

**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 Appropriations Subcommittee on Transportation, Tourism, and Economic Development

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BILL: PCS/CS/SB 1184 (747690)

INTRODUCER: Subcommittee on Transportation, Tourism, and Economic Development; Transportation Committee; and Senator Brandes

SUBJECT: Department of Highway Safety and Motor Vehicles

DATE: April 16, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Jones</u>	<u>Eichin</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Gusky</u>	<u>Miller</u>	<u>ATD</u>	<u>Recommend: Fav/CS</u>
3.	<u>                    </u>	<u>                    </u>	<u>FP</u>	<u>                    </u>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

PCS/CS/SB 1184 revises multiple laws administered by the Department of Highway Safety and Motor Vehicles (DHSMV). More specifically, the bill:

- Allows an employing state agency to pay up to \$5,000 directly to a venue to cover funeral and burial expenses for full-time law enforcement, correctional, or correctional probation officers killed in the line of duty;
- Separates the definitions of the terms “autonomous vehicle” and “autonomous technology” and defines the term “driver-assistive truck platooning technology;”
- Allows an autonomous vehicle to be equipped with television-type receiving equipment visible from the driver’s seat, and authorizes an operator of an autonomous vehicle to use an electronic display in conjunction with a vehicle navigation system, both while the vehicle is being operated in autonomous mode;
- Allows vehicles equipped and operating with driver-assistive truck platooning technology to be equipped with television-type receiving equipment visible from the driver’s seat, and authorizes an operator of such a vehicle to use an electronic display used in conjunction with a vehicle navigation system;
- Authorizes delivery personnel to use low-speed vehicles, utility vehicles and golf carts year-round, rather than only during a specific seasonal period, and requires those vehicles, including any attached trailers, to be equipped with brake lamps;

- Revises the size of required red hazard flags on projecting loads from 12-inches square to 18-inches square to comply with federal regulations;
- Makes texting while driving a primary offense, which allows law enforcement officers to stop motor vehicles and issue citations in the absence of any other violation related to motor vehicles;
- Extends the allowable length of certain semitrailers from 53 to 57 feet under certain circumstances;
- Allows the Florida Department of Transportation (FDOT) to issue a special permit for truck tractor-semi-trailer combinations carrying *multiple sections or single units* of manufactured buildings on an over-length trailer and extends the length requirements.
- Increases the fine for the noncriminal traffic infraction of unlawfully displaying a vehicle for sale, hire or rental from \$100 per violation to \$500 per violation;
- Extends the repeal of the Pilot Rebuilt Motor Vehicle Inspection Program from July 1, 2015 to July 1, 2018, and revises program requirements;
- Provides that residential manufactured buildings located on mobile home lots shall be treated as a mobile home for purposes of Chapter 319, Florida Statutes;
- Amends the definition of ancient and antique motor vehicles by requiring the use of the model date of the vehicle to determine its age rather than the manufacture date of a vehicle's engine;
- Allows a person with a developmental disability, or a parent or guardian of a child or ward who has a developmental disability, to voluntarily request to be issued an identification card with a "D" designation for the person diagnosed with a developmental disability; and
- Allows disclosure of confidential insurance policy numbers to DHSMV-approved third parties and governmental entities, if required to perform its duties.

This bill has fiscal impacts to the private sector and state and local governments. See Section V for details.

The bill provides an effective date of October 1, 2015.

## II. Present Situation:

Due to the various issues addressed in the bill, the present situation for each section is discussed below in Effect of Proposed Changes.

## III. Effect of Proposed Changes:

### **Funeral Expenses of Law Enforcement, Correctional, or Correctional Probation Officers (Section 1)**

#### *Present Situation*

Section 112.19, F.S., provides supplemental death benefits for law enforcement officers, correctional officers, and correctional probation officers.<sup>1</sup> If a full-time law enforcement,

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<sup>1</sup> Section 112.19(1)(b), F.S., the term "law enforcement, correctional, or correctional probation officer" means any officer as defined by s. 943.10(14) or any employee of the state or any political subdivision of the state, including any state attorney investigator or public defender investigator whose duties require such officer or employee to investigate, pursue, apprehend,

correctional, or correctional probation officer who is employed by a state agency is killed in the line of duty<sup>2</sup>, \$1,000 will be paid toward the officer's funeral and burial expenses.<sup>3</sup> This is in addition to the benefits provided under the provisions of the Workers' Compensation Law, which provide up to \$7,500 for actual funeral expenses to be paid for by the employer within 14 days after receiving the bill.<sup>4</sup>

The \$1,000 funeral and burial expense benefit is paid to the beneficiary designated by the officer to the employer in writing. If no designation has been made, the benefit is paid, in equal parts, to the officer's surviving children or spouse. If the officer has no surviving child or spouse, the benefit will be paid to the officer's parents or parent. In the event there is no surviving beneficiary, the benefit is paid to the officer's estate.<sup>5</sup>

In the past five years, the state has paid out funeral expense claims for 20 full-time state employees killed in the line of duty.<sup>6</sup>

As of 2012, the median cost of a funeral in the United States was \$7,045.<sup>7</sup> However, the DHSMV estimates funerals for state officers killed in the line of duty generally require a larger venue and often cost more than the current benefit provided by the State.

### *Effect of Proposed Changes*

**Section 1** of the bill allows the employing state agency of a full-time law enforcement, correctional, or correctional probation officer who is killed in the line of duty to pay up to \$5,000 *directly to a venue* to cover funeral and burial expenses.

This change provides greater flexibility for an employing state agency to cover funeral and burial expenses by allowing direct payment to a venue, as well as providing additional funds for funeral expenses.

Section 1 also removes the provision that the officer was killed "as a result of an act of violence inflicted by another person."<sup>8</sup> This change expands these additional funeral benefits to officers killed in the line of duty while performing law enforcement duties, even if it was not as a result of an act of violence inflicted by another person.

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arrest, transport, or maintain custody of persons who are charged with, suspected of committing, or convicted of a crime; any member of a bomb disposal unit whose primary responsibility is the location, handling, and disposal of explosive devices; and any full-time officer or employee of the state or any political subdivision of the state, certified pursuant to chapter 943, whose duties require such officer to serve process or to attend a session of a circuit or county court as bailiff.

