

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1263 Trucking

**SPONSOR(S):** Transportation & Highway Safety Subcommittee, Adkins

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1912

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	15 Y, 0 N, As CS	Johnson	Brown
2) Economic Affairs Committee	15 Y, 0 N	Johnson	Tinker

### SUMMARY ANALYSIS

CS/HB 1263 creates the "Small Trucker Relief Act." The bill:

- Defines small trucking firm.
- Creates a Trucking Regulation Workgroup to look at various issues related to small trucking firms.
- Provides for the membership of the workgroup.
- Requires the workgroup, by October 1, 2011, to deliver a report addressing various issues related to small trucking firms.
- Terminates the workgroup on November 1, 2011.

State agencies that are represented on the Trucking Regulation Workgroup may incur minimal costs associated with the workgroup.

Private sector members of the workgroup may incur costs associated with traveling to workgroup meetings.

The bill takes effect upon becoming law.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Current Situation**

##### **Commercial Vehicle Washing and Stormwater Discharge**

Wastewater (including wash water) from any type of vehicle and equipment cleaning can contain significant amounts of substances such as oil and grease, petroleum products, suspended solids such as dirt and grit, heavy metals, detergents, and other pollutants. These contaminants may cause pollution of surface water or ground water and result in violations of water quality standards if the wastewater is not properly managed. Federal and state regulations exist to minimize the adverse effects of the discharge from wastewater from vehicle washing operations.

A stationary washing facility is a permanent fixed location where vehicles are driven for washing. Stationary facilities may include commercial car washes for passenger vehicles and commercial or industrial vehicle wash facilities for large trucks and heavy equipment. Alternatively, mobile vehicle and equipment washing involves washing at a location where vehicles are based (such as a trucking company, warehouse, bus station, vehicle dealership, fairgrounds, etc.) or at an intermediate location where the washing crew and vehicle owners meet solely for the purpose of washing vehicles (such as a business parking lot, gas station, etc.).

##### *National Pollutant Discharge Elimination System*

The U.S. Environmental Protection Agency (EPA) authorizes the Florida Department of Environmental Protection (DEP) to implement the National Pollutant Discharge Elimination System (NPDES) stormwater permitting program in the State of Florida. The program regulates point source discharges of stormwater runoff from certain industrial facilities, including certain vehicle washing operations. The operators of regulated industrial facilities must obtain an NPDES stormwater permit and implement appropriate pollution prevention techniques to reduce contamination of stormwater runoff.

As the NPDES stormwater permitting authority, DEP is responsible for promulgating rules and issuing permits, managing and reviewing permit applications, and performing compliance and enforcement activities. Accordingly, DEP has established a General Permit for Car Wash Systems by rule<sup>1</sup> which provides for exemptions, requirements, and best management practices for vehicle washing operations.

##### **Truck Idling**

Due to federal and state hours-of-service (HOS) requirements, truck drivers often have long off-hour rest periods, which they often spend inside the cab of their trucks. Cab power is essential in order to control the temperature inside the cab and keep the drivers comfortable during the long rest periods.

The most common way drivers power their cabs is to idle, which means to continuously operate the vehicle's main drive engine while the vehicle is stopped. Idling functions to keep the fuel and engine warm; helps to keep the driver alert; masks out noises and smells; and provides safety. While idling helps keep the driver comfortable, it has a negative economic and environmental impact. Exhaust from diesel engines contains pollutants that negatively impact human health and the environment. Diesel engines emit large amounts of nitrogen oxides, particulate matter and air toxics, which contribute to serious public health problems. Idling also generates a great deal of noise.

Although several exemptions apply,<sup>2</sup> owners or operators of heavy-duty diesel engine powered motor vehicles are prohibited by rule from idling for more than five consecutive minutes.<sup>3</sup> First time offenders

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<sup>1</sup> ch. 62-660.803, F.A.C.

<sup>2</sup> An example of an exemption includes idling while sleeping or resting in a sleeper berth.

<sup>3</sup> See FAC 62-285.420 for other exemptions

will be given a notice to comply without penalties. Complaint-driven or repeat offenses may result in further enforcement action.

Although an additional weight allowance is provided for auxiliary power units which obviate idling, the practice of idling is not currently prohibited by Florida Statute.

