

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 653
SPONSOR(S): Ryan
TIED BILLS:

Commercial Motor Vehicles

IDEN./SIM. BILLS: SB 52

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Insurance Committee	17 Y, 0 N	Tinney	Cooper
2) Transportation Committee	13 Y, 0 N	Pugh	Miller
3) Commerce Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

HB 653 creates s. 316.570, F.S., to require any person who retrofits, rebuilds, or modifies a commercial truck, truck tractor, or heavy truck into a dump truck to have evidence of coverage under a commercial liability insurance policy. The bill specifies that a business or person who retrofits a vehicle as a dump truck must carry a commercial policy that provides, at a minimum, \$1 million in coverage per accident and \$1 million in coverage on an 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 Code of Federal Regulations (CFR) section 393.

The bill provides that any person who fails to maintain the required commercial liability insurance required, or who does not comply with the federal safety standards provided in 49 CFR 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.

There does not appear to be a fiscal impact to state agencies or local governments associated with the bill, however, persons and businesses that retrofit specified vehicles into dump trucks may incur an expense to purchase the commercial insurance required by the bill if the person or business does not already have commercial liability coverage.

HB 653 takes effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote Personal Responsibility and Safeguard Individual Liberty— HB 653 requires a person or business that rebuilds, retrofits, or modifies specified heavy commercial trucks to purchase commercial liability insurance; current law does not impose a requirement for liability insurance. News reports in 2001 from the Miami-Dade County area indicate that retrofitted dump trucks may have a greater propensity to be involved in traffic accidents due to mechanical failure. By requiring a person or business engaged in rebuilding or retrofitting heavy commercial trucks to purchase a commercial liability insurance policy with at least \$1 million in coverage, the business owner is required to accept the cost and greater responsibility for retrofitting or rebuilding trucks specified in the bill.

B. EFFECT OF PROPOSED CHANGES:

Background

Chapter 316, F.S., relates to state uniform traffic control. Laws in that chapter cover a broad variety of subjects. For example, s. 316.00825, F.S., governs closing and abandoning roads. Other laws in that chapter address such issues as skateboarding and inline skating; motor vehicle crashes and reports of crashes; duties of the Florida Highway Patrol and the Department of Highway Safety and Motor Vehicles (DHSMV) relative to crash reports and data and statistics derived from the reports; traffic laws; abandoned motor vehicles and their disposition; traffic control and signals; fishing from state road bridges; and tests for alcohol, controlled substances, and chemical substances, among many other similar topics. Generally, DHSMV and the Florida Highway Patrol, which is housed in DHSMV, are responsible for enforcing the provisions in chapter 316, F.S.

Chapter 320, F.S., relates to motor vehicle licenses, registration, and license plates. This includes licenses and registration for personal vehicles, motorcycles, vehicles owned by governmental entities, and commercial vehicles. Definitions used throughout chapter 320, F.S., are included in s. 320.01, F.S. Section 320.08, F.S., specifies the license taxes associated with registering a motor vehicle. In most cases, the fee associated with vehicle registration relates to the weight of the vehicle and whether the vehicle is primarily used for personal or commercial transportation.

Some of the dump trucks currently on Florida's roads are rebuilt and retrofitted trucks that have been converted into dump trucks. Converting an existing vehicle, such as a truck tractor, commercial truck, or heavy truck, into a dump truck is less expensive in some cases than the cost of purchasing a new dump truck. However, if the conversion is not made in accordance with proper safety standards, there may be a risk of an accident relating to an inadequacy in the braking, suspension, or steering systems. To make a converted dump truck, generally, 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.

A 2002 investigative report conducted by NBC Channel 6 News in Miami/Ft. Lauderdale found that nine of 10 dump truck crashes in South Florida in 2001 involved converted trucks. The report, transcripts of which are available at www.nbc6.net/news/1798266/detail.html estimated that there may be thousands of converted dump trucks in South Florida alone. The news report included an example of one motor vehicle accident in which a young woman, a student at the University of Florida, was killed when she was hit by a converted dump truck after the driver lost control of the vehicle. The news 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.

