

By Senator Latvala

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1 A bill to be entitled
2 An act relating to the Office of Motor Carrier
3 Compliance; transferring the Office of Motor Carrier
4 Compliance from the Department of Transportation to
5 the Division of the Florida Highway Patrol in the
6 Department of Highway Safety and Motor Vehicles;
7 amending ss. 110.205, 311.115, 316.3026, and 334.044,
8 F.S.; conforming provisions to changes made by the
9 act; creating the Law Enforcement Consolidation Task
10 Force; providing for membership; requiring the task
11 force to make recommendations and submit a report to
12 the Legislature by a certain date; providing for
13 future expiration; providing an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. The Office of Motor Carrier Compliance of the
18 Department of Transportation is transferred by a type two
19 transfer, as defined in s. 20.06(2), Florida Statutes, to the
20 Division of the Florida Highway Patrol of the Department of
21 Highway Safety and Motor Vehicles.

22 Section 2. Paragraph (m) of subsection (2) of section
23 110.205, Florida Statutes, is amended to read:

24 110.205 Career service; exemptions.—

25 (2) EXEMPT POSITIONS.—The exempt positions that are not
26 covered by this part include the following:

27 (m) All assistant division director, deputy division
28 director, and bureau chief positions in any department, and
29 those positions determined by the department to have managerial

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30 responsibilities comparable to such positions, which ~~positions~~
31 include, but are not limited to:

32 1. Positions in the Department of Health and the Department
33 of Children and Family Services that are assigned primary duties
34 of serving as the superintendent or assistant superintendent of
35 an institution.

36 2. Positions in the Department of Corrections that are
37 assigned primary duties of serving as the warden, assistant
38 warden, colonel, or major of an institution or that are assigned
39 primary duties of serving as the circuit administrator or deputy
40 circuit administrator.

41 3. Positions in the Department of Transportation that are
42 assigned primary duties of serving as regional toll managers and
43 managers of offices, as defined in s. 20.23(4)(b) and (5)(c),
44 ~~and captains and majors of the Office of Motor Carrier~~
45 ~~Compliance.~~

46 4. Positions in the Department of Environmental Protection
47 that are assigned the duty of an Environmental Administrator or
48 program administrator.

49 5. Positions in the Department of Health that are assigned
50 the duties of Environmental Administrator, Assistant County
51 Health Department Director, and County Health Department
52 Financial Administrator.

53
54 Unless otherwise fixed by law, the department shall set the
55 salary and benefits of the positions listed in this paragraph in
56 accordance with the rules established for the Selected Exempt
57 Service.

58 Section 3. Paragraph (f) of subsection (1) of section

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59 311.115, Florida Statutes, is amended to read:

60 311.115 Seaport Security Standards Advisory Council.—The
61 Seaport Security Standards Advisory Council is created under the
62 Office of Drug Control. The council shall serve as an advisory
63 council as provided in s. 20.03(7).

64 (1) The members of the council shall be appointed by the
65 Governor and consist of the following:

66 (f) One member from the Office of Motor Carrier Compliance
67 of the Department of Highway Safety and Motor Vehicles
68 ~~Transportation~~.

69 Section 4. Subsection (1) of section 316.3026, Florida
70 Statutes, is amended to read:

71 316.3026 Unlawful operation of motor carriers.—

72 (1) The Office of Motor Carrier Compliance ~~of the~~
73 ~~Department of Transportation~~ may issue out-of-service orders to
74 motor carriers, as defined in s. 320.01(33), who, have after
75 proper notice, have failed to pay any penalty or fine assessed
76 by the department, or its agent, against any owner or motor
77 carrier for violations of state law, refused to submit to a
78 compliance review and provide records pursuant to s. 316.302(5)
79 or s. 316.70, or violated safety regulations pursuant to s.
80 316.302 or insurance requirements ~~found~~ in s. 627.7415. Such
81 out-of-service orders ~~shall~~ have the effect of prohibiting the
82 operations of any motor vehicles owned, leased, or otherwise
83 operated by the motor carrier upon the roadways of this state,
84 until ~~such time as~~ the violations have been corrected or
85 penalties have been paid. Out-of-service orders ~~issued under~~
86 ~~this section~~ must be approved by the director of the Division of
87 the Florida Highway Patrol ~~Secretary of Transportation~~ or his or

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88 her designee. An administrative hearing pursuant to s. 120.569
89 shall be afforded to motor carriers subject to such orders.

90 Section 5. Subsection (1) of section 321.05, Florida
91 Statutes, is amended to read:

92 321.05 Duties, functions, and powers of patrol officers.—
93 The members of the Florida Highway Patrol are hereby declared to
94 be conservators of the peace and law enforcement officers of the
95 state, with the common-law right to arrest a person who, in the
96 presence of the arresting officer, commits a felony or commits
97 an affray or breach of the peace constituting a misdemeanor,
98 with full power to bear arms; and they shall apprehend, without
99 warrant, any person in the unlawful commission of any of the
100 acts over which the members of the Florida Highway Patrol are
101 given jurisdiction as hereinafter set out and deliver him or her
102 to the sheriff of the county that further proceedings may be had
103 against him or her according to law. In the performance of any
104 of the powers, duties, and functions authorized by law, members
105 of the Florida Highway Patrol have the same protections and
106 immunities afforded other peace officers, which shall be
107 recognized by all courts having jurisdiction over offenses
108 against the laws of this state, and have authority to apply for,
109 serve, and execute search warrants, arrest warrants, capias, and
110 other process of the court. The patrol officers under the
111 direction and supervision of the Department of Highway Safety
112 and Motor Vehicles shall perform and exercise throughout the
113 state the following duties, functions, and powers:

