), which in general are provisions to implement subsections (a) and (b). The bill amends s. 316.302(2)(a), F.S., to clarify that such operators are exempt from all subsections of 49 CFR 395.3. These drivers continue to be subject to the maximum driving times required by state law.

Section 316.302(2)(c), F.S., generally limits the driving hours in consecutive days of a person operating a CMV solely in *intrastate* commerce not transporting any hazardous material. Upon request of the DHSMV, motor carriers are required to furnish time records or other written verification so that the DHSMV can determine compliance with the hours of service requirements. 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 state's CMV penalties statute.²²

The bill amends s. 316.302(2)(d), F.S., to update and correct a reference to federal regulations for the state exemption for a person operating a CMV solely in intrastate commerce not transporting any hazardous material within a 150 air-mile radius from the federal driver's record

¹⁹ *Electronic Logging Devices and Hours of Service Supporting Documents*, 80 Fed. Reg. 78291 (Dec. 16, 2015), <https://www.federalregister.gov/documents/2015/12/16/2015-31336/electronic-logging-devices-and-hours-of-servicesupporting-documents> (last visited April 8, 2019).

²⁰ 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.

²¹ 49 C.F.R. s. 395.3(a) and (b).

²² Section 316.3025(3)(b)2., F.S.

of duty status provisions.²³ In order to be exempt, a driver must return to the work reporting location and be released from work within 12 consecutive hours and have either 10 or 8 hours off.

The bill amends s. 316.302(2)(f), F.S., to remove specified exemptions from federal law or regulations for drivers transporting petroleum products. The paragraph is also amended to refer to the federal criteria for the exemption: CMVs having a *gross vehicle weight, gross vehicle weight rating, and gross combined weight rating* of less than 26,001 pounds, instead of a *declared* gross vehicle weight.

The bill repeals s. 316.302(2)(j), F.S. The bill requires a person operating a CMV solely in intrastate commerce not transporting any hazardous material to comply with the federal law prohibition and limited waiver requirements for drivers with diabetes.

Platooning

Present 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.²⁴ Each vehicle platoons by using an onboard computer connected to a vehicle-to-vehicle (V2V) communications device that receives and transmits data using dedicated short-range communications (DSRC), a two-way wireless communications capability permitting very high data transmission.²⁵ DSRC is used by both V2V communications as well as vehicle-to-infrastructure (V2I) communications to provide connectivity among vehicles and between infrastructure to prevent crashes and enable safety, mobility, and environmental sustainability.

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, both of which would enable vehicle manufacturers to develop safety applications using V2V communications. These V2V communication device requirements would use DSRC devices to transmit basic information on the road, such as a vehicle’s speed, heading, brake status and path predictions, which can be used to provide drivers timely warnings of impending crash situations that drivers may not otherwise be capable of seeing.²⁶ NHTSA has expressed that V2V

²³ 49 C.F.R. 395.1(e)(1)(ii) and (iii)(A) and (C) and (v).

²⁴ U.S. Department of Transportation, Volpe Center, *How an Automated Car Platoon Works* (July 31, 2017), <https://www.volpe.dot.gov/news/how-automated-car-platoon-works> (last visited April 8, 2019).

²⁵ *Id.*

²⁶ *Federal Motor Vehicle Safety Standards; V2V Communications*, 82 Fed. Reg. 3854 (Jan. 12, 2017), <https://www.federalregister.gov/documents/2017/01/12/2016-31059/federal-motor-vehicle-safety-standards-v2v-communications> (last visited April 8, 2019). Neither the U.S. Department of Transportation nor the NHTSA have finalized any rules related to V2V. See NHTSA, *V2V Statement*, available at <https://www.nhtsa.gov/press-releases/v2v-statement> (last visited April 8, 2019).

communication “shows great promise in helping to avoid crashes, ease traffic congestion, and improve the environment.”²⁷

Assistive Truck Platooning Technology Pilot Project

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. A draft is created, reducing wind resistance and cutting down on fuel consumption.²⁸

In 2016, s. 316.0896, F.S., was created to require the Florida Department of Transportation (DOT), in consultation with the DHSMV, to study the use and safe operation of DATP technology,²⁹ 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, the President of the Senate, and the Speaker of the House of Representatives. The DOT developed the pilot project as a demonstration and operational phase to:

- Evaluate impacts of DATP on surrounding traffic and infrastructure;
- Evaluate feasibility of conducting enforcement responsibilities when DATP trucks are operating; and
- Evaluate administrative aspects of permitting DATP systems.³⁰

The pilot project was conducted with Peloton Technology, one developer of DATP vehicle systems. Peloton’s DATP is a cloud-based system that uses integrated sensors, controls, and wireless communications to determine in real time whether conditions are appropriate to allow specific trucks to engage in platooning operations. Using V2V communications, the system synchronizes acceleration and braking between tractor-trailers, leaving steering to the drivers, but eliminating braking distance otherwise caused by lags in the front or rear driver’s response time.³¹ According to Peloton Technology, Peloton’s 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.³²

²⁷ NHTSA, *Vehicle-to-Vehicle Communication*, <https://www.nhtsa.gov/technology-innovation/vehicle-vehicle-communication> (last visited Feb. 5, 2018).

²⁸ Go by Truck Global News, *Driver Survey: Platooning* (Nov. 18, 2014), <http://www.gobytrucknews.com/driver-survey-platooning/123> (last visited Feb. 5, 2018).

²⁹ 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.”

³⁰ See Florida Vendor Bid System, *Request for Information from the FDOT – Driver Assistive Truck Platooning Pilot Project* (July 6, 2017), http://www.myflorida.com/apps/vbs/vbs_www.ad_r2.view_ad?advertisement_key_num=134408 (last visited April 8, 2019).

³¹ Peloton, *How It Works, The Platooning Experience*, <https://peloton-tech.com/how-it-works/> (last visited April 8, 2019).

³² Peloton, *Peloton Technology demonstrates driver-assistive truck platooning system to Florida transportation leaders in connection with Florida Pilot Project* (Dec. 20, 2017), <https://peloton-tech.com/driver-assistive-truck-platooning-demonstration-florida-transportation-leaders-connection-florida-pilot-project/> (last visited April 8, 2019).

State Platoon Laws

According to Peloton, nine states have confirmed allowance for commercial deployment of DATP.³³ At least 17 states with “following too closely” laws, including Florida,³⁴ exempt vehicles equipped with a DATP system or a platooning system from such state law.³⁵ Some states enacted laws expressly allowing a person to operate DATP or platooning systems, while other states only allow operation upon state approval of a submitted operations plan or following a certain number of days after submission of such plan, if the plan is not rejected by the overseeing agency.³⁶ Several states and the federal government are continuing testing of DATP and other platooning systems.

Following Too Closely and TV Receiver Prohibitions

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 or vehicle towing another vehicle or trailer to follow within 300 feet of a similar vehicle. The law exempts the vehicles operating as part of the DOT’s pilot project in a manner and at locations determined by the DOT.³⁷

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.

Effect of Proposed Changes

The bill amends s. 316.003, F.S., to define “platoon” to mean a group of no more than two trucks that do not require placards, either laden or unladen, traveling in a unified manner using wireless vehicle-to-vehicle communications that electronically coordinate speeds and following distances of the trucks (**section 1**).

The bill repeals s. 316.0896, F.S., which created the assistive truck platooning technology pilot project conducted by the DOT in consultation with the DHSMV (**section 5**).

The bill creates s. 316.0897, F.S., providing that s. 316.0895, F.S., following too closely, does not apply to the operator of a nonlead vehicle in a platoon (**section 6**). The bill allows a platoon to be operated on a roadway in Florida after an operator provides notification to the DOT and the DHSMV.

³³ *Id.*

³⁴ *See* ss. 316.0895 and 316.0896(2), F.S.

³⁵ The other states are Alabama, Arkansas, California (only for testing), Georgia, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Nevada, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, Utah (only for testing), and Wisconsin. *See* National Conference of State Legislatures, *Autonomous Vehicles – Self-Driving Enacted Legislation, Enacted Autonomous Vehicles Legislation* (Mar. 19, 2019), <http://www.ncsl.org/research/transportation/autonomous-vehicles-self-driving-vehicles-enacted-legislation.aspx> (last visited April 8, 2019).