<sup>2</sup> Section 112.19(2)(f), F.S., "as a result of an act of violence inflicted by another person while the officer is engaged in the performance of law enforcement duties or as a result of an assault against the officer under riot conditions."

<sup>3</sup> Section 112.19(2)(f), F.S.

<sup>4</sup> Section 440.16(1)(a), F.S.

<sup>5</sup> Section 112.19(2)(d), F.S.

<sup>6</sup> E-mail from Tod Stupski, Bureau Chief, Division of Risk Management, Department of Financial Services (Feb. 24, 2015) (on file with the Senate Committee on Transportation).

<sup>7</sup> National Funeral Directors Association, *About Funeral Service: 2012 Funeral Costs*, April 2013, (<http://nfd.org/about-funeral-service/-trends-and-statistics.html>) (Last visited Feb. 18, 2015.)

<sup>8</sup> Section 112.19(2)(f), F.S.

## **Autonomous Vehicles (Sections 2 and 5)**

### ***Present Situation***

Autonomous or “self-driving” vehicles are those operated “without direct driver input to control the steering, acceleration, and braking and . . . designed so that the driver is not expected to constantly monitor the roadway while operating in self-driving mode.”<sup>9</sup> According to the National Highway Traffic Safety Administration, autonomous vehicles have the potential to improve highway safety, increase environmental benefits, expand mobility, and create new economic opportunities for jobs and investment.<sup>10</sup>

A review of material obtained via a simple Internet search reveals that common availability and use of such vehicles was not previously anticipated for at least a couple of decades. However, some expect increased availability and use in the relative near future, perhaps no longer than in the next five years.<sup>11</sup>

A motor vehicle operated on the highways of this state may not be equipped with television-type receiving equipment that is visible from the driver’s seat. The prohibition does not apply to an electronic display used in conjunction with a vehicle navigation system.<sup>12</sup>

### ***Effect of Proposed Changes***

**Section 2** amends s. 316.003, F.S., to separate the definitions of the terms “autonomous vehicle” and “autonomous technology,” currently contained in one subsection, to facilitate ease of reference.

**Section 5** amends s. 316.303(1) and (3), F.S., respectively, to allow autonomous vehicles to be equipped with television-type receiving equipment visible from the driver’s seat, and to authorize an operator of an autonomous vehicle to use an electronic display in conjunction with a vehicle navigation system, both while the vehicle is being operated in autonomous mode.

## **Driver-Assistive Truck Platooning (Sections 2 and 5)**

### ***Present Situation***

In August of 2014, the National Highway Traffic Safety Administration (NHTSA) issued an advance notice of proposed rulemaking, following NHTSA’s earlier announcement that the agency will begin working on a regulatory proposal to require vehicle-to-vehicle (V2V) devices in passenger cars and light trucks in a future year. V2V is a crash avoidance technology, relying on communication of information between nearby vehicles to warn drivers about dangerous

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<sup>9</sup> See the National Highway Traffic Safety Administration’s Press Release: *U.S. Department of Transportation Releases Policy on Automated Vehicle Development*. On file in the Senate Transportation Committee.

<sup>10</sup> See NHTSA’s statement of [policy on automated vehicles](#).

<sup>11</sup> See, e.g.: *Autonomous Cars are Closer Than You Think*: <http://techcrunch.com/2015/01/18/autonomous-cars-are-closer-than-you-think/>. Last visited February 21, 2015.

<sup>12</sup> See s. 316.303(1) and (3), F.S.

situations that could lead to a crash.<sup>13</sup> NHTSA advises that, “Using V2V technology, vehicles ranging from cars to trucks and buses to trains could one day be able to communicate important safety and mobility information to one another that can help save lives, prevent injuries, ease traffic congestion, and improve the environment.”<sup>14</sup>

One form of V2V technology is known as driver-assistive truck platooning (DATP), which allows trucks to communicate with each other and to travel as close as thirty feet apart with automatic acceleration and braking. A draft is created, reducing wind resistance and cutting down on fuel consumption.<sup>15</sup>

The DATP concept is based on a system that controls inter-vehicle spacing based on information from forward-looking radars and direct vehicle-to-vehicle communications. Braking and other operational data is constantly exchanged between the trucks, enabling the control system to automatically adjust engine and brakes in real-time. This allows equipped trucks to travel closer together than manual operations would safely allow. Platooning technology is increasingly a subject of interest in the truck community, with multiple companies developing prototypes.<sup>16</sup>

One such system uses integrated sensors, controls, and wireless communications for “connected” trucks. The system is cloud-based, determining in real time whether specific trucks are clear to engage in platooning operations. The system synchronizes acceleration and braking between tractor-trailers, leaving steering to the drivers, but eliminating braking distance otherwise caused by lags in the front or rear driver’s response time. The following vehicle is provided video showing the lead truck’s line of sight while the lead vehicle is provided video showing the area behind the following truck. If another vehicle enters between platooning trucks, the system will automatically increase following distance or delink the trucks and then relink once the cut-in risk has passed. If data transfer between platooning trucks ceases, the driver is immediately notified that manual acceleration and braking control is about to resume.<sup>17</sup>

### *Effect of Proposed Changes*

Section 2 creates s. 316.003(92), F.S., to define driver-assistive truck platooning technology.

Section 5 amends s. 316.303(1) and (3), respectively, to allow vehicles equipped and operating with driver-assistive truck platooning technology to be equipped with television-type receiving equipment visible from the driver’s seat, and to authorize the operator of a vehicle equipped and operating with truck platooning technology to use an electronic display used in conjunction with a vehicle navigation system.

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<sup>13</sup> See the U.S. Department of Transportation Fact Sheet on Vehicle-To-Vehicle Communication Technology. On file in the Senate Transportation Committee.

<sup>14</sup> See the NHTSA website: <http://www.safercar.gov/v2v/index.html>. Last visited March 16, 2015.

<sup>15</sup> See the GBT Global News website: <http://www.gobytrucknews.com/driver-survey-platooning/123>. Last visited March 16, 2015.

