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1 A bill to be entitled

2 An act relating to cargo chassis; defining "ocean marine
3 terminal" and "intermodal chassis" or "chassis"; requiring
4 the inspection, tagging, quarantine, and repair of cargo
5 chassis that fail to pass described roadability
6 inspections; providing for inspection of chassis in lieu
7 of inspections required for motor carriers or motor
8 vehicles; providing for application; prohibiting ocean
9 marine terminal operators to tender to or interchange with
10 a motor carrier an intermodal chassis that fails to pass
11 inspection; requiring certification that the chassis has
12 passed inspection; providing penalties for violation;
13 providing that the inspection requirement is in addition
14 to specified annual inspection; requiring routine chassis
15 inspections prior to placement of container on the chassis
16 and prior to release for operation; requiring daily
17 records of the inspections; providing for form and content
18 of such records; prohibiting retaliation against an
19 inspector; providing procedure and remedies for violation;
20 requiring specified identification and separation of
21 chassis that pass and fail the inspection; providing for
22 tags to specify whether a chassis has passed or failed the
23 inspection; authorizing a driver to request reinspection
24 of chassis under certain circumstances; providing
25 procedures; providing for compensation of the driver under
26 specified circumstances; prohibiting retaliation against
27 the driver; providing procedures and remedies for
28 violation; requiring records of reinspection requests;
29 providing for content of such records; authorizing driver

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30 to contact law enforcement agency in lieu of making such
 31 reinspection request; providing for maintenance and
 32 availability of records; requiring the Department of
 33 Transportation to conduct onsite reviews to determine
 34 compliance; providing procedures in the event of
 35 noncompliance; providing procedures in the event of
 36 inspection results indicating imminent danger to the
 37 public; authorizing officers of the Florida Highway Patrol
 38 and other law enforcement officers to enter premises and
 39 perform inspections; providing for citation of violations;
 40 providing penalties for such citations; providing for
 41 defect in and voidability of certain contracts;
 42 authorizing the Department of Transportation to adopt
 43 rules; providing for applicability of the act to safe
 44 driving laws; providing an effective date.

45

46 Be It Enacted by the Legislature of the State of Florida:

47

48 Section 1. Definitions.--As used in this act, the
 49 following definitions shall apply:

50 (1) "Ocean marine terminal" means any terminal, whether
 51 public or private, located at a port facility that engages in
 52 the loading and unloading of the cargo of oceangoing vessels.

53 (2) "Intermodal chassis" or "chassis" means a trailer
 54 designed to carry intermodal freight containers.

55 Section 2. Applicability.--

56 (1) Any ocean marine terminal that receives and dispatches
 57 intermodal chassis shall implement and carry out the intermodal
 58 chassis roadability inspection program, as described in this

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59 act, in lieu of any inspection required by law for motor
60 carriers or motor vehicles.

61 (2) No ocean marine terminal operator shall tender to or
62 interchange with a motor carrier an intermodal chassis that
63 fails to pass the inspection required by this act and that fails
64 to meet the requirements set forth in Federal Motor Carrier
65 Safety Regulations, 49 C.F.R. s. 396. Any ocean marine terminal
66 operator tendering to or interchanging with a motor carrier such
67 equipment shall provide certification that the chassis has
68 passed the inspection set forth in this act. Any ocean marine
69 terminal operator who violates this section shall be fined up to
70 \$500 per occurrence.

71 (3) Nothing in this act shall supersede the inspection
72 requirement and standard under 49 C.F.R. s. 396 that requires
73 ocean marine terminal operators to conduct annual inspections of
74 chassis. This act imposes an additional requirement that ocean
75 marine terminal operators inspect chassis on a routine basis.

76 Section 3. Intermodal chassis roadability inspection
77 program.--

78 (1) Ocean marine terminal operators shall inspect all
79 chassis pursuant to this section before a container is placed on
80 the chassis and before the chassis is released for operation.
81 The inspection shall include, but not be limited to, brake
82 adjustment; an inspection of brake system components and leaks,
83 suspension systems, tires and wheels, vehicle connecting
84 devices, and lights and electrical systems; and a visual
85 inspection of the chassis to determine whether it has been
86 tampered with.

