

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Transportation

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BILL: SB 1054

INTRODUCER: Senator Brandes

SUBJECT: Department of Highway Safety and Motor Vehicles

DATE: March 4, 2013

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Everette	Eichin	TR	<b>Pre-meeting</b>
2.			CM	
3.			ATD	
4.			AP	
5.				
6.				

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**I. Summary:**

SB 1054 revises provisions relating to commercial motor vehicles (CMV) to incorporate required federal law.

This bill substantially amends section 316.302 of the Florida Statutes.

**II. Present Situation:**

*Texting and Hand-held Mobile Phones*

Federal law recently imposed a prohibition against drivers of commercial motor vehicles engaging in texting while driving and provided that a motor carrier may not allow or require its drivers to engage in texting while driving.<sup>1</sup> In addition, the federal law prohibits a driver of a commercial motor vehicle from using a hand-held mobile telephone while driving and prohibits a motor carrier from allowing or requiring its drivers to use a hand-held mobile phone while driving a CMV.<sup>2</sup> These provisions are contained in 49 C.F.R. § 383, which is not currently referenced in Florida law incorporating federal provisions applicable to CMVs engaged in interstate or intrastate commerce.

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<sup>1</sup> 49 C.F.R. § 383.80 (2011)

<sup>2</sup> 49 C.F.R. § 383.82 (2011)

*Applicable Versions of Federal Law*

Federal law requires each state to “review its laws and regulations to achieve compatibility with the Federal Motor Carrier Safety Regulations (FMCSA).”<sup>3</sup> Federal guidelines require a state to:

“...adopt and enforce in a consistent manner the requirements referenced in the above guidelines in order for the FMCSA to accept the State's determination that it has compatible safety requirements affecting interstate motor carrier operations. Generally, the States would have up to 3 years from the effective date of the new Federal requirement to adopt and enforce compatible requirements.”

Section 316.302, F.S., among other items, applies specified federal regulations to all owners or drivers of CMVs engaged in intrastate commerce as such rules and regulations existed on October 1, 2011. The state will be out of compliance with federal law on October 1, 2014, unless the date is changed.

*Liquefied Petroleum Gas Motor Vehicles/Cargo Tanks*

Current law provides that the rules and regulations applicable to the transporting of liquefied petroleum gas on the highways, roads, or streets of this state shall be only those adopted by the Department of Agriculture and Consumer Services under ch. 527. The Department of Highway Safety and Motor Vehicles (DHSMV) commercial motor vehicle enforcement officers have no express authority to inspect a commercial motor vehicle transporting liquefied petroleum gas to ensure safety of the traveling public on the roadways.

**III. Effect of Proposed Changes:**

SB 1054 incorporates 49 C.F.R. § 383 into Florida law to incorporate provisions for violations of the texting and hand-held mobile telephone provisions of federal law, thereby avoiding a potential federal funds penalty for failure of the state to comply with federal law.

The bill deletes a reference to a date (October 1, 2011) incorporating federal rules and regulations as they existed on that date. This has the effect of incorporating *the most recent* version of such federal rules and regulations without taking further legislative action. (See note under Constitutional Issues.)

The bill also incorporates subpart F of 49 C.F.R. part 107 to authorize the DHSMV enforcement officers to conduct inspections on cargo tanks and cargo tank motor vehicles.

The bill will take effect July 1, 2013.

**Other Potential Implications:**

Note that the bill does not include 49 C.F.R. part 383 in s. 316.302(1)(a), F.S., applicable to CMVs engaged in interstate commerce. Federal law requires that part 383 apply to both interstate and intrastate operations. The sponsor may wish to consider an amendment inserting the reference into s. 316.302(1)(a), F.S.

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<sup>3</sup> 49 C.F.R. part 355, Appendix A, Guidelines for the Regulatory Review:  
[http://www.law.cornell.edu/cfr/text/49/355/appendix\\_A](http://www.law.cornell.edu/cfr/text/49/355/appendix_A)

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. Other Constitutional Issues:

Incorporation of federal law into state law without stipulating which version of federal law is being incorporated is an invalid delegation of legislative authority.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

According to DHSMV, there are no direct private sector costs.

## C. Government Sector Impact:

According to DHSMV, there is no impact on state funds.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

## A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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