

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 781 Motor Vehicles

**SPONSOR(S):** Patterson

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 2296

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Infrastructure</u>	<u>10 Y, 0 N</u>	<u>Brown</u>	<u>Miller</u>
2) <u>Economic Expansion &amp; Infrastructure Council</u>	<u>14 Y, 0 N</u>	<u>Brown/Madsen</u>	<u>Tinker</u>
3) <u>Policy &amp; Budget Council</u>	<u></u>	<u></u>	<u></u>
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5) <u></u>	<u></u>	<u></u>	<u></u>

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### SUMMARY ANALYSIS

HB 781 provides that the definition of "commercial motor vehicle" as used in Chapters 316, 320, and 322 of the Florida Statutes does not include vehicles engaged in the occasional transportation of personal property to and from a closed-course motorsport facility, "if the underlying activities are not undertaken for profit and corporate sponsorship is not involved." The bill defines "corporate sponsorship" as any payment, donation, gratuity, in-kind service, or any other benefit provided to or derived by a person in relation to the underlying activity other than the display of product or corporate names, logos, or other graphic information on the property being transported. Vehicles meeting these requirements will be exempt from commercial motor vehicle regulations, and would be treated as private-use vehicles for purposes of traffic-control regulations, vehicle registration laws, and drivers' licensing requirements.

The bill has an effective date of July 1, 2008.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – The bill reduces the number of vehicles subject to commercial motor vehicle taxation and license restrictions.

### B. EFFECT OF PROPOSED CHANGES:

#### Current Situation

There are currently a number of interlocking laws that govern the transport of race cars in Florida via heavy-truck and trailer. These laws involve the vehicle's operation in interstate commerce vs. non-commercial use, the possibility that the driver requires a commercial driver's license, and the method of taxation based on the trailer's commercial or non-commercial status.

#### *Commercial Vehicles in Interstate Commerce*

Title 49 of the Code of Federal Regulations provides nationwide regulation of commercial vehicles engaged in interstate commerce. Florida has adopted, by statute, parts of these regulations for both interstate and intrastate commerce, in section 316.302, F.S.

Race car operators in the state transport their vehicles in truck/trailer combinations that appear to meet the current statutory definition of a commercial motor vehicle.<sup>1</sup> The federal regulations contain an exemption for vehicles engaged in the "occasional transportation of personal property by individuals not for compensation nor in the furtherance of a commercial enterprise."<sup>2</sup> In its published guidance for the federal regulation, the Federal Motor Carrier Safety Administration states that the exemption would apply to a trailer pulling a race car, boat, horse, etc.,

...provided the activities are not undertaken for profit, i.e. (a) prize money is declared as ordinary income for tax purposes, and (b) the cost of the underlying activities is not deducted as a business expense; and where relevant [...] corporate sponsorship is not involved... This exemption does not apply to an individual that is sponsored.<sup>3</sup>

Emphasis added.

#### *Commercial Driver's License Requirements*

If the vehicle is a commercial motor vehicle, it follows that the driver must obtain a commercial driver's license (CDL), and obey all federal and state regulations relating to commercial drivers, including "hours of service" regulations that set a required amount of non-driving rest time for commercial drivers.

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<sup>1</sup> See generally the August 21, 2007 correspondence from Col. David A. Dees, Director of Motor Carrier Compliance to Bob Smith of Panhandle Racing, on file with the committee (hereinafter, "Dees Correspondence").

<sup>2</sup> 49 CFR 390.3(f)(3).

<sup>3</sup> *Interpretation for Part 390: General*, Question 21, Federal Motor Carrier Safety Administration.

Drivers of recreational vehicles<sup>4</sup> are exempt from the commercial driver's license requirements provided the vehicle is being used for recreation and not commerce.<sup>5</sup>

### *Taxation*

Out-of-state vehicles in commerce weighing more than 26,000 pounds must comply with the provisions of the International Registration Plan (IRP).<sup>6</sup> Vehicles weighing less must register according to their "home state" regulations.<sup>7</sup> Registration in the IRP entitles each state to a proportional share of the vehicle's taxes. The cost of an RV tag in Florida is \$35, whereas the costs of a heavy truck tag with an average weight of 57,565 pounds is \$678.<sup>8</sup> A truck engaged in interstate commerce that is improperly registered as an RV is operating at \$643 per year less than other properly registered vehicles.<sup>9</sup>

### Proposed Changes

HB 781 clarifies that certain vehicles involved in motorsports are *not* commercial motor vehicles under Florida law. Vehicles meeting the requirements provided in the bill will be exempt from commercial motor vehicle regulations, and would be treated as private-use vehicles for purposes of traffic-control regulations, vehicle registration laws, and drivers' licensing requirements. By removing doubt about the vehicle's commercial status, confusion regarding commercial driver's license requirements, "out of service" requirements, and appropriate taxation are subsequently resolved.

The following clarification is added to the definition of "commercial motor vehicle" in Chapter 316, State Uniform Traffic Control; Chapter 320, Motor Vehicle Licenses; and Chapter 322, Drivers' Licenses:

Vehicles engaged in the occasional transportation of personal property to and from a closed-course motorsport facility, as defined in s. 549.09(1), are not included in this definition if the underlying activities are not undertaken for profit and corporate sponsorship is not involved. As used in this subsection, "corporate sponsorship" means any payment, donation, gratuity, in-kind service, or any other benefit provided to or derived by a person in relation to the underlying activity other than the display of product or corporate names, logos, or other graphic information on the property being transported.

Under the bill's new language, a race car truck/trailer combination would not be a commercial vehicle if the vehicle is not raced for profit and if the vehicle receives no corporate sponsorship of any kind. The definition provides that a graphic or logo alone, displayed on the trailer, does not constitute "corporate sponsorship." It is unclear whether or not the "graphic image" exception meets the guidance provided by the Federal Motor Carrier Safety Administration's prohibition against "being sponsored." However, both the current federal guidance and the language in HB 781 place strong emphasis on payment and taxation, and do not conflict in that regard.

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<sup>4</sup> A recreational vehicle (RV) is defined in s. 320.01(1)(b), F.S., as a vehicle "primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle...." The definition continues, providing eight (8) distinct categories of RV.

<sup>5</sup> Section 322.53(1)(d), F.S.

<sup>6</sup> According to the Florida Department of Highway Safety and Motor Vehicle website, "[t]he International Registration Plan (IRP) is a reciprocal agreement that authorizes the proportional registration among the states of commercial motor vehicles. This means if a truck is operated in multiple states, the owner must annually report mileage driven in each state and taxes are paid proportionately based on the mileage driven."

<sup>7</sup> Dees Correspondence, at 2.

<sup>8</sup> *Id.* The average weight in this sentence refers to the average weight of several recent offending vehicles used as a representative sample by Col. Dees in his correspondence. For vehicle taxation generally, see section 320.08, F.S.

<sup>9</sup> *Id.*

C. SECTION DIRECTORY:

- Section 1** Amends s. 316.003, F.S., exempting certain vehicles from the definition of “commercial motor vehicle.”
- Section 2** Amends s. 320.01, F.S., exempting certain vehicles from the definition of “commercial motor vehicle.”
- Section 3** Amends s. 322.01, F.S., exempting certain vehicles from the definition of “commercial motor vehicle.”
- Section 4** Provides an effective date of July 1, 2008.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

A reduction in the number of vehicles required to comply with commercial vehicle requirements may result in an indeterminate loss of revenue for the Department of Transportation.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may reduce the number of vehicles required to comply with commercial vehicle requirements, reducing the license and tax burden on race car hobbyists.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to: require counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

#### **IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**