<sup>16</sup> See the American Transportation Research Institute website: <http://atri-online.org/2014/11/17/atri-seeks-input-on-driver-assistive-truck-platooning/>. Last visited March 16, 2015.

<sup>17</sup> See <http://www.peloton-tech.com/faq/>. Last visited March 16, 2015.

### **Authorized Uses of Golf Carts, Low-Speed Vehicles, and Utility Vehicles (Section 3)**

#### ***Present Situation***

Subject to certain conditions, current law<sup>18</sup> authorizes “seasonal delivery personnel” to use golf carts, low-speed vehicles, and utility vehicles to deliver express envelopes and packages<sup>19</sup> during the holiday season, from midnight October 15 until midnight January 31 of each year. All vehicles must be:

- Marked in a conspicuous manner with the name of the delivery service;
- Equipped with, at a minimum, the equipment required under s. 316.212(6), F.S.<sup>20</sup>; and
- Equipped with head and tail lamps, in addition to the safety requirements in s. 316.212(6), F.S., if operated after sunset.<sup>21</sup>

#### ***Effect of Proposed Changes***

The bill allows delivery personnel to use golf carts, low-speed vehicles, and utility vehicles to deliver express envelopes and packages year-round. The bill expands the requirements for vehicles described above to trailers, where applicable, and requires both vehicles and trailers to be equipped with brake lamps.

### **Hazard Flags on Projecting Loads (Section 4)**

#### ***Present Situation***

Section 316.228, F.S., requires red hazard flags on any vehicle having a load which extends beyond its sides or more than four feet beyond its rear. The flags must be at least 12 inches square and mark the extremities of such load.<sup>22</sup> The penalty for a violation of this section is \$30, plus administrative and court costs.

In 2005, the federal regulations were amended requiring necessary warning flags on commercial motor vehicles transporting projecting loads to be at least 18 inches square.<sup>23</sup> The Federal regulations were revised to make the requirements consistent with the American Association of State Highway and Transportation Officials’ (AASHTO) Guide for Maximum Dimensions and Weights of Motor Vehicles and for the Operation of Nondivisible Load Oversize and Overweight Vehicles, GSW-3, 1991, which represents a consensus of state and industry practices.<sup>24</sup>

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<sup>18</sup> Section 316.2126(3), F.S.

<sup>19</sup> Section 316.2126(3)(b), F.S., requires the envelopes and packages to be not more than 130 inches for the combined length and girth and weighing not more than 150 pounds.

<sup>20</sup> Section 316.212, F.S., addresses the operation of golf carts on certain roadways, Subsection (6) of that section requires a golf cart be equipped with efficient brakes, reliable steering apparatus, safe tires, a rearview mirror, and red reflectorized warning devices in both the front and rear.

<sup>21</sup> Section 316.2126(3)(c), F.S.

<sup>22</sup> Section 316.228(1), F.S.

<sup>23</sup> 49 C.F.R. s. 393.87(a)

<sup>24</sup> 70 Fed. Reg. 48023 (August 15, 2005).

Under current federal regulations, hazard flags on commercial motor vehicles *permitted* to operate within the state are required to “be clean, red or florescent orange, and at least 18 inches square.”<sup>25</sup> These specifications, however, are not reflected in the Florida Statutes. The Federal Motor Carrier Safety Administration has noted this discrepancy between Florida Statutes requiring 12-inch square flags and federal regulations requiring 18-inch square flags.

### ***Effect of Proposed Changes***

**Section 4** of the bill revises the size of required hazard flags on protruding loads from 12-inch square flags to 18-inch square flags. This change brings Florida into compliance with federal regulations.

## **Florida Ban on Texting While Driving Law (Sections 6 and 7)**

### ***Present Situation***

Section 316.305, F.S., is the “Florida Ban on Texting While Driving Law.” It prohibits a person from operating a motor vehicle while:

- Manually typing or entering multiple letters, numbers, symbols, or other characters into a wireless communications device; or
- Sending or reading data on such a device for the purpose of nonvoice interpersonal communication, including, but not limited to, communications methods known as texting, e-mailing, and instant messaging.

The prohibition does not apply when a motor vehicle is stationary or is not being operated or to a motor vehicle operator who is:

- Performing official duties as an operator of an authorized emergency vehicle, a law enforcement or fire service professional, or an emergency medical services professional;
- Reporting an emergency or criminal or suspicious activity to law enforcement authorities;
- Receiving messages that are:
  - Related to the operation or navigation of the motor vehicle;
  - Safety-related information, including emergency, traffic, or weather alerts;
  - Data used primarily by the motor vehicle;
  - Radio broadcasts;
  - Using a device or system for navigation purposes;
  - Conducting wireless interpersonal communication that does not require manual entry of multiple letters, numbers, or symbols, except to activate, deactivate, or initiate a feature or function;
  - Conducting wireless interpersonal communication that does not require reading text messages, except to activate, deactivate, or initiate a feature or function; or
  - Operating an autonomous vehicle<sup>26</sup> in autonomous mode.

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<sup>25</sup> Florida Highway Patrol, *Commercial Motor Vehicle Manual*, Eighth Edition, April 2013, at p. 25, <http://www.flhsmv.gov/fhp/cve/2013TruckingManual.pdf> (Last visited Feb. 18, 2015.)

<sup>26</sup> The term “autonomous vehicle” is defined by cross-reference to s. 316.003(90), F.S., which defines the term to mean any vehicle equipped with autonomous technology. The term “autonomous technology” means technology installed on a motor vehicle that has the capability to drive the vehicle on which the technology is installed without the active control or monitoring by a human operator. The term excludes a motor vehicle enabled with active safety systems or driver assistance systems, including, without limitation, a system to provide electronic blind spot assistance, crash avoidance, emergency

Enforcement of the prohibition by state or local law enforcement agencies must be accomplished only as a secondary action when an operator of a motor vehicle has been detained for a suspected violation of another provision of chapter 316, F.S., the “Florida Uniform Traffic Control Law”; chapter 320, F.S., relating to motor vehicle licenses; or chapter 322, F.S., relating to driver licenses.