³⁶ *Id.*

³⁷ Section 316.0896, F.S.

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 vehicle operating with DATP (**section 13**).

School Speed Zones

Present Situation

A school zone is an area designated for the purpose of establishing a reduced school zone speed limit that is in effect at the beginning and end of the regularly scheduled school day. Pursuant to s. 316.1895, F.S., a school zone speed limit may not be less than 15 mile per hour, except by local regulation; and cannot be more than 20 miles per hour in an urbanized area.³⁸ The speed limit is allowed to be in force during certain times of the day: 30 minutes before, during, and after the periods of time when student are arriving at school for a regularly scheduled breakfast program or a regularly scheduled school session and leaving a regularly scheduled school session.

Effect of Proposed Changes

The bill creates s. 316.1895(5)(b), F.S., to allow a district school board³⁹ to increase the time that a school zone speed limit is in force by an additional 15 minutes before, during, and after the times at which students are arriving at or leaving school (**section 7**). This time can be extended by a simple majority vote of the board.

This may result in a school zone speed limit being in force for up to a total of 45 minutes before, during, and up to a total of 45 minutes after the periods of time when students are arriving at school for a regularly scheduled breakfast program or a regularly scheduled school session and leaving a regularly scheduled school session.

Safety Rules for Nonpublic Sector Buses

Present Situation

Section 316.70, F.S., requires the DOT to establish and revise standards contained in federal law⁴⁰ to ensure the safe operation of nonpublic sector buses. The standards should be directed toward ensuring that:

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

³⁸ “Urbanized area” is defined in s. 334.03, F.S.

³⁹ As defined in s. 1003.01(1), F.S.

⁴⁰ 49 C.F.R. parts 382, 385, and 390-397.

DOT personnel may conduct compliance reviews for the purpose of determining compliance with these requirements. Civil penalties may be assessed for violations of the statute or any rule or order of the DOT:

- A civil penalty not to exceed \$5,000 in the aggregate.
- A civil penalty not to exceed \$25,000 in the aggregate for violations found in a follow-up compliance review conducted within a 24-month period.
- A civil penalty not to exceed \$25,000 in the aggregate if violations are found after a second follow-up compliance review within 12 months after the first follow-up compliance review and the motor carrier may be prohibited from operating in Florida.⁴¹

Effect of Proposed Changes

The bill amends s. 316.70, F.S., to authorize the DHSMV instead of the DOT to ensure the safe operation of nonpublic sector busses (**section 17**). This change should have been made during the merger of the Office of Motor Carrier Compliance within the DOT to the Office of Commercial Vehicle Enforcement within the DHSMV.

The bill requires all owners and drivers of nonpublic sector busses to comply with applicable federal law, similar to other CMVs, and removes duplicative standards for nonpublic sector buses. The DHSMV is responsible, under the bill, to conduct compliance investigations and may assess civil penalties for violations of law. The time periods for follow-up compliance investigations are repealed.

The bill authorizes a law enforcement officer of the DHSMV or an appointed agent who holds a current safety inspector certification from the Commercial Vehicle Safety Alliance to require the driver of a commercial motor vehicle operated in Florida to stop and submit to an inspection of the vehicle and the driver's records. If continued operation would be unduly hazardous, the officer may require the vehicle or driver to be removed from service pursuant to North American Standard Out-of-Service Criteria until the safety concerns are corrected, if:

- The vehicle or driver is operating in an unsafe condition; or
- Any require part or equipment is not present or in proper repair or adjustment.

If continued operation would not be unduly hazardous, then the vehicle or driver may be issued a written notice requiring correction of the condition within 15 days.

Chapter 319, F.S., Rulemaking Authority

Present Situation

Chapter 319, F.S., contains Florida's title laws that apply "exclusively to motor vehicles and mobile homes required to be registered and licensed under the laws of this state."⁴²

Section 319.17, F.S., grants the DHSMV the authority to adopt rules to implement the provisions

⁴¹ Section 316.3026, F.S., allows the DHSMV to issue an "out-of-service" order which has the effect of prohibiting the operations of the carrier until violations have been corrected or penalties paid.

⁴² Section 319.20, F.S.

of ch. 319, F.S., including the adoption of all forms required or deemed necessary by the DHSMV to administer the chapter.

Effect of Proposed Changes

The bill creates s. 319.002, F.S., to authorize the DHSMV to adopt rules to implement, administer, and enforce ch. 319, F.S. (**section 20**). The authorization specifically includes adoption of rules and forms governing reports and the nonexclusive power to define terms consistent with ch. 319, F.S., regardless whether the term is used in the chapter.

The bill does not amend s. 319.17, F.S., which currently grants similar rulemaking authority.

Rebuilt Motor Vehicle Inspection Program

Present Situation

In 2013, the Legislature created s. 319.141, F.S., creating a Pilot Rebuilt Motor Vehicle Inspection Program in Miami-Dade and Hillsborough counties through June 30, 2018.⁴³ The Department of Highway Safety and Motor Vehicles (DHSMV) set standards for the program and certified private sector inspection facilities in Miami-Dade County. The program's purpose was to evaluate private sector alternatives for rebuilt inspection services, including the feasibility of using private facilities, the cost impact to consumers, and the potential savings to the DHSMV. The DHSMV was required to establish a memorandum of understanding allowing private parties participating in the pilot program to conduct rebuilt vehicle inspections and specifying requirements for oversight, bonding and insurance, procedures, forms, and the electronic submission of documents.

To be approved for the program, an applicant was required to:

- Have and maintain a surety bond or irrevocable letter of credit in the amount of \$100,000, executed by the applicant;
- Secure and maintain a facility at a permanent structure at an address recognized by the U.S. Postal Service where the only services provided were rebuilt inspection services;
- Annually attest that he or she was not employed by or did not have an ownership interest in or financial arrangement with a motor vehicle repair shop, motor vehicle dealer, towing company, storage company, vehicle auction, insurance company, salvage yard, metal retailer, or metal rebuilder, from which he or she received remuneration for the referral of customers for rebuilt inspection services;
- Have and maintain garage liability and other insurance required by the DHSMV;
- Have completed criminal background checks of the owners, partners, and corporate officers and the inspectors employed by the facility; and
- Meet any additional criteria that the DHSMV determined necessary to conduct proper inspections.⁴⁴

⁴³ Section 319.14(1)(c)3., defines "rebuilt vehicle" for purposes of that section as a motor vehicle or motor home built from salvage or junk.

⁴⁴ Section 319.141(4), F.S.

Participants were required to access vehicle and title information and enter inspection results in a DHSMV authorized system. Records were required to be maintained at the facility for 5 years. Before any change in ownership, the participant had to give the DHSMV 45 days' notice of the intended sale and the new owner was required to meet the minimum eligibility requirements and enter into the agreement with the DHSMV before operating. The DHSMV was required to immediately terminate any participant who failed to meet the minimum eligibility requirements.

As required by law, in 2015, the DHSMV submitted a report⁴⁵ that summarized the implementation of the pilot program and program results. The DHSMV certified eight private businesses in the Miami area to conduct rebuilt vehicle inspections.⁴⁶ The DHSMV employees in Miami-Dade County were responsible for conducting rebuilt vehicle inspections at the DHSMV Regional Office and at various off-site locations and for monitoring the businesses to ensure inspections were conducted in accordance with program standards.

According to the DHSMV, each of the eight pilot program participants met all of the statutory requirements and the requirements of the memorandum executed with the DHSMV.⁴⁷ Statutorily authorized state rebuilt inspection fees (\$40) and re-inspection fees (\$20) were collected and remitted to the state as required. In addition, each pilot program participant was allowed to assess customers a service fee for each inspection. Service fees ranged from \$50 to \$85 and were not regulated in any manner by the DHSMV.⁴⁸

As provided in its authorizing legislation, the program was repealed on July 1, 2018, as it was not saved from repeal or reauthorized by the Legislature.