### **Safety Inspections**

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

- Hazardous Materials Transportation
  - Placards, Markings, Labels, Spills, Leaks, Unsecured Cargo
- Brakes
  - Parking Brakes, Drums and Rotors, Hoses and Tubing, Low Air Warning Device, Tractor Protection Valve (All brakes must work and be properly adjusted. Brakes must be on all wheels if the truck or tractor was manufactured after July 25, 1980)
- Coupling Devices
  - Fifth Wheel, Pintle Hooks, Tow Bar, Safety Devices
- Fuel System
  - Leaks, Securely-Mounted Tanks, Filler Caps
- Rearview Mirrors
- Horn
- Lighting Devices
  - Stop Lights, Turn Signals, Headlights, Clearance Lights, Marker Lights
- Steering Mechanism
- Suspension
- Frame Members
- Body Components
- Tires and Wheels
- Windshield and Wipers
- Exhaust System
- Emergency Equipment
  - Reflectors, Fire Extinguisher
- Load Secured

When determining whether a vehicle is to be inspected and how thorough the inspection is, MCCO officers may consult the federally-maintained Comprehensive Safety Analysis database which is made available to insurers, shippers, law enforcement, and other parties interested in a carrier's safety record. The database ranks a given carrier's compliance and safety record as "good", "questionable", or "poor". The Federal Motor Carrier Safety Administration (FMCSA) recommends thorough inspection of vehicles maintained by carriers whose records are "poor."

### **Cargo Theft**

Under current law a person engaging in the theft of cargo commits either a felony in the first or second degree, depending on the value of the property.<sup>4</sup> It is a first degree felony if the property stolen has a value of \$100,000 or more or if it has a value of \$50,000 or more that has entered the stream of interstate or intrastate commerce. It is a second degree felony if the cargo has a value of \$50,000 or less that has entered the stream of interstate or intrastate commerce.

### **Proposed Changes**

The bill creates the "Small Trucker Relief Act."

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<sup>4</sup> s. 812.014, F.S.

The bill defines as “small trucking firm” to mean a trucking enterprise that has 30 or fewer employees or has fewer than 50 trucks in operation.

The bill creates the Trucking Regulation Workgroup.

The workgroup consists of the following members, whose appointments must be made within 30 days of the effective date of the act. The members are:

- The secretary of the Department of Transportation (DOT), or designee.
- The executive director of the Department of Revenue (DOR) or designee.
- The Secretary of the Department of Environmental Protection (DEP) or designee.
- The commissioner of the Florida Department of Law Enforcement (FDLE) or designee.
- The executive director of the Department of Highway Safety and Motor Vehicles (DHSMV) or designee.
- Three members, appointed by the Governor, who are owners or employees of a small trucking firm.
- One member, appointed by the Governor, who is a member of the Florida Trucking Association.

The workgroup is to be administratively housed in DOT, and the chair of the workgroup is the secretary of DOT or the secretary’s designee.

Members of the workgroup serve without compensation and are not reimbursed for travel expenses.

The bill provides that on or before October 1, 2011, the workgroup is required to deliver to the Governor, the President of the Senate and the Speaker of the House of Representatives, a report concerning rules and regulations affecting small trucking firms. The report is required to contain legislative recommendations related to:

- Penalties assessed for idling trucks owned by small trucking firms;
- Development of a corporate tax credit related to the costs of idling by trucks owned by small trucking firms;
- Theft of cargo or equipment from trucks owned by small trucking firms, and criminal penalties imposed for such crimes;
- An exemption from rules imposed by DEP restricting truck washing, for small trucking firms;
- Development of rules to be promulgated by DOT regarding random inspection of trucks owned by small trucking firms and prohibiting the use of any “target list” to determine which trucks are inspected; and
- Improving access to DHSMV’s offices that provide International Registration Plan registration and renewal services to motor carriers, whether through increased use of technology or by other means.

The workgroup is abolished on November 1, 2011.

The bill takes effect upon becoming law.

#### B. SECTION DIRECTORY:

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| Section 1 | Provides a short title.                    |
| Section 2 | Defines “small trucking firm.”             |
| Section 3 | Creates the Trucking Regulation Workgroup. |
| Section 4 | Provides an effective date.                |

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

Agencies which are represented on the Trucking Regulation Workgroup may incur minimal costs associated with participation in the group. However, these costs can be covered within existing agency resources.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Private sector members of the Trucking Regulation Workgroup may incur costs associated with travel to workgroup meetings.

### D. FISCAL COMMENTS:

None

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None

### B. RULE-MAKING AUTHORITY:

None

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 4, 2011, the Transportation & Highway Safety Subcommittee adopted a strike-all amendment with one amendment, creating a Committee Substitute. The strike-all amendment as amended:

- Creates the "Small Trucker Relief Act."
- Defines "small trucking firm."
- Creates the Trucking Regulation Workgroup.
- Provides for membership in the workgroup.

- Requires the workgroup to deliver a report addressing certain issues related to small trucking firms.
- Abolishes the workgroup.
- Changes the effective date to upon becoming law.

The analysis is drafted to the Committee Substitute.