Any person who violates the prohibition commits a noncriminal traffic infraction, punishable as a nonmoving violation. A second or subsequent violation within 5 years after the date of a prior conviction commits a noncriminal traffic infraction.

Only in the event of a crash resulting in death or personal injury may a user’s billing records for a wireless communications device or the testimony of or written statements from appropriate authorities receiving such messages be admissible as evidence in any proceeding to determine whether a violation occurred.

As used in this section, the term “wireless communications device” means any handheld device used or capable of being used in a handheld manner, that is designed or intended to receive or transmit text or character-based messages, access or store data, or connect to the Internet or any communications service<sup>27</sup> and that allows text communications.

Forty-four states and the District of Columbia currently have laws which ban texting while driving and list it as a primary offense<sup>28</sup>, meaning that a driver could be stopped by law enforcement officers solely on suspicion that the driver is texting while driving.

As of January 12, 2015, Clerks of the Court had reported to the Department of Highway Safety and Motor Vehicles that a total of 2,061 citations related to texting while driving had been issued.

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braking, parking assistance, adaptive cruise control, lane keep assistance, lane departure warning, or traffic jam and queuing assistant, unless any such system alone or in combination with other systems enables the vehicle on which the technology is installed to drive without the active control or monitoring by a human operator.

<sup>27</sup> The term “communications service” is defined by cross-reference to s. 812.15(1)(d), F.S., which defines the term to mean any service lawfully provided for a charge or compensation by any cable system or by any radio, fiber optic, photooptical, electromagnetic, photoelectronic, satellite, microwave, data transmission, Internet-based, or wireless distribution network, system, or facility, including, but not limited to, any electronic, data, video, audio, Internet access, microwave, and radio communications, transmissions, signals, and services, and any such communications, transmissions, signals, and services lawfully provided for a charge or compensation, directly or indirectly by or through any of those networks, systems, or facilities.

<sup>28</sup>“Cellular Phone Use and Texting while Driving Laws,” updated June, 2014. Available online at, <http://www.ncsl.org/research/transportation/cellular-phone-use-and-texting-while-driving-laws.aspx>

*Effect of Proposed Changes*

**Sections 6 and 7** of the bill make a violation of the Florida Texting While Driving Law a primary offense, which allows law enforcement officers to stop motor vehicles and issue citations in the absence of any other violation related to motor vehicles.

**Commercial Motor Vehicles, Trailer Lengths, Manufactured Buildings, and Special Permits (Section 8)***Present Situation*

The Office of Commercial Vehicle Enforcement of the Department of Highway Safety and Motor Vehicles (DHSMV) administers a Weight Enforcement program. Protection of the public's investment in the highway system is the primary purpose of the program. To prevent heavy trucks from causing unreasonable damage to roads and bridges, maximum weight and size limits are established in chapter 316, F.S.<sup>29</sup> Section 316.515, F.S., sets out the maximum width, height, and length limitations, and s. 316.545, F.S., addresses unlawful weight.

The FDOT or a local authority, with respect to roads under their respective jurisdiction, may issue a special permit to operate or move a vehicle or combination of a size or weight exceeding the maximums specified. Issuance of such a permit must not be contrary to the public interest and is within the discretion of the FDOT or the local authority.<sup>30</sup> Significant penalties can result from failure to obtain a special permit or failure to comply with the specific terms of the permit.<sup>31</sup>

Generally, as to truck tractor-semitrailer combinations and length, the extreme overall outside dimension of the combination may not exceed 48 feet, measured from the front of the unit to the rear of the unit and the load carried.<sup>32</sup> However, the FDOT is authorized, if not contrary to the public interest and within its discretion, to issue a special permit for a combination if the total number of over-width deliveries of manufactured buildings may be reduced by permitting the use of an over-length trailer not exceeding 54 feet.<sup>33</sup> Issuance of this type of over-length special permit does not exempt the combination vehicle from existing weight limitations or special permit requirements if the weight of the combination exceeds the maximums specified in ch. 316, F.S.

*Effect of Proposed Changes*

**Section 8** of the bill amends s. 316.515(3)(b), F.S., to increase from 53 to 57 feet the allowable extreme overall outside dimension of a semitrailer exceeding 48 feet, if specified conditions are met. The Federal Highway Administration (FHWA) has reviewed the proposed language and deems it compliant with federal regulations.<sup>34</sup>

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<sup>29</sup> See the DHSMV website: <http://www.flhsmv.gov/fhp/CVE/WeightEnforcement.htm/>. (Last visited March 3, 2015).

<sup>30</sup> See s. 316.550, F.S.

<sup>31</sup> See s. 316.550(10), F.S.

<sup>32</sup> Section 316.550(3)(b)1., F.S.

<sup>33</sup> Section 316.515(14), F.S.

<sup>34</sup> See the FHWA email, March 17, 2015. (On file in the Senate Transportation Committee).

**Section 8** of the bill also amends s. 316.515(4), F.S., to insert “multiple sections or single units” with reference to manufactured buildings transported on permitted, over-length trailers, and to increase the allowable trailer over-length from 54 to 80 feet. The Federal Highway Administration has reviewed the proposed language and opined that it does not appear to conflict with federal regulations, as long as weight restrictions are not triggered.<sup>35</sup> Transporters of manufactured buildings on truck tractor-semitrailer combinations continue to be required to obtain a permit for such combinations, even with a trailer length of 80 feet. Overweight permits also continue to be required when applicable. Issuance of such permits remains within the discretion of the FDOT.

### **Unlawful Display of a Vehicle for Sale, Hire, or Rental (“Curbstoning”)**

#### ***Present Situation***

“Curbstoning” is a term given to the practice of buying and selling vehicles without a dealer license and legally established place of business.<sup>36</sup> “Curbstoners” usually park and display their vehicles in high traffic locations, which often include public right of ways, utility or pipeline easements, public parking lots, and parking lots of gas stations, convenience stores, and supermarkets. The DHSMV’s enforcement objective is to educate the public on curbstoning laws and gain compliance through dealer licensure or removal of illegally parked vehicles to non-curbstoning locations. If compliance is not met, the vehicle is subject to towing and a \$100 citation.<sup>37</sup> Section 318.18(21), F.S., provides that fines collected for curbstoning violations may be retained by the governing authority that authorized towing of the vehicle.