Effect of Proposed Changes

The bill reestablishes the Rebuilt Motor Vehicle Inspection Program permanently and expands it statewide by reviving, reenacting, and amending s. 319.141, F.S., notwithstanding its repeal on July 1, 2018 (**section 21**); creating definitions in s. 319.001, F.S. (**section 19**); creating s. 319.1411, F.S., to provide for monitoring of providers (**section 22**); creating s. 319.142, F.S., to provide prohibited practices of providers (**section 23**); and creating s. 319.1414, F.S., to grant the DHSMV investigative powers (**section 24**).

The new purpose of the program is to prevent the use of stolen parts in the rebuilding process, identify and recovery stolen vehicles, require installation of airbags in rebuilt vehicles not subject to recall, and assist law enforcement with vehicle theft and fraud investigations. The DHSMV is authorized to monitor and investigate private rebuild inspection providers and rebuilt courier services and to examine all records related to inspections or related services provided.

⁴⁵ DHSMV, *Florida's Private Rebuilt Vehicle Inspection Program – Pilot Program Report* (Jan. 30, 2015), available at <http://www.flhsmv.gov/pdf/cabinetreports/privaterebuiltreport.pdf> (last viewed March 25, 2019). No entities from Hillsborough County applied to participate in the pilot program.

⁴⁶ DHSMV, Office of Inspector General, *Rebuilt Vehicle Inspection Program Audit Report 201617-24* (Dec. 5, 2017), available at <https://www.flhsmv.gov/pdf/igoffice/20161724.pdf> (last viewed March 25, 2019).

⁴⁷ *Id.*

⁴⁸ *Id.*

Rebuilt inspection services⁴⁹ may only be conducted by providers authorized by the DHSMV who meet the requirements of ch. 319, F.S. A provider must meet the following requirements to be authorized:

- Submitted a request with all required documentation to the DHSMV;
- Passed a physical location inspection by the DHSMV that concludes that the provider is operating in accordance with law at the location and the location:
 - Does not have a common street address with another business operating, attached, connected or joined by the common street address (even if the location is recognized by the U.S. Postal service as a separate address);
 - Has permanent signage with posted business hours;
 - Has a rebuilt inspection area separate and visually obstructed from any area accessible to a customer; and
 - Has a surveillance camera with recording capabilities for the rebuilt inspection area.
- Provided a lease or proof of ownership for the location, which must be:
 - A permanent structure at an address recognized by the U.S. Postal Service where the only services provided are rebuilt inspection services; and
 - Of a size large enough to accommodate all vehicles being inspected and space sufficient to maintain physical security of all required records;
- Provided evidence of a “good and sufficient” surety bond or irrevocable letter of credit in the amount of \$100,000, executed by the provider that covers all inspection activities and names the DHSMV as an insured for 1 year;⁵⁰
- Ensured that each owner, partner, and corporate officer of the provider has provided an attestation acknowledging that he or she is deemed to be engaging in activities that are in the public interest and are free from conflicts of interest;⁵¹
- Provided evidence of garage liability insurance coverage with at least \$100,000 single-limit liability coverage, including bodily injury and property damage protection, and \$10,000 personal injury protection;
- Provided a criminal background check on all owners, partners, and corporate officers that demonstrates that they have not:
 - Pled guilty or nolo contendere to or been convicted of a felony involving fraud, theft, or dishonest dealing in the last 10 years; or
 - Been incarcerated for a felony involving fraud, theft, or dishonest dealing in the last 10 years; and
- Provided evidence of authorization to conduct business in Florida from the Division of Corporations of the Department of State.⁵²

⁴⁹ The bill maintains the definition of “rebuilt inspection services” used in the expired s. 319.141, F.S., but also requires that services include before and after photos if an airbag or airbags were deployed which clearly show the deployed airbags and that the airbags have been replaced.

⁵⁰ The surety bond or letter of credit must be executed by a surety company or bank authorized to do business in Florida.

⁵¹ The bill defines “conflict” or “conflict of interest” to mean a situation in which a private interest could benefit from or interfere with official duties or a public interest, including, but not limited to, having a direct or indirect financial interest in a vehicle being inspected under the program; or being employed by, or directly or indirectly having an ownership interest in, an entity that has a financial interest in a vehicle being inspected.

⁵² Business that want to conduct business in Florida must first register with the Department of State.

Section 607.0125(4), F.S., provides that the Department of State’s duty to file documents is ministerial. However, the department does issue certificates of status (domestic corporations, limited liability companies, etc.) and certificates of authorization (foreign/out of state corporations) to show that the businesses are duly incorporated to authorized to transact business in Florida. *See* s. 607.0128 and 605.0211, F.S., for example.

Providers authorized by the DHSMV must enter into a contract with the department that requires the provider to:

- Maintain access to and use the DHSMV's motor vehicle database, the National Motor Vehicle Title Information System, and information from the National Crime Bureau.
- Follow DHSMV policies and procedures when conducting inspections and to DHSMV oversight.
- Maintain confidentiality of all information in accordance with ch. 119, F.S., and the federal Driver Privacy Protection Act.⁵³
- Maintain records as required by the DHSMV for at least 5 years and make such records available for inspection by the DHSMV or accordance with state public records laws.
- Agree to report stolen parts or vehicles.
- Maintain a surety bond and garage liability insurance.

The contract must also prohibit assignment of the contract to a third party without the consent of the DHSMV and specify penalties for noncompliance, including termination of the agreement; other grounds for termination of the agreement; forms required to be used to document completion of the inspection process;⁵⁴ and conditions to operate a mobile inspection unit, if applicable.

A provider must attest annually by July 1 that it complies with the law and each owner, partner, and corporate officer must affirm that he or she is free from conflicts of interest. Providers may charge a fee for services; fees must be clearly disclosed and conspicuously posted in an area frequented by customers.

Providers can operate at additional locations in Florida with written approval by the DHSMV, based upon criteria discussed above for locations. Additionally, the provider can operate a mobile inspection unit with written approval by the DHSMV in addition to its permanent facility location. To have a mobile unit, the provider must also maintain for each mobile unit general liability insurance of \$100,000 and commercial automobile liability insurance of \$100,000; physical security for indicia and inspection records; records at the permanent facility; a weekly schedule of planned inspections; and the confidentiality of the process. The provider must also agree to cooperate with the DHSMV oversight requirements.

The bill maintains the 45 days' notice and requirements for a change of ownership of a provider. The DHSMV *may* terminate the contract with a participant who fails to meet the law.

The bill permits rebuilt courier services⁵⁵ in Florida or from locations outside of Florida if a courier has a valid, nonexclusive contract with each authorized provider with which the courier

⁵³ Federal and state law make certain personal information in motor vehicle, driver license, and crash records exempt from public records. See DHSMV, *Driver Privacy Protection Act*, <https://www.flhsmv.gov/privacy-statement/driver-privacy-protection-act/> (last visited April 9, 2019).

⁵⁴ Forms must include, but are not limited to, a completed and signed: certificate of title with or without registration, statement of builder that describes the process and major component parts used, power of attorney for a motor vehicle, mobile home, or vessel, and vehicle identification number and odometer verification.

⁵⁵ The bill defines "rebuilt courier service" to mean an individual or entity who provides services to vehicle owners or motor vehicle dealers who use the inspection services of a private rebuilt inspection provider. These services include, but are not

conducts business. The contract must require the courier to comply with state law, including any DHSMV rule designed to protect the public, the DHSMV, or the provider from illegal or disruptive conduct; and to provide proof of maintenance of garage liability insurance of at least \$100,000.

The bill creates s. 319.1411, F.S., to authorize the DHSMV to monitor and inspect the operations of the providers as it deems necessary to determine whether the provider is operating in compliance with the law and to determine if the provider has engaged in any prohibited business practices (**section 22**).

