

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 453 w/CS Commercial Motor Vehicles
SPONSOR(S): Ryan
TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 420

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Insurance	21 Y, 0 N w/CS	Cheek	Cooper
2) Commerce			
3) Finance & Tax			
4)			
5)			

SUMMARY ANALYSIS

The bill provides that any person engaged in retrofitting, rebuilding, or modifying commercial trucks, truck tractors, or heavy trucks, as defined in s. 320.01, into dump trucks must have evidence that he or she is insured under a commercial liability insurance policy with limits of at least \$1 million per accident and \$1 million annual aggregate. In addition, evidence of such insurance policy must be available at all reasonable hours for inspection by any law enforcement officer.

The bill further provides any person engaged in the retrofitting, rebuilding, or modifying of commercial trucks, truck tractors, or heavy trucks into dump trucks must ensure all such retrofitted, rebuilt, or modified dump trucks comply with all federal safety standards provided in 49 C.F.R. 393.

Any person violating these provisions commits a misdemeanor of the second degree. Any person violating these provisions a second time commits a misdemeanor of the first degree, and any person violating these provisions a third or subsequent time commits a felony of the third degree.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0453a.in.doc
DATE: March 15, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

Reduce government?

The bill imposes new insurance requirements on owners of garages that modify commercial motor vehicles into dump trucks, and imposes criminal penalties for failing to carry insurance and to ensure that the retrofitted trucks meet federal safety standards.

Expand individual freedom?

The bill criminalizes behavior that is currently legal, and requires certain garage owners to maintain insurance policies not currently required by law.

B. EFFECT OF PROPOSED CHANGES:

Background

Title 49, Part 393, Code of Federal Regulations (49 C.F.R. part 393), provides federal safety and equipment requirements for commercial motor vehicles. Title 49, Part 393, C.F.R. regulates lighting and reflective requirements, electrical systems, braking requirements, tires, coupling devices, mirrors, emergency equipment, load securement, front-end structure, suspension systems, frames, steering wheel systems, and other equipment and safety requirements for commercial motor vehicles. The CFR further requires every employer and employee to comply and understand the requirements and specifications provided in the CFR, and no employer may operate a commercial motor vehicle, or cause or permit it to be operated, unless it is equipped in accordance with the requirements and specifications of the CFR.

Section 316.302, F.S., provides all owners and drivers of commercial motor vehicles that are operated on the public highways of this state while engaged in interstate commerce are subject to the rules and regulations contained in 49 C.F.R. parts 382 (drug and alcohol testing requirements), 385 (safety fitness procedures), and 390-397 (general safety and hazardous materials requirements).

Newly manufactured commercial motor vehicles are not inspected by any government agency prior to being sold. However, the manufacturer is responsible for ensuring the vehicle is in compliance with federal safety requirements. Likewise, when a vehicle is converted from a truck-tractor into a dump truck there is no inspection to ensure such vehicles comply with federal safety standards.

The point when defects would be detected in a commercial motor vehicle is when such vehicle is inspected by an officer from the Office of Motor Carrier Compliance (OMCC). The OMCC is charged with enforcing federal and state commercial motor vehicle and driver safety regulations by performing vehicle inspections. The OMCC's safety enforcement responsibility also includes inspections of hazardous materials vehicles and passenger buses. These inspections are conducted both on the

roadside and at OMCC's weigh stations throughout the state. This allows the officers to detect possible vehicle defects and driver deficiencies that could lead to commercial motor vehicle traffic crashes.

Major Changes to Current Law

This bill defines a dump truck as any motor vehicle with a net weight of more than 5,000 pounds, which is registered on the basis of gross vehicle weight in accordance with s. 320.08(4), F.S., and which is properly equipped with a container used for transporting and dumping various materials, resources, or items. "Person" is defined by the bill as any form of corporation, limited liability company, partnership, association, cooperative, joint venture, business trust, sole proprietorship, or self-employed person that conducts business in this state.

The bill provides that any person engaged in retrofitting, rebuilding, or modifying commercial trucks, truck tractors, or heavy trucks, as defined in s. 320.01, into dump trucks must have evidence that he or she is insured under a commercial liability insurance policy with limits of at least \$1 million per accident and \$1 million annual aggregate. In addition, evidence of such insurance policy must be available at all reasonable hours for inspection by any law enforcement officer.

The bill further provides any person engaged in the retrofitting, rebuilding, or modifying of commercial trucks, truck tractors, or heavy trucks into dump trucks must ensure all such retrofitted, rebuilt, or modified dump trucks comply with all federal safety standards provided in 49 C.F.R. 393.

Any person violating these provisions commits a misdemeanor of the second degree, punishable by up to 6 months in jail and a fine not to exceed \$500. Any person violating these provisions a second time commits a misdemeanor of the first degree, punishable by up to 1 year in jail and a \$1,000 fine. Any person violating these provisions a third or subsequent time, commits a felony of the third degree, punishable by up to 5 years in jail, a fine of \$5,000, and enhanced penalties for habitual felony offenders.

This bill takes effect October 1, 2004.

C. SECTION DIRECTORY:

Section 1: Creates s. 316.570, F.S., relating to *Rebuilt, modified, or retrofitted dump trucks*.

Section 2: Provides an effective date of October 1, 2004.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Any persons engaged in the business of retrofitting, rebuilding, or modifying commercial trucks, truck tractors, or heavy trucks, as defined in s. 320.01, F.S., into dump trucks must have evidence such person is insured under a garage liability insurance policy that must include, at a minimum, \$1,000,000 combined single-limit liability coverage, including bodily injury and property damage protection, and \$500,000 personal injury protection. This will likely result in higher premiums for such businesses throughout the state.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 11, 2004, the Committee on Insurance adopted an amendment that provides that any person engaged in retrofitting, rebuilding, or modifying commercial trucks, truck tractors, or heavy trucks, as defined in s. 320.01, F.S., into dump trucks must have evidence that he or she is insured under a commercial liability insurance policy with limits of at least \$1 million per accident and \$1 million annual aggregate, rather than a garage liability insurance policy with limits of at least \$1 million combined single-limit liability coverage, including bodily injury and property damage protection, and \$500,000 personal injury protection. In addition, evidence of such insurance policy must be available at all reasonable hours for inspection by any law enforcement officer.