

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1123 Contract Carriers
SPONSOR(S): Gibson and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 2492

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Infrastructure</u>	<u>10 Y, 0 N</u>	<u>Creamer</u>	<u>Miller</u>
2) <u>Economic Expansion & Infrastructure Council</u>	<u></u>	<u></u>	<u></u>
3) <u>Policy & Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
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SUMMARY ANALYSIS

The bill makes numerous to specified rules and regulations to contract carriers employed by railroad companies. Specifically the bill:

- Requires contract carrier drivers to hold commercial driver's license;
- Requires contract carriers to perform alcohol and drug testing on drivers prior to employment, on suspicion of drug or alcohol use and at least once a year at random;
- Limits duties of contract carrier operators to a maximum of 14 hours per shift, with a total of 12 hours of driving. This provision also requires a minimum 10 hour rest period between shifts;
- Requires contract carriers to record hours of service, driving time, and total time worked per shift on a weekly basis. This provision also requires logs be retained for minimum of 3 years;
- Requires commercial for-hire carrier companies to maintain liability insurance coverage of \$1.5 million per vehicle and underinsured and uninsured motorists coverage at an equal amount;
- Requires DOT to adopt rules regulating contract carriers employed by Florida railroad companies; and
- Requires DOT to inform contract carriers and railroad companies of applicable requirements and statutes.

The provision of HB 1123 requiring commercial for-hire carrier companies to maintain liability insurance coverage and underinsured and uninsured motorists coverage may have a fiscal impact on these companies if they do not currently have this coverage in place.

In addition, there may be administrative and enforcement costs to DOT to adopt rules and to enforce the new regulations.

The bill is effective July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not implicate any House Principles.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Sections 316.302 and 316.70, F.S., contain the safety requirements that apply to the operation of commercial vehicles on the public highways of the state. In general, these laws have adopted the Federal Motor Carrier Safety Regulations found in Chapter 49 of the Code of Federal Regulations (49 CFR), Parts 390 through 397, and the Hazardous Materials Transportation Regulations found in 49 CFR, Parts 100 through 180, as they apply to highway transportation.

For the purposes of compliance with the safety regulations, a commercial motor vehicle is any self-propelled or towed vehicle used on the 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 hazardous materials.

This definition is not limited to vehicles operated by a trucking company. Such vehicles operated by any business or commercial enterprise will be subject to the regulations.

Safety Regulations

Safety inspections are conducted by DOT's Office of Motor Carrier Compliance (OMCC) personnel or by authorized agents at weigh stations and on the roadside. OMCC officers follow a procedure established by the Commercial Vehicle Safety Alliance (CVSA) to inspect both the driver and vehicle.

In addition to roadside inspections, motor carriers are subject to compliance reviews. These reviews will be conducted at the motor carrier's principal place of business to determine general compliance with the regulations, as well as the recordkeeping requirements. Such reviews include, but are not limited to, driver qualification files, vehicle maintenance records, and controlled substance and alcohol testing requirements. Violations found during these reviews may result in civil penalties being assessed. If defects or violations are discovered, one or more of the following things will happen:

- A 15-day time limit will be given to return the Driver-Vehicle Examination Report certifying the repairs have been made.
- If serious defects are discovered, the vehicle will be placed out of service and the repairs must be made before the vehicle can be driven again. If a vehicle that has been placed out of service is operated before the necessary repairs have been made, a penalty of \$1,100.00 up to \$2,750.00 may be assessed. Additionally, if the employer violates the Out-of-Service Order, an additional penalty of up to \$11,000.00 may be assessed.

- A driver in violation of some requirements regarding hours of service (such as not having a log book when required, or exceeding the driving time limitations) may be placed out of service and assessed a penalty of \$100.00.
- Additional penalties of up to \$500.00 may be assessed for each hazardous material violation. Some hazardous material violations may subject the violator to criminal misdemeanor charges.
- Violations found during a compliance review may be assessed civil penalties up to a maximum of \$25,000.00.
- Some driver license violations may subject the violator to criminal misdemeanor charges.
- A Uniform Traffic Citation may be issued for some traffic violations.