The bill creates s. 319.142, F.S., to establish rules of conduct and prohibited business practices for the rebuilt inspection service providers (**section 23**). The following is prohibited and grounds for termination of contract with the DHSMV:

- Engaging in any business transaction or activity that is in substantial conflict with the proper discharge of the provider's duties in the public interest;
- Allowing a vehicle to pass inspection knowing that there was a material misrepresentation in the required documentation or that the documentation submitted in support of the inspection was counterfeit or materially altered;
- Failing to report to the DHSMV the identification of a suspected stolen part or stolen vehicle during an inspection;
- In connection with providing private rebuilt inspection services, engaging in any course of conduct that is fraud or deceit upon the DHSMV, a dealer, or a vehicle owner;
- Knowingly falsifying the DHSMV records or knowingly providing materially false or misleading information to the DHSMV;
- Failing to allow an examination or inspection of a location, including a review of books and records, by the DHSMV or law enforcement during regular business hours;
- Passing a vehicle through inspection without having a reasonable basis to believe that all airbags that are subject to a safety recall issued by the National Highway Transportation Safety Administration were replaced with airbags not subject to such a safety recall;
- Failing to timely respond to a subpoena issued by the DHSMV;
- Conducting rebuilt inspection services at a physical location or mobile unit not approved in writing by the DHSMV;
- Failing to maintain at all times a garage liability insurance in the amount of at least \$100,000;
- Failing to maintain at all times a good and sufficient surety bond or irrevocable letter of credit in the amount of \$100,000 which covers all activities under the program and names the DHSMV as an insured;
- Violating the law or contract with the DHSMV; and
- Using advertising that would reasonably lead the public to believe that the provider was or is an employee or representative of the DHSMV, or using in the provider's name the terms "Department of Highway Safety and Motor Vehicles," "DMV," "DHSMV," "FLHSMV," or "HSMV" or any other terms or logos that are associated with the DHSMV.

limited to, preparing, compiling, or providing forms, applications, certificates of title, or other documentation required to conduct a rebuilt inspection, or engaging in or arranging for the transportation of vehicles for inspection

The DHSMV must provide written notice of termination before terminating a contract for one of the above reasons.

The bill creates s. 319.1414, F.S., to authorize the DHSMV to conduct investigations and examinations of providers to ensure compliance with the law and the contract with the provider (**section 24**). The DHSMV is authorized to issue subpoenas, administer oaths or affirmations, examine witnesses, require affidavits, take depositions, and compel attendance of witnesses or production of records or other evidence.

The DHSMV may petition a court of competent jurisdiction to enforce a subpoena in the county where the person's residence or principal place of business is located. The court must issue an order requiring the person to comply with the subpoena or show cause for failure to do so. Unless the person shows sufficient cause for failure to obey the subpoena, the court must issue an order requiring the person to obey the subpoena. The person commits contempt of court for failure to comply with the court order.

Witnesses subpoenaed by the DHSMV are entitled to witness fees, unless the witness is required to appear at his or her residence or place of business during regular business hours.⁵⁶

Subpoena and Investigative Authority

Present Situation

The DHSMV has jurisdiction over multiple chapters of Florida Statutes, for which they do not have subpoena authority, without which they are often unable to obtain documents and testimony from third-party entities (banks, tow companies, etc.) to conduct administrative or criminal investigations.

Effect of Proposed Changes

The bill creates s. 322.71, F.S., and amends ss. 319.25 and 320.861, F.S., authorizing the DHSMV to exercise the power of subpoena and to administer oaths or affirmations, examine witnesses, require affidavits, take depositions, and compel the attendance of witnesses and the production of books, papers, documents, records, and other evidence (**sections 25, 34, and 48**). The subpoena is to be used for investigations or examinations conducted by the DHSMV of suspected violations of chs. 319, 320, or 322, F.S., and may be served by an authorized representative of the DHSMV.

The DHSMV may petition a court of competent jurisdiction to enforce a subpoena in the county where the person's residence or principal place of business is located. The court must issue an order requiring the person to comply with the subpoena or show cause for failure to do so. Unless the person shows sufficient cause for failure to obey the subpoena, the court must issue an order requiring the person to obey the subpoena. The person commits contempt of court for failure to comply with the court order.

⁵⁶ Section 92.142, F.S., provides that witnesses receive \$5 for each day's actual attendance and 6 cents per mile for actual distance traveled to and from a court.

Witnesses subpoenaed by the DHSMV are entitled to witness fees, unless the witness is required to appear at his or her residence or place of business during regular business hours.⁵⁷

Collection and Use of Cellular Telephone Numbers

Present Situation

The DHSMV lacks statutory authority to collect and use cell phone numbers as a method to communicate with customers in an expedited manner. Florida Statutes already allow the DHSMV is authorized to collect email addresses. Email addresses may be used, in lieu of the U.S. Postal Service, to provide certain renewal notices, including registration renewal notices, driver license renewal notices, and vessel registration renewal notices. However, current law does not allow the e-mail to be used for other business purposes.⁵⁸

Effect of Proposed Changes

The bill amends ss. 319.40, 320.95, 322.08, 328.30, and 328.80, F.S. (**sections 26, 35, 41, 56, and 59**), to authorize the DHSMV and tax collectors to collect and use email addresses and cell phone numbers to contact customers for business reasons other than purposes related to motor vehicle, vessel, and driver license registration and renewal. This must be done in accordance with ch. 119, F.S., and the federal Driver Privacy Protection Act.

Providing an email address or cell phone number is optional for the applicant, and before collecting an email mail address or cell phone number the DHSMV or tax collector must disclose to the applicant the purposes for which the contacts may be used.

International Registration Plan – Charter Buses

Present Situation

The International Registration Plan (IRP) is a registration reciprocity agreement among all states in the contiguous United States, the District of Columbia, and several Canadian provinces. It provides for the payment of license fees based on fleet operation in various member jurisdictions.⁵⁹ This allows a carrier to operate inter-jurisdictionally while only needing to register vehicles in its base jurisdiction, which is the state or province where the registrant has an established place of business.⁶⁰

All “apportionable vehicles” domiciled in the state are required to be registered in accordance with the IRP and display “Apportioned” license plates.⁶¹

⁵⁷ Section 92.142, F.S., provides that witnesses receive \$5 for each day’s actual attendance and 6 cents per mile for actual distance traveled to and from a court.

⁵⁸ See ss. 319.40, 320.95, 322.08(10), 328.30, and 328.80, F.S.

⁵⁹ International Registration Plan, Inc., *Information for Motor Carriers*, <https://www.irponline.org/page/MotorCarrierHomepage> (last visited April 9, 2019).

⁶⁰ As defined by the IRP. IRP, *International Registration Plan with Official Commentary* (amended Jan. 1, 2019), pp. 15 and 16, https://cdn.ymaws.com/www.irponline.org/resource/resmgr/jurisdiction_info_2/The_Plan_1_1_19.pdf (last visited April 9, 2019).

⁶¹ Sections 320.0715(1) and 320.06(3)(a), F.S.

Apportionable vehicles that do not regularly operate in a particular jurisdiction also have the option to register for trip permits in order to operate in IRP member jurisdictions for limited periods where they do not pay license taxes.⁶²

An “apportionable vehicle” is any vehicle that is used or intended for use in two or more member jurisdictions and that is used for the transportation of persons for hire or designed, used, or maintained primarily for the transportation of property, and:⁶³

- 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.

The Florida definition excludes recreational vehicles, vehicles displaying restricted plates, city pickup and delivery vehicles, government-owned vehicles, and buses used in transportation of chartered parties. The IRP definition excludes a recreational vehicle, a vehicle displaying restricted plates, or a government-owned vehicle. Excluded vehicles may voluntarily register.

Prior to January 1, 2016, charter buses were excluded from having to register under the IRP. The IRP was amended to remove charter buses from the exemption, requiring charter bus operations to register under the IRP. This registration ensures that a charter bus operation will pay license fees to each jurisdiction it operates in, and prevents or suspends the registration of unsafe carriers.⁶⁴

Effect of Proposed Changes

The bill amends s. 320.01(24), F.S., to remove the exclusion of charter buses from the definition of “apportionable vehicle” (**section 27**). This aligns Florida’s statutory definition with the requirements of the IRP. All charter buses operating interstate will be required to obtain an IRP registration or purchase trip permits.