#### ***Effect of Proposed Changes***

**Section 9** of the bill increases the fine for the noncriminal traffic infraction of unlawfully displaying a vehicle for sale, hire or rental from \$100 per violation to \$500 per violation.

### **Pilot Rebuilt Motor Vehicle Inspection Program (Section 10)**

#### ***Present Situation***

Before a salvage motor vehicle dealer resells a salvage motor vehicle or its parts, the salvage motor vehicle must go through a physical rebuilt motor vehicle inspection conducted by the DHSMV.<sup>38</sup> The purpose of the rebuilt inspection is to assure the identity of the vehicle and all major component parts which have been repaired or replaced.<sup>39</sup> After the rebuilt inspection, the DHSMV affixes a decal to the vehicle that identifies the vehicle as a rebuilt vehicle.<sup>40</sup>

The department currently maintains ten regional offices statewide that are responsible for performing approximately 50,000 rebuilt vehicle inspections each year. In Fiscal Year 2012-

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<sup>35</sup> See the FHWA email, Feb. 11, 2015. (On file in the Senate Transportation Committee).

<sup>36</sup> Section 316.1951, F.S.

<sup>37</sup> E-mail from Jennifer Langston, Legislative Affairs Director, Florida Department of Highway Safety and Motor Vehicles, dated April 15, 2015. (On file in the Senate Appropriations Subcommittee on Transportation, Tourism and Economic Development).

<sup>38</sup> Section 319.14(1)(b), F.S.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

2013, the department's Miami Regional Office performed approximately 67 percent of all rebuilt inspections.<sup>41</sup>

Section 319.141, F.S., requires the DHSMV to conduct a pilot program to evaluate alternatives for rebuilt inspection services to be offered by the private sector, beginning in October of 2013. The pilot program is limited to Miami-Dade and Hillsborough counties. The department is required to establish a memorandum of understanding (MOU) that allows private parties participating in the pilot program to conduct rebuilt motor vehicle inspections and specifies requirements for oversight, bonding and insurance, procedure, and forms and requires the electronic submission of documents.

In order to be approved to conduct rebuilt motor vehicle inspections, an applicant must:

- Have and maintain a surety bond or irrevocable letter of credit in the amount of \$50,000, executed by the applicant;
- Have and maintain garage liability and other insurance required by the DHSMV;
- Have completed criminal background checks of the owners, partners, and corporate officers and the inspectors employed by the facility; and
- Meet any additional criteria the department determines necessary to conduct proper inspections.

As required by law, the department submitted a report<sup>42</sup> that summarized the implementation of the pilot program and program results. Since October 1, 2013, the department has certified eight private businesses in the Miami area that submitted applications and met program requirements. Each of the eight businesses entered into a MOU with the department effective October 1, 2013 through June 30, 2015.<sup>43</sup>

Currently, department employees in Miami are still responsible for conducting rebuilt vehicle inspections at the Regional Office and at various off-site locations, and for monitoring the businesses that conduct rebuilt vehicle inspections to ensure inspections are conducted in accordance with program standards.<sup>44</sup>

According to the DHSMV, each of the eight pilot program participants have met, and continue to meet, all of the statutory requirements and the MOU executed with the department. Statutorily authorized state rebuilt inspection fees (\$40) and re-inspection fees (\$20) have been collected and remitted to the state as required. In addition, each pilot program participant is allowed to assess customers a service fee for each inspection. Service fees range from \$50 to \$85 and are not regulated in any manner by the DHSMV.<sup>45</sup>

The pilot rebuilt motor vehicle inspection program is repealed effective July 1, 2015, unless saved from repeal through reenactment by the Legislature.

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<sup>41</sup> Florida Department of Highway Safety and Motor Vehicles, *Florida's Private Rebuilt Vehicle Inspection Program – Pilot Program Report*, January 30, 2015.

<sup>42</sup> Id.

<sup>43</sup> Id.

<sup>44</sup> Id.

<sup>45</sup> Id.

### *Effect of Proposed Changes*

**Section 10** of the bill extends the pilot program for an additional three years, through July 1, 2018. The bill revises the minimum requirements for program applicants as follows:

- Increases the amount of the required surety bond or irrevocable letter of credit that an applicant must have from \$50,000 to \$100,000; and
- Requires an applicant to secure and maintain a facility at a permanent structure at an address recognized by the United States Postal Service where the only services provided on such property are rebuilt inspection services. Requires the operator of such facility to annually attest that he or she is not employed by or does not have an ownership interest in or other financial arrangement with the owner, operator, manager or employee of the following list of entities from which he or she receives remuneration, directly or indirectly, for the referral of customers for rebuilt inspection services:
  - Motor vehicle repair shop;
  - Motor vehicle dealer;
  - Towing company,
  - Vehicle storage company;
  - Vehicle auction;
  - Insurance company;
  - Salvage yard;
  - Metal retailer; or
  - Metal rebuilder

The bill requires pilot program participants to maintain records of each rebuilt vehicle examination processed at the facility for at least five years.

The DHSMV must immediately terminate any operator from the program who fails to meet the minimum eligibility requirements described above. It is unknown how many of the eight businesses currently participating in the program meet the revised eligibility requirements.

The bill also requires a current pilot program participant to give the department at least 45 days written notice of an intended sale of a rebuilt inspection facility and requires a prospective owner to meet the eligibility requirements and execute a new MOU with the department prior to operating the facility.

### **Title Certificates**

#### *Present Situation*

Section 553.382, F.S., relating to the placement of certain housing, provides that any residential manufactured building that is certified by the Department of Business and Professional Regulation under chapter 553, Florida Statutes, may be placed on a mobile home lot in a mobile home park, recreational vehicle park, or mobile home condominium, cooperative, or subdivision. Any such housing unit placed on a mobile home lot is a mobile home for purposes of chapter 723, Florida Statutes, is taxed as a mobile home under s. 320.08(11), F.S., and is subject to payments to the Florida Mobile Home Relocation Fund under s. 723.06116, F.S.