Title 49, chapter III, Code of Federal Regulations (CFR), consisting of parts 300-399, relates to the Federal Motor Carrier Safety Administration and the federal Department of Transportation. Chapter III

of Title 49, CFR, provides the federal safety and equipment requirements for commercial motor vehicles, including specifications for the parts and accessories necessary for the safe operation of commercial vehicles. For example, Title 49 CFR, s. 393, regulates lighting and reflective requirements, electrical systems, braking requirements, tires, coupling devices, mirrors, emergency equipment, security of loads, 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 governed by Title 49, CFR to understand and comply with the requirements and specifications provided in that part. 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 applicable parts 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 CFR 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 at the site of the conversion to ensure the vehicle complies 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. Under current law, a person or business that converts or retrofits commercial trucks is not required to present proof of commercial liability insurance.

The Florida Department of Transportation (FDOT) is created in s. 20.23, F.S., and is assigned by law to administer and oversee the transportation systems in the state. The FDOT also is responsible for providing for public right-of-ways, toll operations, road design and construction, and motor carrier compliance, among many other duties.

Section 334.046, F.S., directs FDOT to “. . . provide a safe statewide transportation system that ensures the mobility of people and goods, enhances economic prosperity, and preserves the quality of our environment and communities.” The law authorizes FDOT in s. 334.044(32), F.S., to employ sworn law enforcement officers within its Office of Motor Carrier Compliance (OMCC). A primary responsibility of the OMCC is to enforce laws relating to size and weight of commercial motor vehicles traveling the state’s roads. This duty generally is carried out on state roads and federal interstates in Florida at roadside weigh stations, although OMCC employees may inspect commercial vehicles in other locations, as well.

A prime opportunity for detecting a defect in a commercial motor vehicle occurs when the vehicle is inspected by an officer from 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 passenger buses and vehicles transporting hazardous materials. These inspections are conducted both on the roadside and at OMCC’s weigh stations throughout the state. The inspections allow the officers to detect possible vehicle defects and driver deficiencies that could lead to commercial motor vehicle crashes. FDOT reports that in 2004, its approximately 250 OMCC officers conducted more than 82,000 vehicle inspections throughout the state.

Changes Proposed by the Bill

The term “dump truck” is defined 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 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 CFR 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 6 months in jail and a maximum \$500 fine. A person who violates these provisions for a second time commits a first-degree misdemeanor as provided by law, punishable by up to 1 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.

HB 653 has an effective date of October 1, 2005.

C. SECTION DIRECTORY:

Section 1 creates s. 316.570, F.S., to provide definitions and regulations for specified trucks that are converted to dump trucks.

Section 2 provides an effective date of October 1, 2005.

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 person engaged in retrofitting, rebuilding or modifying commercial trucks, truck tractors, or heavy trucks into dump trucks is required by the bill to have evidence of coverage under a commercial liability insurance policy with minimum limits of \$1 million per accident and \$1 million in coverage for an annual aggregate. Any person or business that retrofits, rebuilds, or modifies affected commercial motor vehicles will be required to purchase the commercial liability insurance required by the bill if such

coverage is not already in place. A person or entity that does not have liability insurance meeting the limits specified by the bill likely will incur costs to purchase the required liability insurance.

The Florida Association of Insurance Agents (FAIA) provided information to estimate the cost for a commercial liability insurance policy with \$1 million in coverage. The annual cost for a commercial liability policy with coverage of \$1 million as an annual aggregate is estimated at \$8,600. This estimate assumes that the insured business grosses \$1 million in annual revenue. Since this estimate does not assume any history of losses, claims, or past insurance experience, the \$8,600 annual cost may not be applicable to an actual business or individual who retrofits or rebuilds commercial trucks.

Similar information regarding the cost for a commercial liability policy was provided by FCCI, a Florida-based insurer which sells workers' compensation and other types of insurance. FCCI provided an estimated policy cost of \$8,963 annually for a policy to a truck retrofitter/rebuilder with \$1 million in gross sales, based on no prior insurance experience; however the FCCI estimate is for a policy providing \$2 million in annual commercial liability coverage. The cost estimate is for a policy to be written by a middle-tier company owned by FCCI; the cost estimate is not applicable to a specific person or business entity without accurate sales revenue data and past claims experience.

D. FISCAL COMMENTS:

Any person 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 of coverage under a commercial liability insurance policy with minimum limits of \$1 million per accident and \$1 million in an annual aggregate. These requirements may increase costs to a business that rebuilds or retrofits heavy trucks if the business does not already have commercial liability insurance.

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 & COMBINED BILL CHANGES