Issuance of Apportionable Vehicle Plates

Present Situation

Florida law requires all apportionable vehicles domiciled in Florida to be registered in accordance with the IRP and to display required license plates.⁶⁵

Section 320.06, F.S., requires registration license plates, which bear a graphic symbol and alphanumeric system of identification, to be issued for a 10-year period. However, “Apportioned” license plates issued to vehicles registered under the IRP are issued annually.⁶⁶

⁶² *Id.* See also IRP, *Trip Permits-Cost/Duration* (April 2018), https://www.irponline.org/resource/resmgr/jurisdiction_info_2/trip_permits_4_11_18.xlsx (last visited April 9, 2019).

⁶³ Section 320.01(24), F.S. IRP, *International Registration Plan*, at pp. 12-13.

⁶⁴ See IRP, *Official Amendment to the International Registration Plan – Ballot Number 391* (June 2014), http://c.ymcdn.com/sites/www.irponline.org/resource/resmgr/irp_ballots/ballot_391.pdf (last visited April 9, 2019).

⁶⁵ Section 320.0715(1), F.S.

⁶⁶ Section 320.06(1)(b)1., F.S.

Apportioned vehicles are also issued an annual cab card that denotes the declared gross vehicle weight for each apportioned jurisdiction where the vehicle is authorized to operate.⁶⁷

Section 320.0607, F.S., requires an applicant to pay a fee of \$28 upon the issuance of an original license plate (whether every 10 years or annually for apportioned vehicles), which is deposited into the Highway Safety Operating Trust Fund.

Effect of Proposed Changes

Under the bill, an apportioned vehicle must be issued an annual license plate and cab card denoting the declared gross vehicle weight until January 1, 2023, at which time this provision in s. 320.06(1)(b), F.S., expires (**section 29**). 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 5-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 12 months and the validation sticker is valid for 12 months. The bill provides that the fee must be deposited into the Highway Safety Operating Trust Fund. Currently, a \$28 fee is paid upon initial issuance and annual reissuance of the "Apportioned" license plates; SB 7092 provides authority for the annual fee for the validation sticker (\$28). If the license plate is damaged or worn it may be replaced at no charge by applying to the DHSMV and surrendering the current license plate.

The bill amends s. 320.0607(5), F.S., to provide that upon implementation of a new operating system for apportioned vehicle registration, the \$28 fee for an original license plate does not apply to vehicles registered under the IRP (**section 30**).

Access to Florida Real Time Vehicle Information System

Present Situation

The DHSMV maintains the Florida Real Time Vehicle Information System (FRVIS) that facilitates the collection of taxes and fees for tags, titles, and registrations associated with motor vehicles and vessels. Local tax collector and tag agent offices throughout the state process tag, title, and registration transactions through FRVIS.⁶⁸ According to the DHSMV, FRVIS processed approximately 404.6 million transactions for the collection of approximately \$3.026 billion in revenue from taxes and fees associated with tags, titles, and registrations for motor vehicles and vessels during Fiscal Year 2017-2018, including amounts retained by local tax collector and tag agent offices.⁶⁹ These funds, together with all other sources of the

⁶⁷ See IRP, Inc., *State of Florida Apportioned Cab Card Sample*, http://c.ymcdn.com/sites/www.irponline.org/resource/resmgr/cab_cards/fl_cc_sample.pdf (last visited April 9, 2019).

⁶⁸ Department of Highway Safety and Motor Vehicles, *Florida Real Time Vehicle Information System (FRVIS): Information Technology Operational Audit*, Report No. 2014-193 (April 2014), at pp. 1-2, https://flauditor.gov/pages/pdf_files/2014-183.pdf (last visited April 9, 2019).

⁶⁹ Email from Kevin Jacobs, Deputy Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, FW: FRVIS (April 4, 2019) (on file with the Senate Committee on Infrastructure and Security).

DHSMV's revenue, are distributed through FRVIS to various state agencies, including the DHSMV, and non-state entities in accordance with governing Florida Statutes.⁷⁰

FRVIS is composed of two processing environments. The first is a distributed environment that consists of the servers at local tax collector and tag agent offices that process tag, title, and registration transactions throughout the state. The second environment is the host portion that consists of the back-end processing that is conducted centrally at the [DHSMV's] primary data center.⁷¹

In addition to residential street addresses, the DHSMV is authorized to collect and store (in FRVIS) email addresses. Email addresses may be used, in lieu of the U.S. Postal Service, to provide certain renewal notices, including registration renewal notices, driver license renewal notices, and vessel registration renewal notices.⁷²

Registration Duties of Tax Collectors

Tax collectors are authorized agents of the DHSMV that issue motor vehicle and vessel registration certificates, registration license plates, validation stickers, mobile home stickers, vessel numbers, and vessel decals to applicants.⁷³ Each tax collector must keep a full and complete record and account of all validation stickers, mobile home stickers, vessel decals, or other properties received by him or her from the DHSMV.⁷⁴

Chapter 320, F.S., requires FRVIS to be installed in every tax collector's and license tag agent's office in accordance with a schedule established by the DHSMV in consultation with the tax collectors and contingent upon funds being made available for the system by the state.⁷⁵

Effect of Proposed Changes

The bill amends ss. 320.03 and 328.73, F.S., to require the DHSMV to provide tax collectors acting on behalf of the DHSMV and tax collector-approved agents and vendors with real-time access to data that other third parties receive from the DHSMV related to registration certificates, registration license plates, validation stickers, and vessel numbers and decals (**sections 29 and 58**). The DHSMV must approved a request from the entity and enter into a memorandum of understanding with the entity before access may be granted. The memorandum of understanding required may not be more restrictive than any memorandum of understanding between the DHSMV and other third-party vendors.

⁷⁰ DHSMV, *Florida Real Time Vehicle Information System (FRVIS)*

⁷¹ *Id.*

⁷² See ss. 319.40, 320.95, 322.08(10), 328.30, and 328.80, F.S.

⁷³ Sections 320.03(1) and 328.73(1), F.S.

⁷⁴ Sections 320.03(3) and 328.73(2), F.S.

⁷⁵ Section 320.03(4)(b), F.S.

Purchasing of Validation Stickers and Paper Stock

Present Situation

Section 320.06(2), F.S., requires the DHSMV to provide tax collectors and license plate agents with the necessary number of validation stickers for plates. To do this, the DHSMV analyzes past usage and anticipated future renewal needs in each county. This estimate is then compared against each order placed in the FRVIS system and then processed on a weekly basis for delivery. If a tax collector or license plate agent requests an amount in excess of the anticipated need in the FRVIS system, then the entity may request an exception for increased delivery, which the DHSMV processes within a week.⁷⁶

Effect of Proposed Changes

The bill amends s. 320.06(2), F.S., to allow the tax collectors and their agents to have the option to purchase validation stickers and paper stock that is used to produce vehicle registrations directly from the DHSMV's contracted vendor (**section 29**). The stickers and paper stock may also be purchased from other vendors if such items meet the DHSMV's specifications and are procured at prices that are at or lower than the pricing reflected in the DHSMV's existing contracts for procuring the items. The bill specifies that these purchases by the tax collectors and their agents are exempt from the competitive bid requirements of ch. 287, F.S.

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

Fleet Vehicle Temporary Tag Pilot Program

Present Situation

Section 320.131, F.S., authorizes the DHSMV 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, and provides penalties for the misuse of temporary tags. Generally, a temporary tag is valid for 30 days.⁷⁷ 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. The 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.⁷⁸ These issuers include motor vehicle dealers and tax collectors who frequently issue temporary tags on behalf of the DHSMV.

Effect of Proposed Changes

The bill amends s. 320.131, F.S., to create a Fleet Vehicle Temporary Tag Pilot Program (**section 31**). The 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

⁷⁶ Information from the DHSMV, on file with the Senate Committee on Infrastructure and Security.

⁷⁷ Except as provided in ss. 320.131(1)(f) and (j), F.S.