Currently, the provisions of chapter 319, Florida Statutes, relating to Title Certificates, apply exclusively to motor vehicles and mobile homes required to be registered and licensed under Florida law and defined by such registration laws.

### *Effect of Proposed Changes*

**Section 11** of the bill expands the application of chapter 319, Florida Statutes, to include residential manufactured buildings located on mobile home lots under s. 553.382, F.S. For purposes of that chapter, a residential manufactured building installed on a mobile home lot shall be treated as a mobile home.

### **Ancient or Antique Motor Vehicles (Sections 12, 15 and 16)**

#### *Present Situation*

An *ancient* motor vehicle is defined as a private-use motor vehicle manufactured in 1945 or earlier, equipped with an engine manufactured in 1945 or earlier or manufactured to the specifications of the original engine.<sup>46</sup> An *antique* motor vehicle is defined as a private-use motor vehicle manufactured after 1945 and of the age of 30 years or more after the date of manufacture, equipped with an engine of the age of 30 years or more after the date of manufacture.<sup>47</sup>

The owner of an ancient or antique motor vehicle, upon application to the DHSMV and upon payment of the license tax, will be issued a special license plate for such motor vehicle. For *ancient* motor vehicles, the license plate is valid for use without renewal so long as the vehicle is in existence.<sup>48</sup> Additionally, owners of antique and ancient motor vehicles pay a reduced registration annual license tax.<sup>49</sup>

The Office of the Inspector General found the DHSMV's Bureau of Issuance Oversight is identifying antique motor vehicles by model date of vehicle rather than inspecting vehicles to determine if they are equipped with an engine 30 years or older. This is due to not having the resources to physically inspect each vehicle's engine.<sup>50</sup> The manufacture date of a motor vehicle is not captured in motor vehicle records, however the model year of the vehicle is indicated on these records.<sup>51</sup> The Bureau of Issuance Oversight has requested a legislative change in the definition of an antique or ancient motor vehicle to address this issue.

#### *Effect of Proposed Changes*

**Section 12** amends the definition of ancient and antique motor vehicles from requiring the DHSMV to verify the vehicle engine's manufacture date is before 1945 or 30 years or older, to instead verifying the model date of the vehicle is before 1945 or 30 years or older.

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<sup>46</sup> Section 320.086(1), F.S.

<sup>47</sup> Section 320.086(2)(a), F.S.

<sup>48</sup> Section 320.086(1), F.S.

<sup>49</sup> Section 320.08(1)(d), (2)(a), and (2)(e), F.S.

<sup>50</sup> Office of the Inspector General, *Follow-up Review of the GO Renew (Virtual Office) Audit*, at p. 6, (Oct. 10, 2014).

<sup>51</sup> *Id.*

**Sections 15 and 16** reenact statutes referring to ancient and antique motor vehicles to conform to the revised definition.

### **Identification Cards for Persons with Developmental Disabilities**

#### *Present Situation*

#### **Developmental Disabilities in Florida**

Section 393.063(9), F.S., defines developmental disabilities to mean “a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.”

The Florida Developmental Disabilities Council estimates there are approximately 100,000 individuals living in the state who meet the developmental disability criteria.

#### **Identification Cards in Florida**

Any person who is five years of age or older, or any person who has a disability, regardless of age, who applies for a disabled parking permit, may be issued an identification card by the DHSMV upon completion of an application and payment of a \$25 fee.<sup>52</sup> For an original identification card the \$25 fee is deposited into the General Revenue Fund; and for a replacement identification card \$9 is deposited into the HSOTF and \$16 is deposited into the General Revenue Fund.<sup>53</sup>

An identification card issued to a person 5 to 14 years of age expires, unless canceled earlier, on the fourth birthday of the applicant following the date of original issue. An identification card issued to a person 15 years of age or older expires, unless canceled earlier, on the eighth birthday of the applicant following the date of original issue.<sup>54</sup>

In fiscal year 2013-2014, there were 517,874 identification cards issued statewide.<sup>55</sup>

### **Identification Cards for Persons with Developmental Disabilities**

Other states have implemented Disability Identification Cards for individuals with developmental disabilities. These identification cards serve as an indicator for police and others that an individual has a developmental disability.

For example, in Illinois, the Disabled Person Identification Card is used to signify an individual has a physical, developmental, visual, hearing, or mental disability, and classifies each

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<sup>52</sup> Section 322.051, F.S.

<sup>53</sup> Section 322.021(1)(f), F.S., also provides that beginning July 1, 2015, or upon completion of the transition of the driver license issuance services, if the replacement identification card is issued by the tax collector, the tax collector retains \$9 of the fee that would have been deposited in the HSOTF.

<sup>54</sup> Section 322.051(2)(a), F.S.

<sup>55</sup> Department of Highway Safety and Motor Vehicles, *SB 256 Agency Legislative Bill Analysis* (Mar. 13, 2015) (on file with the Senate Committee on Transportation).

disability.<sup>56</sup> The card is able to be used as proof of a disability as well as proof of identification for the individual. In Georgia, disability symbols can be placed on a license, permit, or identification card issued by the Georgia Department of Driver Services.<sup>57</sup> Conditions such as PTSD, Dementia, Autism, and developmental disabilities, confirmed by a medical doctor, can be indicated on the back of an individual's license, permit, or identification card.<sup>58</sup>

### **Agency for Persons with Disabilities (APD)**

The APD serves over 50,000 Floridians with developmental disabilities.<sup>59</sup> Revenues deposited into the Operations and Maintenance Trust Fund administered by the APD, under s. 20.1971(2), F.S. go toward client services and administration of those services.<sup>60</sup> These services include: life skills development and job training, personal care assistance, therapeutic and wellness support, transportation services, and specialized medical assistance.

### ***Effect of Proposed Changes***

**Section 13** of the bill allows a person with a developmental disability<sup>61</sup>, or the parent or guardian of a child or ward with a developmental disability, to voluntarily request to be issued an identification card exhibiting a "D" designation for the person who has been diagnosed by a licensed physician as having a developmental disability.