87 (2) Each inspection shall be recorded on a daily
 88 roadability inspection report that shall include, but not be
 89 limited to, all of the following:

90 (a) Positive identification of the intermodal chassis,
 91 including company identification number and vehicle license
 92 plate number.

93 (b) The date and nature of each inspection.

94 (c) The signature, under penalty or perjury, of the ocean
 95 marine terminal operator or an authorized representative
 96 attesting to the fact that the inspection has been performed and
 97 that the chassis is roadworthy.

98 (3) Individuals performing inspections pursuant to this
 99 section shall be qualified, at a minimum, as set forth in 49
 100 C.F.R. s. 396.19. Evidence of each inspector's qualification
 101 shall be retained by the ocean marine terminal for the period of
 102 time during which the inspector is performing such inspections.
 103 No inspector shall be threatened, coerced, or otherwise
 104 retaliated against by an ocean marine terminal operator for
 105 refusing to pass a chassis that fails an inspection or for
 106 designating a chassis for repair. In the event that an inspector
 107 is so threatened, the inspector shall be protected by and
 108 afforded all rights and remedies provided by law. Any violation
 109 of this section shall be subject to the procedures, remedies,
 110 and relief provided by law.

111 (4) As part of the inspection, the inspector shall affix a
 112 tamper-proof green tag on a chassis that has passed inspection
 113 and a red tag on a chassis that has failed inspection. The tag
 114 shall contain the name of the inspector and the date and time
 115 the inspection was completed and shall be placed on the driver's

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116 side of the chassis next to the chassis' identification plate. A
 117 red tag must specify the defects that warranted the failed
 118 inspection and that require repair. The tag shall be provided by
 119 the ocean marine terminal operator and shall meet specifications
 120 determined by the Department of Transportation.

121 (5) Chassis shall be segregated according to their tag
 122 designation under subsection (4). Green-tagged chassis shall be
 123 kept in an area designated for interchange with motor carriers.
 124 Red-tagged chassis shall be transported to an onsite facility
 125 where repairs and any required maintenance may be performed.
 126 Defects identified during any inspection of any intermodal
 127 chassis shall be repaired and the repairs shall be recorded on
 128 the intermodal chassis maintenance file before the chassis is
 129 released from the control of the ocean marine terminal. No
 130 chassis subject to this act shall be released to a motor carrier
 131 or operated on a public road until all defects listed during the
 132 inspection have been corrected, the chassis passes inspection,
 133 and the ocean marine terminal operator's authorized
 134 representative attests to that fact and affixes a green tag on
 135 the chassis.

136 (6)(a) Any driver who believes that a chassis is in an
 137 unsafe operating condition may request that the chassis be
 138 reinspected by the entity responsible for the inspection and
 139 maintenance of the chassis pursuant to this act. In the event
 140 that such a request is made, the driver:

141 1. Shall not be made responsible for delivery of the
 142 chassis to the repair facility.

143 2. Shall receive a green-tagged chassis without delay.

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144 (b) In the event a driver is forced to wait for 1 or more
 145 hours to receive a green-tagged chassis, the ocean marine
 146 terminal operator shall compensate the driver at a rate of \$100
 147 per hour.

148 (c) Such a request, any corrective action taken, or the
 149 reason corrective action was not taken shall be recorded in the
 150 intermodal chassis maintenance file.

151 (d) Alternatively, the driver may contact a law
 152 enforcement agency with regard to the physical condition of the
 153 chassis.

154 (7) No driver shall be threatened, coerced, or otherwise
 155 retaliated against by an ocean marine terminal operator for
 156 requesting that the intermodal chassis be reinspected or
 157 repaired or for contacting a law enforcement agency with regard
 158 to the physical condition of a chassis. In the event that a
 159 commercial driver is so threatened, coerced, or otherwise
 160 retaliated against, the driver shall be protected by and
 161 afforded all rights and remedies provided by law. Any person who
 162 violates this section shall be subject to the penalties provided
 163 for by law.

164 Section 4. Maintenance and inspection of records.--

165 (1) Records of each inspection conducted pursuant to this
 166 act shall be:

167 (a) Maintained for 90 days at the ocean marine terminal
 168 where each chassis is inspected.