⁷⁸ Section 320.131(9), F.S.

vehicles registered in Florida. The DHSMV must establish a memorandum of understanding (MOU) that allows a maximum of 10 companies to participate in the pilot program.

Under the pilot program:

- 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 must be used on only one vehicle, and each vehicle may only use one temporary tag.
- 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 the DHSMV that a temporary tag has been misused under this program, the DHSMV may terminate the MOU with the company, invalidate all temporary tags issued to the company, and require the company to return any unused temporary tags.

The issuance of a temporary tag must be reported to the DHSMV within two business days after the issuance of the tag, and the tax collector must keep a record of each temporary tag issued. If the DHSMV finds that a temporary tag has been misused by a fleet company under the program, then the DHSMV may terminate the memorandum of understanding with that company, invalidate all the issued temporary tags to that company, and require the company to return any unused tags.

This program is repealed October 1, 2022, unless saved from repeal through reenactment by the Legislature.

Motor Vehicle Dealer Licensing

Present Situation

Section 320.27, F.S., authorizes the DHSMV to revoke a motor vehicle dealership license for failure to comply with certain requirements. The DHSMV reports that it lack the authority to act on persons who have previously had their dealer license revoked that are able to reestablish themselves in other dealerships.

Current law allows the DHSMV to file for an injunction against a dealer who fails to comply with the law. However, the DHSMV does not have the authority to petition the court to prohibit the person who operated the dealership from operating in a similar capacity in the future.⁷⁹

Effect of Proposed Changes

The bill amends s. 320.27, F.S., to authorize the DHSMV to deny an initial or renewal application for a motor vehicle dealer license (**section 32**). The DHSMV can deny the application for the same reasons as in current law for suspension or revocation of a license; however, the bill also grants the DHSMV the authority to make the denial, suspension, or revocation of the license upon proof that the applicant or licensee has:

- Been convicted of a felony and has either not completed the resulting felony sentence or completed the felony sentence less than 10 years after the date of licensure application.

⁷⁹ Information from the DHSMV, on file with the Senate Committee on Infrastructure and Security.

- Previously owned a majority interest in, or acted as a control person⁸⁰ of, a motor vehicle dealer that within the past 10 years has been the subject of any decision, finding, injunction, suspension, revocation, denial, judgment, or administrative order by any court of competent jurisdiction, administrative law judge, or state agency that resulted in a finding of:
 - Violation of any federal or state law relating to unlicensed activity; or
 - Fraud in connection with the sale of a motor vehicle.
- Knowingly employs or contracts such a person as a control person.
- Knowingly employs or contracts as a control person a person who has been convicted of a felony and has either not completed the resulting felony sentence or completed the felony sentence less than 10 years from the date of licensure application.

The bill also provides that if a court grants an injunction, the court may bar, permanently or for a specific time period, any person found to have violated any federal or state law relating to unlicensed activity or fraud in connection with the sale of a motor vehicle. If a person is barred, the person may not continue in any capacity within the industry or have a management, sales, or other role in the operation of a dealership. Further, if a person is permanently barred, the person may not derive income from the dealership beyond reasonable compensation for the sale of his or her ownership interest in the business.

Establishment of Uniform Standards for Mobile Homes

Present Situation

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

Rule 15C-2.0081, F.A.C, provides more specificity for the Mobile and Manufactured Home Repair and Remodeling Code. The rule provides guidelines for structure additions, anchoring, repair, and remodeling; electrical repair and replacement; and plumbing repair and replacement.

Effect of Proposed Changes

The bill amends s. 320.8232(2), F.S., by changing the reference to the “repair and remodel code” to the “Mobile and Manufactured Home Repair and Remodeling Code” which has been adopted by rule by the DHSMV (**section 33**). The bill also requires all repair and remodeling of mobile and manufactured homes be done in accordance with the DHSMV rules.

⁸⁰ The bill defines “control person” as mean any person who has significant authority, directly or indirectly, to direct the management or policies of a company, whether through ownership, by contract, or otherwise. The term includes any person who is an owner, director, general partner, officer, manager, or employee exercising decision-making responsibility or exercising similar executive status or functions. The term does not include an employee whose function is only clerical, ministerial, or in sales under the supervision of an owner or manager or other person exercising decision-making responsibility.

ID Card Renewal

Present Situation

A Florida driver license can be renewed within 12 months of expiration;⁸¹ however, an ID card can only be renewed within 90 days of expiration.⁸²

Effect of Proposed Changes

The bill amends s. 322.051(2)(a), F.S., to extend the renewal window for ID cards to within 12 months of expiration to be consistent with the driver license renewal period (**section 39**).

Truancy Reporting and Driving Privileges

Present Situation

A minor is not eligible for driving privileges unless he or she meets certain requirements, such as being enrolled at school or in home education or in other educational activities approved by the district school board and satisfying attendance requirements. If the DHSMV receives a notice of noncompliance from the district school board, it may not issue a driver license or learner's permit to, or will suspend the driver license or learner's permit of, any minor.⁸³ The DHSMV must report quarterly to each school district the legal name, sex, date of birth, and social security number of each student whose driving privileges have been suspended.⁸⁴ According to the DHSMV, the reporting function is now automated for all school districts to access in real time.⁸⁵

Effect of Proposed Changes

The bill amends s. 322.091(5), F.S., to require the DHSMV to make the report of students whose driving privileges have been suspended for truancy available upon request, instead of quarterly (**section 42**). This allows the school districts to access the updated, automated reporting function in real time.

Stolen Identification Cards

Present Situation

Section 322.17(1)(b), F. S., provides for the replacement of a driver license for no fee when reported stolen and accompanied by a police report to the person to whom the same was issued. There is no statutory authority to issue a no-fee replacement ID card when stolen, even when a police report is provided.

Effect of Proposed Changes

The bill amends s. 322.17, F.S., by adding an ID card to the list of cards that can be replaced for free when stolen (**section 43**).

⁸¹ Section 322.18(7), F.S.

⁸² Section 322.051(2)(a), F.S.

⁸³ Sections 322.091(1) and 1003. (2)(b), F.S.

⁸⁴ Section 322.091(5), F.S.

⁸⁵ DHSMV, *2019 Legislative Concepts* (on file with the Senate Committee on Infrastructure and Security).

Expedited Service and Shipping

Present Situation

Individuals can apply to the DHSMV to receive expedited service on title transfers, title issuances, duplicate titles, and recordation of liens by mail or in person and the DHSMV must issue each title within 5 working days after receipt of the application.⁸⁶ The DHSMV has the authority to charge a \$10 expedited service fee.⁸⁷ The expedited service fee is in addition to the standard fees on title transfers, title issuances, duplicate titles, and recordation of liens.⁸⁸ After deductions for odometer fraud prevention and detection⁸⁹ and retention of \$3.50 by the processing agency, the remainder of the expedited service fee is deposited into the General Revenue Fund.⁹⁰

Currently, the law does not provide authorize the DHSMV to collect an expedited service fee related to driver licenses and ID cards from customers. For example, Florida residents needing an immediate replacement or renewal driver license often call the DHSMV customer service center to request expedited shipping of their transactions via the online portal. To assist these individuals, the DHSMV must have the individual prepay directly to a mail courier service for the expedited shipping cost.⁹¹

Effect of Proposed Changes

The bill creates s. 322.21(10), F.S., to allow an applicant for a renewal or replacement driver license or ID card who applied via online to receive expedited *shipping* (**section 44**). The DHSMV, at the applicant's request, must issue the driver license or ID card within 5 working days after receipt of the application and ship the license or ID card using an expedited mail service. *Shipping* fees collected for the expedited shipping option will be deposited into the Highway Safety Operating Trust Fund. SB 7092 is linked to this bill and authorizes the DHSMV to charge the applicant for the cost of expedited shipping.

Penalties for False Information on Application for Driver License

Present Situation

Section 322.212, F.S., makes using a false or fictitious name in any application for a driver license or ID card or knowingly making a false statement, knowingly concealing a material fact, or otherwise committing fraud in any such application a third degree felony.⁹² However, a person who gives a false age in an application only commits a second degree misdemeanor.⁹³

⁸⁶ For motor vehicles or mobile homes previously titled or registered outside of the state, the 5 working days begins after compliance with DHSMV verification requirements. Sections 319.323 and 319.23(4), F.S.