The DHSMV will issue the identification card upon proof of diagnosis of a developmental disability, acceptable to the department, and an additional fee of \$10. The \$10 fee will be deposited into the Operations and Maintenance Trust Fund administered by the APD. A replacement identification card that includes the "D" designation may be issued without payment of the required \$25 fee. The DHSMV is required by the bill to develop rules for implementing the identification card designation.

The designated identification card could help law enforcement and other officials identify if they are dealing with a developmentally disabled individual. However, it is unknown how many individuals may apply for this designated identification card.

### **Insurance Policy Number Public Records Disclosure (Section 14)**

#### ***Present Situation***

The Florida Motor Vehicle No-Fault Law<sup>62</sup> requires every owner or registrant of a motor vehicle, which is required to be registered and licensed in Florida, to maintain personal injury protection and property damage liability insurance coverage. Insurers are required to report to the DHSMV and verify the issuance of a new policy to a driver, as well as the renewal, nonrenewal, or

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<sup>56</sup> See 15 ILCS 335/4a

<sup>57</sup> O.C.G.A. s. 40-5-171 (2010).

<sup>58</sup> Georgia Department of Driver Services, *DDs-29 Revised (3/23/2011) Form*, <http://www.dds.ga.gov/docs/forms/DDS-29-12610.pdf> (last visited Mar. 16, 2015).

<sup>59</sup> Agency for Persons with Disabilities, *About Us*, <http://apd.myflorida.com/about/> (last visited Mar. 19, 2015).

<sup>60</sup> Email from Agency for Persons with Disabilities, (Mar. 18, 2015) (on file with the Senate Committee on Transportation).

<sup>61</sup> As defined in s. 393.063, F.S.

<sup>62</sup> Sections 627.730-627.7405, F.S.

cancellation of that policy. These customer lists, held by the DHSMV, contain detailed client and policy information. For that reason, the state deemed<sup>63</sup> certain information regarding these policies confidential and exempt<sup>64</sup> from the state's public records requirements.<sup>65</sup> Specifically, personal identifying information of an insured or former insured, and insurance policy numbers are confidential and exempt from public records disclosure.

Section 324.242, F.S., provides for the limited release of the policy number for a policy covering a vehicle involved in a motor vehicle accident. Upon receipt of a written request and copy of a crash report<sup>66</sup>, the DHSMV can release the policy number to:

- Any person involved in such accident;
- The attorney of any person involved in such accident; or
- A representative of the insurer of any person involved in such accident.

The DHSMV is currently unable to release policy numbers of vehicles involved in accidents to governmental entities and third parties contracted with the insurer that may need this information to perform their duties. This can include, but is not limited to:

- Clerks of Courts;
- Law Enforcement agencies;
- State Attorneys Offices; or
- DHSMV-approved data collectors who contract with the insurer.

### *Effect of Proposed Changes*

**Section 14** of the bill adds “department-approved third parties” and “governmental entities” to the individuals and entities to which the DHSMV can disclose confidential and exempt insurance policy numbers to for motor vehicles involved in an accident.

The bill requires an insurer's representative, contracted third party, or an attorney for a person involved in an accident to show proof of representation before the DHSMV may release an insurance policy number.

Governmental entities<sup>67</sup> are not required to provide a written request or copy of the crash report if the information is needed to perform its duties and responsibilities.

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<sup>63</sup> See Ch. 2007-325, Laws of Fla. (creating s. 324.242, F.S.)

<sup>64</sup> FLA. CONST., art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances (see *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 2004); and *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption (see Attorney General Opinion 85-62, August 1, 1985).

<sup>65</sup> FLA. CONST. art. I, s. 24(a) and ch. 119.07(1), F.S.

<sup>66</sup> Sections 316.064, 316.066, and 316.064, F.S., provide crash report requirements.

<sup>67</sup> Defined as “any federal, state, county, district, authority, or municipal officer, department, division, board, bureau, or commission created or established by law.”

The bill effectively reduces the public records exemption related to crash data. Since the bill provides for additional parties to receive protected information, it is a contraction of public records exemptions and does not require a two-thirds vote of the body nor does it require a separate bill.

**Effective Date (Section 17)**

This bill takes effect October 1, 2015.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

The bill does not create or expand a public records exemption.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

The bill increases the fine for the noncriminal traffic infraction of unlawfully displaying a vehicle for sale, hire, or rental (“curbstoning”) from \$100 per violation to \$500 per violation. Fines collected for curbstoning violations may be retained by the governing authority that had the illegally parked vehicle towed. The bill may have a positive, but insignificant, fiscal impact to local governments.

The bill may have a positive, but insignificant, fiscal impact on state and local governments by making texting while driving a primary offense. The fiscal impact is dependent on the number of citations issued and the frequency of repeat violations.

B. Private Sector Impact:

Under PCS/CS/SB 1184, surviving beneficiaries of a full-time law enforcement, correctional, or correctional probation officer who is killed in the line of duty may experience reduced out-of-pocket expenses due to increased funeral benefits.

An individual who violates the texting while driving prohibition will be subject to civil penalties and points being assigned to his or her driver license and to increased fines for second and subsequent offenses.

Individuals requesting a “D” designation identification card must pay the current \$25 fee for an identification card, plus an additional \$10 fee to receive the card. After receiving an identification card with the “D” designation, a replacement identification card including the designation may be issued without payment of the \$25 replacement fee.

Revenue from the \$10 additional fee may have a minimal positive impact on clients of the Agency for Persons with Disabilities (APD), since the funds are deposited into its Operations and Maintenance Trust Fund for client services. However, it is unknown how many individuals may apply for this designation identification card.

The bill will have a negative fiscal impact to a business that currently participates in the Pilot Rebuilt Motor Vehicle Inspection Program that does not meet the revised eligibility requirements. It is unknown how many of the eight businesses currently participating in the program do not meet the revised eligibility program requirements.

The bill may have a minimal negative fiscal impact on those needing to replace 12-inch square hazard flags with 18-inch square hazard flags. Commercial motor vehicles with a permit to operate in the state are already required to use 18-inch square hazard flags.

The bill may have an indeterminate positive fiscal impact for:

- Businesses that manufacture and sell autonomous vehicles that may now equip that vehicle with television-type receiving equipment that is visible to the driver;
- Delivery services that may now deliver express envelopes and certain packages year-round using golf carts, low-speed vehicles, and utility vehicles;
- Individuals who use certain semitrailers with lengths of up to 57, rather than 54, feet, under certain circumstances;
- Deliverers of manufactured homes related to the FDOT being able to issue permits for longer trailers used to haul manufactured homes;
- Businesses currently participating, and those that are eligible and may want to participate, in the Pilot Rebuilt Motor Vehicle Inspection Program, due to the three year extension of the pilot program;
- Individuals who own residential manufactured buildings located on mobile home lots, due to the treatment of those buildings as mobile homes for title purposes;
- Individuals with a motor vehicle that falls under the revised definition of antique and ancient motor vehicles, due to the decreased registration fee; and
- DHSMV-approved third parties who contract with insurers.

#### C. Government Sector Impact:

An employing state agency may incur additional costs if they pay a venue up to \$5,000 for funeral and burial services for an officer killed in the line of duty. The government sector fiscal impact for this provision of the bill is indeterminate.

According to the Department of Highway Safety and Motor Vehicles (DHSMV), implementation of the bill’s provisions that authorize the issuance of “D” designation identification cards will

cost an estimated \$20,880 in programming hours.<sup>68</sup> The change will also require re-engineering of the driver license issuance functions causing an indeterminate negative fiscal impact to the department and impacting the Motorist Modernization project that is currently underway.<sup>69</sup>

According to the DHSMV's driver license and identification card vendor<sup>70</sup>, the estimated cost to make required changes to issue the "D" designation identification cards is \$70,000.<sup>71</sup>

Revenue from the \$10 additional fee will have a positive fiscal impact on the APD Operations and Maintenance Trust Fund. However, it is unknown how many individuals may apply for the "D" designation identification card, therefore the impact is indeterminate.

Additionally, the bill will have a negative fiscal impact to the General Revenue Fund and the Highway Safety Operating Trust Fund due to individuals with the "D" designation being able to receive a replacement identification card without payment of the required \$25 fee. Because demand for "D" designation identification cards and for subsequent requests for replacements is unknown, the fiscal impact cannot be determined.

There may be a minimal negative fiscal impact on state agencies that need to replace 12-inch square hazard flags with 18-inch square hazard flags.

The bill may have a minimal positive impact on governmental entities needing insurance policy numbers of vehicles involved in an accident to perform its duties.

#### **VI. Technical Deficiencies:**

None.

#### **VII. Related Issues:**

None.

#### **VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 112.19, 316.0083, 316.2126, 316.228, 316.303, 316.305, 316.515, 318.18, 319.141, 319.20, 320.086, 322.051, and 324.242.

This bill reenacts the following sections of the Florida Statutes: 319.23 and 320.08.

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<sup>68</sup> DHSMV analysis, *supra* note 4.

<sup>69</sup> *Id.*

<sup>70</sup> MorphoTrust is contracted by the DHSMV to provide items such as, but not limited to, card stock, printer ribbons, and laminates for a set price per license or identification card issued.

<sup>71</sup> DHSMV analysis, *supra* note 4.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on April 14, 2015:**

The committee substitute:

- Removes all provisions related to traffic infraction detectors (red light cameras) from the bill;
- Separates the definitions of the terms “autonomous vehicle” and “autonomous technology” and defines the term “driver-assistive truck platooning technology;”
- Allows an autonomous vehicle to be equipped with television-type receiving equipment visible from the driver’s seat, and authorizes an operator of an autonomous vehicle to use an electronic display in conjunction with a vehicle navigation system, both while the vehicle is being operated in autonomous mode;
- Allows vehicles equipped and operating with driver-assistive truck platooning technology to be equipped with television-type receiving equipment visible from the driver’s seat, and authorizes an operator of such a vehicle to use an electronic display used in conjunction with a vehicle navigation system;
- Authorizes delivery personnel to use low-speed vehicles, utility vehicles and golf carts year-round, rather than only during a specific seasonal period, and requires those vehicles, including any attached trailers, to be equipped with brake lamps;
- Makes texting while driving a primary offense, which allows law enforcement officers to stop motor vehicles and issue citations in the absence of any other violation related to motor vehicles;
- Extends the allowable length of certain semitrailers from 53 to 57 feet under certain circumstances;
- Increases the fine for the noncriminal traffic infraction of unlawfully displaying a vehicle for sale, hire, or rental from \$100 per violation to \$500 per violation;
- Extends the repeal of the Pilot Rebuilt Motor Vehicle Inspection Program from July 1, 2015 to July 1, 2018, and revises program requirements;
- Provides that residential manufactured buildings located on mobile home lots shall be treated as a mobile home for purposes of Chapter 319, Florida Statutes; and
- Allows a person with a developmental disability, or a parent or guardian of a child or ward who has a developmental disability, to voluntarily request to be issued an identification card with a “D” designation for the person diagnosed with a developmental disability.

**CS by Transportation on March 5, 2015:**

The CS makes the following changes to the bill:

- Specifies the information a county or municipality that operates a traffic infraction detector must submit in its report to the DHSMV annually;
- Requires a county or municipality that is not compliant with the reporting requirements, as determined by the DHSMV, to remit its portion of revenues from

notices of violation of ss. 316.074(1) and 316.075(1)(c)1., F.S., to the Department of Revenue, to be returned once the county or municipality has established compliance;

- Prohibits the issuance of a notice of violation or uniform traffic citation through the use of a traffic infraction detector not in compliance with all specifications developed by the FDOT;
- Requires the FDOT to identify engineering countermeasures to reduce violations of ss. 316.074(1) and 316.075(1)(c)1., F.S., before installing a traffic infraction detector;
- Requires that the decision to place a traffic infraction detector on any roadway is based on results from a traffic engineering study that must be signed and sealed by a professional engineer licensed in the state; and
- Allows the FDOT to issue a special permit for truck tractor semitrailer combinations carrying *multiple sections or single units* of manufactured buildings on an over-length trailer. The length requirements are extended from 54 feet to 80 feet.

B. Amendments:

None.