Commercial Drivers License (CDL)

A CDL is required if a person operates any of the following motor vehicles:

- A vehicle with a gross combination weight rating of 26,001 pounds or more with a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
- A vehicle with a gross vehicle weight rating of 26,001 pounds or more;
- A vehicle designed to transport 16 or more passengers, including the driver; or
- A vehicle of any size used to transport hazardous materials that is required to be placarded.

Medical Certificate Requirements

Interstate Commerce

Drivers are required to have a valid medical examiners certificate when operating a commercial motor vehicle with a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight of 10,001 pounds or more, whichever is greatest; or is designed to transport more than eight passengers (including the driver) for compensation; or is designed to transport more than 15 passengers, including the driver regardless of compensation; or is transporting placardable amounts of hazardous materials. Certain farm vehicle drivers and private motor carriers of passengers on business are exempted from this requirement. Medical certificates are valid for up to two years.

Intrastate Commerce

Drivers are required to possess a current medical certificate when operating a commercial vehicle 26,000 pounds or more gross vehicle weight, transporting passengers in a vehicle designed for more than 10 passengers, or transporting hazardous materials in amounts that require placards. Medical certificates are valid for up to 2 years.

Record of Duty (Log Book) and Hours of Service Limitations

Property Carrier-Interstate Commerce

Recently enacted federal hours of service legislation that became effective on January 4, 2004, includes the following limitations:

- A log book is required except if the driver is operating a commercial motor vehicle within a 150 air mile radius from where the vehicle is based, and;
 - Returns to base and goes off-duty within 12 hours;
 - Does not exceed 11 hours driving time; and
 - Has at least 10 consecutive hours off-duty before returning to duty; and time records are kept which shows the time the driver reports for duty, the number of hours on duty each day, and the time driver goes off-duty (records must be kept at least 6 months).

- Driver may not drive after:
 - Driving 11 hours after 10 consecutive hours off-duty;
 - Being on-duty 14 hours after 10 consecutive hours off-duty; or
 - Being on-duty 60 hours in 7 consecutive days or 70 hours in 8 consecutive days. (However, 34 or more consecutive off-duty hours resets and restarts the 7/8-day period.)

- Drivers may extend the 14-hour on-duty period by 2 additional hours, if they:
 - Are released from duty at the normal work location for the previous 5 duty tours;
 - Return to the normal work reporting location and are released from duty within 16 hours; and
 - Have not used this exception in the previous 7 days, except following a 34-hour restart of a 7/8-day period.

Passenger Carrier-Interstate/Intrastate Commerce

- A log book is required except if the driver is operating a commercial motor vehicle within a 100-air mile radius from where the vehicle is based, and:
 - Returns to base and goes off-duty within 12 hours;
 - Does not exceed 10 hours driving time;
 - Has at least 8 consecutive hours off-duty before returning to duty; and
 - Time records are kept which show the time driver reports for duty, the number of hours on-duty each day, and the time driver goes off-duty (records must be kept at least 6 months).

- The driver may not drive after:
 - 10 hours driving time;
 - 15 hours on-duty time;
 - 60 hours on-duty time in seven (7) consecutive days; or
 - 70 hours on-duty time in eight (8) consecutive days if the company operates every day of the week.

Property Carrier-Intrastate Commerce

- If transporting hazardous materials, interstate rules apply.
- If operating in intrastate commerce not transporting placardable amounts of hazardous materials:
 - A log book is required except if driver is operating a vehicle within a 150 air mile radius of where the vehicle is based, and time records are kept which show the time driver reports for duty, the number of hours on-duty each day, and the time driver goes off duty (records must be kept at least 6 months).
 - A log book is not required while transporting agricultural products, including horticultural or forestry products, from farm or harvest place to the first place of processing or storage, or from farm or harvest place directly to market.
 - A driver may not drive after the 16th hour of on-duty time, and:
 - May not drive more than 12 hours after having 10 consecutive hours off duty;

- Accrue more than 70 hours on-duty time in 7 consecutive days or more than 80 hours on-duty time in 8 consecutive days; or
- After 34 consecutive hours of off-duty time, a new 7-day or 8-day period will begin.

This weekly limit does not apply to a person who operates a commercial motor vehicle solely within this state while transporting certain agricultural products, livestock, livestock feed, or farm supplies.