⁸⁷ Section 319.323, F.S.

⁸⁸ See ss. 319.323 and 319.32, F.S.

⁸⁹ Section 319.324, F.S.

⁹⁰ Section 319.323, F.S.

⁹¹ Department of Highway Safety and Motor Vehicles, *2019 Legislative Concepts* (on file with the Senate Committee on Infrastructure and Security).

⁹² Section 322.212(5)(a) and (6), F.S. Generally, a third degree felony is punishable by up to 5 years in prison and a fine of up to \$5,000. See ss. 775.082, 775.083, and 775.084, F.S.

⁹³ Section 322.212(6), F.S. Generally, a third degree felony is punishable by up to 60 days in jail and a fine of up to \$500. See ss. 775.082 and 775.083, F.S.

In addition to any other penalties in s. 322.212, F.S., a person is disqualified from operating a CMV for 1 year if the person provides false information when applying for a commercial driver license or commercial learner's permit or is convicted of fraud in connection with testing for a commercial driver license or commercial learner's permit.⁹⁴

Effect of Proposed Changes

The bill amends s. 322.212, F.S., to create additional penalties (**Section 45**). The bill makes providing altered or counterfeit documents or participating in dishonest or deceptive actions in any application for a driver license or ID card a third degree felony.

The bill also creates an additional penalty for providing false information in certain applications. In addition to other penalties, a person's driving privilege is suspended for 1 year if the person provides false information when applying for a driver license, ID card, commercial driver license, or commercial learner's permit or is convicted of fraud in connection with testing for a driver license, commercial driver license, or commercial learner's permit.

Serious Disqualifying Offense for a Commercial Motor Vehicle

Present 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.⁹⁵ However, s. 322.61, F.S., relating to offenses disqualifying someone from driving a CMV was not similarly amended.

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 or using a handheld mobile telephone⁹⁶ while operating a CMV, may be assessed a civil penalty and commercial driver license disqualification⁹⁷ as follows:

- First violation: \$500.
- Second violation: \$1,000 and a 60-day commercial driver license disqualification.⁹⁸
- Third and subsequent violations: \$2,750 and a 120-day commercial driver license disqualification.

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 listed offenses within a 3 year period, then that person is disqualified from operating a CMV for a period of 60 days.

⁹⁴ Section 322.212(7), F.S.

⁹⁵ Section 14, ch. 2013-160, L.O.F.

⁹⁶ 49 C.F.R. 392.82

⁹⁷ 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."

⁹⁸ Commercial driver license disqualification is pursuant to 49 C.F.R. part 383.

Effect of Proposed Changes

The bill amends s. 322.61, F.S., to incorporate violations for texting or using a handheld phone device while operating a CMV as a serious disqualifying offense to align with federal regulations (**section 47**).

Administration of Vessel Registration and Titling Laws; Records*Present Situation*

The DHSMV has the authority to protect personal information contained in a motor vehicle record under the federal Driver Privacy Protection Act and s. 119.0712(2), F.S., and an entity that is allowed to receive motor vehicle record information may not use it for mass commercial solicitation of clients for litigation against motor vehicle dealers. No such protection for personal information contained in a vessel title or registration exists.

Effect of Proposed Changes

The bill amends s. 328.40, F.S., to provide that the DHSMV must protect personal information contained in a vessel registration and title, subject to inspection and copying, as provided in ch. 119, F.S. (**section 57**). SB 7094, which is linked to this bill, creates a public records exemption in s. 119.0712(2), F.S., for this information. This bill itself does not create an exemption or protections.

Required Insurance Coverage for Commercial Motor Vehicles*Present Situation*

Section 627.7415, F.S., requires all CMVs subject to the U.S. Department of Transportation minimum levels of financial responsibility set forth in 49 C.F.R. part 387 to be insured are required by the federal law. Currently the statute only references subpart A of the Code of Federal Regulations, which sets the financial responsibility requirements for motor carriers of property. Other CMVs must meet the requirements in s. 627.7415, F.S., for minimum levels of combined bodily liability insurance and property damage liability insurance, which are based upon the CMV's weight.

Effect of Proposed Changes

The bill amends s. 627.7415, F.S., to also reference subpart B of the Code of Federal Regulations for minimum levels of financial responsibility, which relates to motor carriers of passengers (**section 60**).

Technical Amendments and Effective Date*Effect of Proposed Changes*

The bill amends ss. 316.251, 501.976, 655.960, and 856.015, F.S., to correct cross-references (**sections 61, 62, 63, and 64**).

The act takes effect July 1, 2019 (**section 650**).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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.

B. Public Records/Open Meetings Issues:

The bill amends ss. 319.40, 320.95, 322.08, 328.30, and 328.80, F.S. (**sections 26, 35, 41, 56, and 59**), to authorize the DHSMV and tax collectors to collect and use email addresses and cell phone numbers of customer and requires this to be done in accordance with ch. 119, F.S., and the federal Driver Privacy Protection Act.

Currently, s. 119.0712(2), F.S., provides that personal information contained in a motor vehicle record⁹⁹ is confidential pursuant to the federal Driver Privacy Protection Act and may only be released as authorized by the federal law.¹⁰⁰ The statute also makes email addresses collected under ss. 319.40, 320.95, and 322.08, F.S., exempt from state public records law.¹⁰¹

Cell phone numbers and email addresses collected by the DHSMV pursuant to the bill may not be exempt from public records. However, SB 7094, which is linked to this bill, would provide an exemption for such information. If SB 7094 is not enacted, then the information may not be exempt.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

⁹⁹ A motor vehicle record is defined as any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration, or identification card issued by the DHSMV.

¹⁰⁰ 18 USC ss. 2721 et. seq.

¹⁰¹ This exemption expires on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

SB 7092 clarifies the fee for the apportioned vehicle plate changes made in **section 29** of the bill. If SB 7092 does not pass, then there will be no fee for the 5-year plate, annual cab card, and annual validation sticker beginning in January 2023.

To the extent that fleet companies choose to participate in the Fleet Vehicle Temporary Tag Pilot Program created in **section 31**, there may be an indeterminate, increase to the Highway Safety Operating Trust Fund and the Brain and Spinal Cord Injury Program Trust Fund. Of the \$2 temporary tag fee for certain vehicles, revenues are divided evenly between the Highway Safety Operating Trust Fund and the Brain and Spinal Cord Injury Program Trust Fund. Further, the tax collectors may receive an indeterminate, increase to local government revenues because tax collected are currently authorized to collect a \$3 surcharge for each temporary tag issuance. The bill limits the pilot program to 10 companies, who may be issued a maximum of 50 temporary tags at a time.

The fee for issuance of an original and renewal ID card is \$25. The fees collected from original ID card applications are deposited into the General Revenue Fund. Fees collected from renewal ID card applications are deposited as follows: \$19 into the General Revenue Fund and \$6 into the Highway Safety Operating Trust Fund. The number of people who will renew an ID card 12 months after expiration are unknown, but the DHSMV estimated that there could be a loss to the General Revenue Fund of \$113,535 and an increase of the same amount to the Highway Safety Operating Trust Fund (the trust fund would incur about a \$9,083 service charge to be paid to the General Revenue Fund) (**section 39**).¹⁰²

The fee for a replacement ID card is \$25. The fees collected are deposited as follows: \$16 into the General Revenue Fund and \$9 into the Highway Safety Operating Trust Fund. For replacement ID cards that are issued by a tax collector, the tax collector is allowed to keep the \$9 portion of the fee. The bill allows a person whose ID card was stolen to get a replacement card for free (**section 43**). The number of people who will get a replacement card for a stolen one is unknown, but the DHSMV anticipates that the fiscal impact to the department and tax collectors will be insignificant.