169 (b) Made available upon request by any authorized employee
 170 of the Department of Transportation or law enforcement officer
 171 of the Florida Highway Patrol.

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172 (c) Made available during normal business hours to any
 173 motor carrier or driver or the authorized representative thereof
 174 who has been engaged to transport an intermodal container on a
 175 chassis inspected pursuant to this act from the ocean marine
 176 terminal.

177 (2) Records of maintenance or repairs performed pursuant
 178 to the inspections required under this act shall be:

179 (a) Maintained for 2 years at the ocean marine terminal.

180 (b) Made available upon request of the Department of
 181 Transportation.

182 (3) Requests for reinspection made pursuant to section 3
 183 shall be recorded in the intermodal chassis maintenance file and
 184 shall be maintained and made available pursuant to paragraph
 185 (1)(c).

186 (4) All records required under this act may be maintained
 187 in a computer system if printouts of those records may be
 188 provided upon request.

189 Section 5. Compliance with intermodal chassis roadability
 190 inspection program.--

191 (1) The Department of Transportation shall conduct random,
 192 but at least biannual, onsite reviews of ocean marine terminals
 193 to determine whether the terminals are complying with the
 194 requirements of this act, including, but not limited to,
 195 inspection, tagging, quarantine and repair, and recordkeeping
 196 requirements. Following an inspection in which it is determined
 197 that an ocean marine terminal operator has failed to comply with
 198 any of the requirements of this act, the department shall:

199 (a) Direct the ocean marine terminal to comply immediately
 200 with the requirements of this act.

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201 (b) Fine the ocean marine terminal \$100 for every day,
202 after the day of inspection, that the terminal fails to comply
203 with the requirements of this act.

204 (c) After 10 days of noncompliance, immediately pursue
205 administrative or other action deemed necessary against the
206 terminal's motor carrier property permit and forward a
207 recommendation to the Federal Motor Carrier Safety
208 Administration for administrative or other action deemed
209 necessary against the carrier's interstate operating authority.

210 (d) After 20 days of noncompliance, revoke the ocean
211 marine terminal's property permit.

212 (2) If any inspection results in an unsatisfactory rating
213 due to conditions presenting an imminent danger to the public
214 safety, the Department of Transportation shall take actions
215 pursuant to paragraph (1)(c) or paragraph (1)(d).

216 (3) Any officer of the Florida Highway Patrol or other law
217 enforcement officer, while in the performance of the duties of
218 office, is authorized to enter upon and perform inspections of
219 green-tagged chassis at any ocean marine terminal which chassis
220 are intended to be tendered to or interchanged with a motor
221 carrier for use on a highway. In the event the officer
222 determines that any green-tagged chassis is unroadworthy, the
223 ocean marine terminal operator shall be fined \$500 per
224 occurrence.

225 (4) Any citation issued for a violation of this act
226 related to the defective condition of an intermodal chassis
227 shall be issued to the ocean marine terminal operator
228 responsible for the inspection and maintenance of the chassis,
229 provided that the chassis is not owned by the driver and that

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230 the defective condition of the chassis was not caused by the
 231 failure of the motor carrier or its driver to operate the
 232 commercial vehicle in a safe manner.

233 Section 6. Defect of contract; applicability of the
 234 act.--Any provision in a contract between an owner or lessee of
 235 an intermodal chassis and a driver that contains a hold-harmless
 236 or indemnity clause concerning defects in the physical condition
 237 of the intermodal chassis shall be void as against public
 238 policy. This section shall not apply to damage to the intermodal
 239 chassis caused by the neglect or willful failure of the motor
 240 carrier or its driver to operate the commercial vehicle in a
 241 safe manner.

242 Section 7. Rulemaking.--The Department of Transportation
 243 has authority to adopt rules pursuant to ss. 120.536(1) and
 244 120.54, Florida Statutes, to effectuate the purposes of this
 245 act.

246 Section 8. Commercial driver; duty.--Nothing in this act
 247 relieves a commercial driver or commercial motor carrier of any
 248 duty imposed by state or federal law related to the safe
 249 operation of a commercial motor vehicle.

250 Section 9. This act shall take effect upon becoming a law.