Hazardous Materials

If a carrier transports hazardous materials, in addition to the general safety regulations, they are subject to requirements found in 49 CFR, Parts 100 through 180. These regulations cover items such as shipping papers, marking and labeling of packages, placarding of vehicles, and the proper packaging to use for hazardous materials. These regulations are extensive, complex, and subject to change frequently. It is imperative that carriers understand what the requirements are for transporting these materials. Carriers must refer to the regulations for specific information regarding compliance. The following items are general guidelines on what is inspected when carriers are transporting hazardous materials.

- Almost all hazardous materials shipments must be accompanied by shipping papers which contain specific information, including:
 - Proper Shipping Name of the Material;
 - Hazard Class 4-digit Identification Number;
 - Packing Group of the Material, if applicable;
 - Emergency Telephone Number;
 - Emergency Response Information;
 - Identification Number and Proper Shipping Name on non-bulk packages;
 - Identification Number on bulk packages;
 - Labels identifying primary and secondary hazards (if applicable) on non-bulk packages;
 - Placards identifying primary and secondary hazards (if applicable) on vehicles and bulk packages. When placards are required on a vehicle, they must be displayed on all 4 sides of the vehicle. An empty cargo tank or portable tank which has been emptied of hazardous materials must remain placarded unless it has been cleaned of residue and purged of vapors, or has been refilled with a material which does not require placards;
 - If the class or amount of hazardous materials being transported requires the vehicle to be placarded, a CDL with an "H" endorsement is required. This is true even if the vehicle is of a size not otherwise requiring the driver to have a CDL; and
 - A tank vehicle with a capacity of 1001 gallons or more used to transport hazardous materials, requires a combination of the hazardous material endorsement and tank endorsement, or "X" endorsement.

If a shipper or carrier operating in interstate commerce or intrastate commerce transporting hazardous materials, they may be required to register with the United States Department of Transportation (USDOT). A registration statement must be submitted to the USDOT and the appropriate fee must be paid.

Proposed Changes

HB 1123 adds specific safety requirements for contract carriers employed by railroad companies to current law. Such contract carriers would also be subject to the general laws that have been adopted by the state that are currently included in the Federal Motor Carrier Safety Regulations found in Chapter 49 of the Code of Federal Regulations (49 CFR), Parts 390 through 397, and the Hazardous Materials Transportation Regulations found in 49 CFR, Parts 100 through 180, as they apply to highway transportation. Specifically the bill:

- Requires contract carrier drivers to hold commercial driver's license;

- Requires contract carriers to perform alcohol and drug testing on drivers prior to employment, on suspicion of drug or alcohol use, at least once a year at random;
- Limits duties of contract carrier operators to a maximum of 14 hours per shift, with a total of 12 hours of driving. This provision also requires a minimum 10 hour rest period between shifts;
- Requires contract carriers to record hours of service, driving time, and total time worked per shift on a weekly basis. This provision also requires logs be retained for minimum of 3 years;
- Requires commercial for-hire carrier companies to maintain liability insurance coverage of \$1.5 million per vehicle and underinsured and uninsured motorists coverage at an equal amount;
- Requires DOT to adopt rules regulating contract carriers employed by Florida railroad companies. These rules must at a minimum comply with the contract carrier provisions listed above; and
- Requires DOT to inform contract carriers and railroad companies of applicable requirements and statutes.

C. SECTION DIRECTORY:

Section 1. Amends s 316.302, F.S., applying specified rules and regulations to contract carriers employed by railroad companies; requiring contract carrier drivers to hold a commercial driver's license; requiring contract carriers to perform alcohol and drug testing on drivers; limiting duties of contract carrier operators; requiring contract carriers to record certain information and keep certain logs for a certain time; requiring commercial for-hire carrier companies to maintain certain insurance coverage; requiring the DOT to adopt rules regulating such contract carriers; and requiring DOT to inform contract carriers and railroad companies of applicable requirements and statutes.

Section 2. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

There is a potential administrative cost to adopt rules and enforce the new regulations. DOT has not identified the impact at this time.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

HB 1123 requires commercial for-hire carrier companies to maintain liability insurance coverage of \$1.5 million per vehicle and underinsured and uninsured motorists coverage at an equal amount. This will impact these companies in an amount equal to the insurance premiums. Some of these companies may currently have this coverage in place. The companies will also incur additional business expenses related to compliance with the bill's regulations.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Section 2 of the bill gives DOT rule making authority to implement the regulatory requirements of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES