

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Banking and Insurance Committee

BILL: SB 52

SPONSOR: Senator Geller

SUBJECT: Commercial Motor Vehicles

DATE: February 7, 2005

REVISED: 2/9/05

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Evans	Meyer	TR	<b>Fav/1 amendment</b>
2.	Knudson	Deffenbaugh	BI	<b>Favorable</b>
3.			CJ	
4.				
5.				
6.				

## Please see last section for Summary of Amendments

- Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

### I. Summary:

Senate Bill 52 provides that any person engaged in the retrofitting, rebuilding or modifying of 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 commercial liability insurance policy, which must include, at a minimum, \$1,000,000 per accident and \$1,000,000 annual aggregate. Evidence of such insurance policy must be available at all reasonable hours for inspection by any law enforcement officer.

The bill also mandates that the creation of dump trucks through retrofitting, rebuilding or modification must comply with the federal safety standards provided in 49 C.F.R. 393.

The bill as amended provides that any person who fails to maintain the insurance required by this bill, or who does not comply with the federal safety standards provided in 49 C.F.R. 393, for the first time commits a second degree misdemeanor. A second violation is a first-degree misdemeanor and a third or subsequent violation is a third-degree felony.

This bill substantially creates s. 316.570 of the Florida Statutes.

## II. Present Situation:

Some of the dump trucks currently on Florida's roads are rebuilt and retrofitted trucks that have been converted into dump trucks. Converting a truck into a dump truck is inexpensive when compared to the cost of purchasing a new dump truck. However, if the conversion is not done in accordance with proper safety standards the likelihood of accidents involving such vehicles is likely to be greater because of potential inadequacies in braking, suspension and steering. To make a converted dump truck, the trailer frame of a tractor-trailer cab is extended and another set of wheels is added to support the additional load. Then the dump apparatus is attached, creating the new dump trucks.

An investigative report conducted by NBC Channel 6 News in Miami/Ft. Lauderdale found that 9 of 10 dump truck crashes in South Florida in 2001 involved converted trucks.<sup>1</sup> The report estimates that there are thousands of converted dump trucks in South Florida alone. Examples of those harmed include a student at the University of Florida who was killed when a converted dump truck ran her down after the driver lost control.<sup>2</sup> The report included an expert in heavy-duty trucks who examined photos of the scene and reviewed the dump truck conversion. The expert stated that the converted dump truck in question was not properly designed to hold heavy loads.<sup>3</sup>

Title 49, Part 393, Code of Federal Regulations (CFR), provides the federal safety and equipment requirements for commercial motor vehicles. Title 49, Part 343 C.F.R., regulates lighting and reflective requirements, electrical systems, braking requirements, tires, coupling devices, mirrors, emergency equipment, load securement, front and structure, suspension systems, frames, steering wheel systems, and other equipment and safety requirements for commercial motor vehicles. The CFR requires every employer and employee to understand and comply with the requirements and specifications provided in the CFR. 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 that 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 requirements of 49 C.F.R. parts 382 (drug and alcohol testing), 385 (safety fitness procedures), and 390-397 (general safety and hazardous materials requirements).

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. Newly manufactured commercial motor vehicles also 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.

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

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<sup>1</sup> See [www.nbc6.net/news/1798266/detail.html](http://www.nbc6.net/news/1798266/detail.html) (Original airdate Nov. 19, 2002).

<sup>2</sup> See id.

<sup>3</sup> See id.

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 crashes. The Department of Transportation also relies on annual inspection stickers to monitor the safety of trucks, but mechanics and truck owners can fill out the inspection stickers themselves and they are easily purchased.<sup>4</sup>

### III. Effect of Proposed Changes:

**Section 1** Defines a "dump truck" to be 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 is properly equipped with a container used for transporting and dumping materials, resources or items. The bill defines "person" to be any form of a corporation, limited liability company, partnership, association, cooperative, joint venture, business trust, sole proprietorship, or self-employed person who conducts business in this state.

The bill requires any person engaged in retrofitting, rebuilding, or modifying commercial trucks, truck tractors, or heavy trucks (as defined in s. 320.01, F.S.) to be insured under a commercial liability insurance policy with minimum limits of \$1 million per accident and \$1 million annual aggregate. Evidence of the insurance policy must be available for inspection by any law enforcement officer at all reasonable hours.

The bill also mandates that any person engaged in retrofitting, rebuilding or modifying commercial trucks, truck tractors or heavy trucks into dump trucks through retrofitting, rebuilding or modification must comply with all federal safety standards provided in 49 C.F.R. 393.

Any person violating these provisions for the first time commits a second degree misdemeanor under ss. 775.082 or 775.083, F.S., punishable by up to six months in jail and a maximum \$500 fine. A person who violates these provisions for a second time commits a first degree misdemeanor under ss. 775.082 or 775.083, F.S., punishable by up to one year in jail and a maximum \$1,000 fine. A person who commits a third violation of these provisions commits a third-degree felony under ss. 775.082, 775.083 or 775.084, F.S., punishable by up to 5 years in jail, a maximum fine of \$5,000, and enhanced penalties for habitual felony offenders.

**Section 2** The bill will take effect on October 1, 2005.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

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<sup>4</sup> See id.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

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 commercial liability insurance policy with minimum limits of \$1,000,000 per accident and \$1,000,000 annual aggregate. These requirements will likely increase costs and result in higher premiums for such businesses throughout the state.

C. Government Sector Impact:

Indeterminate.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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## VIII. Summary of Amendments:

Barcode 184166 by Transportation

The amendment clarifies that the criminal penalties prescribed in the bill are applicable to subsections (2) and (3) of the bill, which mandate maintenance of commercial liability insurance and compliance with the federal safety standards of 49 C.F.R. 393, rather than to all of the provisions of the bill (which include definitions in subsection (1)).

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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