B. Private Sector Impact:

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

Classifying charter buses as apportionable vehicles may change the registration fees for these vehicles; however, the actual impact for any specific vehicle will be based on motor

¹⁰² Email from Susan Carey, Department of Highway Safety and Motor Vehicles, *SB 7090* (April 10, 2019) (on file with the Senate Transportation, Tourism, and Economic Development Appropriations Subcommittee).

vehicle details, jurisdictions where the vehicle travels, and the mileage percentages in each of the jurisdictions.¹⁰³

Individuals whose ID cards are stolen will see a reduction in costs because they will be able to obtain a replacement card at no cost.

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.

C. Government Sector Impact:

According to the FMCSA, failure to adopt regulations to comply with federal compatibility requirements may jeopardize federal funding for the state's motor carrier safety program for Federal Fiscal Year 2019.¹⁰⁴ Federal funding for the state's motor carrier safety program for Fiscal Year 2018-2019 totaled \$12,778,315, and when matched with state funds in the amount of \$2,254,997, totaled \$15,033,312.¹⁰⁵ The provisions of the bill brings the state law into compliance.

Tax collectors, and tax collector-approved agents and vendors, may see a positive indeterminate fiscal impact as a result of having real-time access to data and thus being able to provide more efficient service to customers.

The bill makes providing altered or counterfeit documents or participating in dishonest or deceptive actions in any application for a driver license or ID card a third degree felony (**Section 45**). The Criminal Justice Impact Conference has not yet estimated a prison bed impact for this bill.

According to the DHSMV, the creation of the temporary tag for fleet vehicles will require approximately 87 programming hours, or the equivalent of \$3,045 in FTE (**section 31**). This cost can be absorbed within existing resources.

The cost to the DHSMV to implement the rebuilt motor vehicle inspection program can be absorbed within current resources (**sections 19 – 24**).

The bill grants and authorizes DHSMV to exercise the power of subpoena as it relates to the investigation of fraud involving motor vehicle registrations, titles, driver licenses, motor vehicle dealers, and other areas of jurisdictional responsibility (**sections 25, 24,**

¹⁰³ Email from Kevin Jacobs, Deputy Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, *DHSMV Package - Fiscal* (March 21, 2019) (on file with the Senate Committee on Infrastructure and Security).

¹⁰⁴ William A. Quade, Associate Administrator for Enforcement (Federal Motor Carrier Safety Administration), letter to Colonel Gene Spaulding, Director (Florida Highway Patrol), August 10, 2018 TS (on file with the Senate Committee on Infrastructure and Security).

¹⁰⁵ Email from Kevin Jacobs, Deputy Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, *Mcsap funds*, (February 7, 2019) (on file with the Senate Committee on Infrastructure and Security).

and 48). All costs related to this new function can be absorbed within existing resources.

The DHSMV may incur an indeterminate programming costs implementing real-time data access to tax collectors and tax collector-approved agents and vendors; however such costs can be absorbed within existing resources (**sections 29 and 58**).

The DHSMV will incur costs to provide expedited shipping for driver licenses and ID cards. Provided that SB 7092 passes, the DHSMV will be able to offset these costs by charging the applicants for the cost of the expedited shipping (**section 44**).

The provision of the bill allowing tax collectors to purchase validation stickers and paper stock is expected to be cost neutral to the DHSMV, as reimbursement by the department to the tax collectors cannot be greater than the pricing in the DHSMV's existing contract for such items (**section 29**).

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill authorizes the DHSMV to adopt rules to implement, administer, and enforce ch. 319, F.S. (**section 20**). The bill does not amend s. 319.17, F.S., which currently grants similar rulemaking authority.

The bill authorizes the DHSMV to adopt rules to administer the grant of subpoena power in ss. 319.1414, 319.25, 320.861, and 322.71, F.S. (**sections 24, 25, 34, and 48**).

The bill provides that certain provisions do not apply to the operator of a nonlead vehicle in a platoon and requires notification to the DHSMV and the DOT to operate (**section 6**). 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 and thus exempt from certain traffic law requirements.

The bill creates a third degree felony for providing altered or counterfeit documents or participating in dishonest or deceptive actions in any application for a driver license or ID card (**Section 45**). Other current prohibited acts require a standard of "knowingly" committing the act. An amendment is recommended to apply the same standard to the conduct added by the bill.

SB 7092 and SB 7094 are linked to this bill. They contain provisions for revenues and public records exemptions that are related to provisions amended or created in this bill. SB 7092 and SB 7094 are contingent upon the passage of this bill, but the linked provisions in this bill are not contingent upon the passage of the other two bills. If this bill were to pass, but not the linked bills, there could be problems with implementation of provisions of this bill.

SB 7092 contains revenue provisions impacting this bill. The bill allows the DHSMV to:

- Obtain an order requiring a person to obey a subpoena, in whole or in part, and charge costs incurred to the subpoenaed person;
- Charge a \$28.00 annual fee for apportionable vehicles related to the initial validation sticker and any renewed validation stickers; and
- Charge for the expedited shipping of a renewal or replacement driver license or ID card, not to exceed the cost of the expedited mail service or the convenience service.

SB 7094 contains public record exemptions impacting this bill. The public record exemptions are for:

- Personal information, including highly restricted personal information, contained in any record that pertains to a vessel title or vessel registration issued by the DHSMV;
- Email addresses and cell phone numbers collected by the DHSMV; and
- Information received by the DHSMV as a result of an investigation or examination, until the investigation or examination ceases to be active or administrative action taken by the DHSMV has concluded or been made part of any hearing or court proceeding.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.003, 316.027, 316.0271, 316.061, 316.1895, 316.192, 316.193, 316.1933, 316.194, 316.302, 316.303, 316.622, 316.640, 316.655, 316.70, 318.19, 319.001, 319.141, 319.25, 319.40, 320.01, 320.03, 320.06, 320.0607, 320.131, 320.27, 320.8232, 320.861, 320.95, 321.05, 321.065, 321.23, 322.051, 322.0602, 322.08, 322.091, 322.17, 322.21, 322.212, 322.36, 322.61, 323.001, 323.002, 324.011, 324.022, 324.023, 324.051, 324.242, 328.30, 328.40, 328.73, 328.80, 627.7415, 316.251, 501.976, 655.960, and 856.015.

This bill creates the following sections of the Florida Statutes: 316.0897, 319.002, 319.1411, 319.142, 319.1414, and 322.71.

This bill repeals section 316.0896 of the Florida Statutes.

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:**

SPB by Infrastructure and Security on April 2, 2019 was amended to:

- Define the term “platoon” as no more than 2 trucks that are wirelessly connected;
- Exempt platoon operators from state laws relating to “following too closely” and use of television receivers;
- Permit a platoon to be operated on Florida roadways after an operator provides notification to the DOT and the DHSMV.

- Permit a district school board, by majority vote, to extend the period of enforcement for a school speed zone by an additional 15 minutes before, during, and additional 15 minutes after the periods of time when pupils are arriving at a regularly scheduled breakfast program or a regularly scheduled school session and leaving a regularly scheduled school session;
- Authorize the DHSMV and Tax Collectors to collect and use cellular telephone numbers and email addresses to contact customers for business reasons other than vehicle renewals;
- Require the DHSMV to provide tax collectors and their approved agents and vendors with real-time access to data that other third parties receive from the DHSMV related to registration of vehicles, mobile homes, and vessels;
- Change the effective date for the bill's changes to apportioned vehicle registrations to January 1, 2023;
- Provide tax collectors the option of purchasing validation stickers and paper stock used in producing vehicle registrations from the DHSMV's contracted vendor or from other vendors, as long as the items meet the DHSMV's specifications and are procured at prices that are at or lower than the pricing reflected in the DHSMV's existing contracts for the items;
- Create a Fleet Vehicle Temporary Tag Pilot Program, which allows the DHSMV to partner with a county tax collector to establish an agreement with up to ten companies allowing the issuance of up to 50 temporary tags at a time for use by the company's fleet vehicles; and
- Clarify that the DHSMV's Mobile/Manufactured Home Repair and Remodeling Code, which has been adopted by rule, is uniform statewide and requires that all repairs and remodeling must conform to that Code.