114 (1) To patrol the state highways and regulate, control, and
115 direct the movement of traffic thereon; to maintain the public
116 peace by preventing violence on highways; to apprehend fugitives

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117 from justice; to enforce all laws ~~now in effect~~ regulating and
118 governing traffic, travel, and public safety upon the public
119 highways and providing for the protection of the public highways
120 and public property thereon, including the security and safety
121 of Florida's transportation infrastructure; to make arrests
122 without warrant for the violation of any state law committed in
123 their presence in accordance with ~~the laws of this state law~~;
124 providing that a ~~no~~ search may not ~~shall~~ be made unless it is
125 incident to a lawful arrest, to regulate and direct traffic
126 concentrations and congestions; to enforce laws governing the
127 operation, licensing, and taxing and limiting the size, weight,
128 width, length, and speed of vehicles and licensing and
129 controlling the operations of drivers and operators of vehicles,
130 including the safety, size, and weight of commercial motor
131 vehicles; ~~to cooperate with officials designated by law to~~
132 collect all state fees and revenues levied as an incident to the
133 use or right to use the highways for any purpose, including the
134 taxing and registration of commercial motor vehicles; to require
135 the drivers of vehicles to stop and exhibit their driver's
136 licenses, registration cards, or documents required by law to be
137 carried by such vehicles; to investigate traffic accidents,
138 secure testimony of witnesses and of persons involved, and make
139 report thereof with copy, if ~~when~~ requested in writing, to any
140 person in interest or his or her attorney; to investigate
141 reported thefts of vehicles and to seize contraband or stolen
142 property on or being transported on the highways. Each patrol
143 officer of the Florida Highway Patrol is subject to and has the
144 same arrest and other authority provided for law enforcement
145 officers generally in chapter 901 and has statewide

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146 jurisdiction. Each officer also has arrest authority as provided
147 for state law enforcement officers in s. 901.15. This section
148 may ~~shall~~ not be construed as being in conflict with, but is
149 supplemental to, chapter 933.

150 Section 6. Subsections (32) and (33) of section 334.044,
151 Florida Statutes, are amended to read:

152 334.044 Department; powers and duties.—The department shall
153 have the following general powers and duties:

154 ~~(32) In order to fulfill the department's mission to
155 provide a safe and efficient transportation system, the
156 department's Office of Motor Carrier Compliance may employ sworn
157 law enforcement officers, certified in accordance with chapter
158 943, to enforce the traffic and criminal laws of this state.
159 Such officers shall have full law enforcement powers granted to
160 other peace officers of this state, including making arrests,
161 carrying firearms, serving court process, and seizing vehicles
162 defined as contraband under s. 319.33, illegal drugs, stolen
163 property, and the proceeds of illegal activities. Officers
164 appointed under this section have the primary responsibility for
165 enforcing laws relating to size and weight of commercial motor
166 vehicles; safety, traffic, tax, and registration of commercial
167 motor vehicles; interdiction of vehicles defined as contraband
168 under s. 319.33, illegal drugs, and stolen property; and
169 violations that threaten the overall security and safety of
170 Florida's transportation infrastructure and the motoring public.
171 The office is also authorized to appoint part-time or auxiliary
172 law enforcement officers pursuant to chapter 943 and to provide
173 compensation in accordance with law.~~

174 (32) ~~(33)~~ To enter into agreement with Space Florida to

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175 coordinate and cooperate in the development of spaceport
176 infrastructure and related transportation facilities contained
177 in the Strategic Intermodal System Plan and, where appropriate,
178 encourage the cooperation and integration of airports and
179 spaceports in order to meet transportation-related needs.

180 Section 7. Effective July 1, 2011, a Law Enforcement
181 Consolidation Task Force is created.

182 (1) Members of the task force shall consist of the
183 executive director of the Department of Highway Safety and Motor
184 Vehicles, the executive director of the Department of Law
185 Enforcement, a representative from the Office of the Attorney
186 General, a representative from the Department of Agriculture and
187 Consumer Services, the Colonel of the Florida Highway Patrol,
188 and the Colonel of the Division of Law Enforcement in the Fish
189 and Wildlife Conservation Commission.

190 (2) The task force may consult with the Florida Sheriffs
191 Association and the Florida Police Chiefs Association.
192 Administrative assistance to the task force shall be provided by
193 the Department of Highway Safety and Motor Vehicles. However,
194 this does not include travel expenses incurred by members of the
195 task force, which shall be borne by the agency the member
196 represents.

197 (3) The task force shall evaluate the duplication of law
198 enforcement functions throughout state government and identify
199 functions that are appropriate for possible consolidation. The
200 task force shall also evaluate administrative functions,
201 including, but not limited to, accreditation, training, legal
202 representation, vehicle fleets, aircraft, civilian support
203 staffing, information technology, geographic regions, and

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204 districts or troops currently in use. The task force shall make
205 recommendations and submit a plan to consolidate state law
206 enforcement responsibilities. The plan must be submitted to the
207 President of the Senate and the Speaker of the House of
208 Representatives by February 1, 2012. The plan must include
209 recommendations on the methodology to be used in creating a
210 consolidated state law enforcement entity by June 30, 2013. The
211 task force shall expire June 30, 2012.

212 Section 8. This act shall take effect July 1, 2011.