

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.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/SB 1046

INTRODUCER: Transportation Committee and Senator Hutson

SUBJECT: Farm Vehicles

DATE: February 9, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	Fav/CS
2.	Wells/Miller	Miller	ATD	Recommend: Favorable
3.	Pace	Hrdlicka	FP	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1046 defines “covered farm vehicles” and exempts them from federal regulations relating to controlled substances and alcohol use and testing; commercial driver licenses; physical qualifications and examinations; hours of service of drivers; and vehicle inspection, repair, and maintenance. These exemptions were authorized under federal law in June 2012, and finalized under federal rule in March 2013.

The bill is expected to have a negative fiscal impact resulting from the new exemptions; however, the Revenue Estimating Conference has not analyzed the bill.

II. Present Situation:

Commercial Motor Vehicle Regulation

Currently, state and federal law regulate interstate and intrastate operation of Commercial Motor Vehicles (CMVs).¹ Section 316.302, F.S., requires CMVs that operate in interstate or intrastate commerce to be subject to the following parts of 49 C.F.R.:

- Part 382, Controlled Substance and Alcohol Use and Testing;
- Part 383, Commercial Driver’s License Standards;²

¹ See s. 316.302, F.S. and 49 C.F.R. ch. III.

² Section 316.302, F.S., does not expressly require a commercial driver license for CMV drivers; however, federal commercial driver license regulations are enforced through ch. 322, F.S.

- Part 385, Safety Fitness Procedures;
- Part 390, General Federal Motor Carrier Safety Regulations;
- Part 391, Qualifications of Drivers;
- Part 392, Driving of Commercial Motor Vehicles;
- Part 393, Parts and Accessories Necessary for Safe Operation;
- Part 395, Hours of Service of Drivers;
- Part 396, Inspection, Repair, and Maintenance; and
- Part 397, Transportation of Hazardous Materials; Driving and Parking Rules.³

State Agricultural-Related Exemptions

Both state and federal law exempt some agricultural-related CMV operations from certain federal regulations. In Florida, a person who operates a CMV solely within the state while transporting agricultural, horticulture, and forestry products from a farm or harvest place to the first place of processing, to storage, or directly to market is exempt from compliance with the following parts of 49 C.F.R.:

- Part 385, Safety Fitness Procedures;
- Part 390, General Federal Motor Carrier Safety Regulations;
- Part 391, Qualifications of Drivers;
- Part 395, Hours of Service of Drivers;
- Part 396, Inspection, Repair, and Maintenance;⁴ and
- Part 397, Transportation of Hazardous Materials; Driving and Parking Rules.⁵

Driver License Exemptions

Every person driving a motor vehicle must hold a valid driver license.⁶ However, a person is exempt from the driver license requirement while driving or operating any road machine, farm tractor, or implement of husbandry temporarily operated or moved on a highway.⁷

Every person driving a CMV must hold a valid commercial driver license (CDL).⁸ However, farmers transporting agricultural products, farm supplies, or farm machinery to or from their

³ 49 C.F.R. ch. III, subchapter B, Federal Motor Carrier Safety Regulations.

⁴ Except for 49 C.F.R. s. 396.3(a)(1), relating to safe and proper operation of parts and accessories and 49 C.F.R. s. 396.9, relating to additional requirements for inspection of motor vehicles and intermodal equipment in operation.

⁵ Section 316.302(2)(e), F.S.

⁶ Section 322.01(27), F.S., defines “motor vehicle” as any self-propelled vehicle, including a motor vehicle combination, not operated upon rails or guideway, excluding vehicles moved solely by human power, motorized wheelchairs, and motorized bicycles.

⁷ Section 322.04(1)(b), F.S. A “farm tractor” is defined as a motor vehicle that is operated principally on a farm, grove, or orchard in agricultural or horticultural pursuits and that is operated on the roads of this state only incidentally for transportation between the owner’s or operator’s headquarters and the farm, grove, or orchard or between one farm, grove, or orchard and another; or designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry. Section 322.01(20), F.S. An “implement of husbandry” is defined as any vehicle designed and adapted exclusively for agricultural, horticultural, or livestock-raising operations or for lifting or carrying an implement of husbandry and in either case not subject to registration if used upon the highways. Section 316.003(16), F.S.

⁸ Section 322.53(1), F.S.

farms and within 150 miles of their farms are exempt from the CDL requirement as long as the vehicle is not used in the operation of a common or contract motor carrier.⁹

Hours of Service Exemption

A person who operates a CMV solely within the state who is not transporting hazardous materials that require placarding¹⁰ may not drive following 10 consecutive hours off duty for:

- More than 12 hours; or
- For any period after the end of the 16th hour after coming on duty.¹¹

Similarly, a person may not drive after:

- Having been on duty more than 70 hours in any period of seven consecutive days; or
- Having been on duty more than 80 hours in any period of eight consecutive days if the motor carrier operates every day of the week.¹²

However, the latter weekly limit does not apply to a person operating a CMV solely within the state while transporting any unprocessed agricultural products or unprocessed food or fiber from place of harvest to the first place of processing, to storage, or directly to market during harvest periods, or while transporting livestock, livestock feed, or farm supplies directly related to growing or harvesting agricultural products.¹³

Vehicle Registration Exemption

Chapter 320, F.S., generally requires every owner or person in charge of a motor vehicle to register the vehicle, pay license taxes, and display a license plate. However, the following agricultural-related vehicles are exempt from these requirements:

- Motor vehicles operated mainly on a farm, grove, or orchard in agricultural or horticultural pursuits, that mainly travel to and from headquarters to the farm, grove, or orchard, and which use the roads only incidentally; and
- Vehicles without motive power which are used mainly for the purpose of transporting plows, harrows, fertilizer distributors, spray machines, and other farm or grove equipment and which use the roads only incidentally.¹⁴

Width, Height, and Length Exemptions

Generally, the total outside width of any vehicle or the load may not exceed 102 inches, exclusive of safety devices determined to be necessary for safe and efficient operation. A vehicle may generally not exceed a height of 13 feet, 6 inches, inclusive of the load carried. General

⁹ Section 322.53(2)(c), F.S.

¹⁰ See 49 C.F.R. part 172, which lists the materials that are designated as hazardous materials for purposes of transportation and requires any person that transports hazardous material to comply with requirements for transport vehicle placarding.

¹¹ Section 316.302(2)(b), F.S.

¹² Section 316.302(2)(c), F.S.

¹³ *Id.*

¹⁴ Section 320.51, F.S.

vehicle length limitations vary depending on the type of vehicle; i.e., straight trucks,¹⁵ semitrailers, and tandem trailer trucks.¹⁶

Certain farming and agricultural equipment are exempt from the width and height limitations. The equipment must be temporarily operated during daylight hours on a non-limited access facility, within a 50-mile radius of the real property owned, rented, managed, harvested, or leased by the equipment owner.¹⁷

Certain farming and agricultural equipment are exempt from width limitations. The equipment must not exceed 136 inches in width and must meet the following criteria:

- Used exclusively for harvesting forestry products;
- Not capable of exceeding 20 miles per hour;
- Not transported more than 10 miles between points of harvest; and
- Operated during daylight hours only, and with specified safety requirements.¹⁸

Certain farming and agricultural vehicles are exempt from length limitations. The vehicles must be used to transport peanuts, grains, soybeans, citrus, cotton, hay, straw, or other perishable farm products from their point of production to the first point of change of custody or of long-term storage.¹⁹

Additional Exemptions

A person who operates a CMV solely within the state who is not transporting hazardous materials in amounts that require placarding is exempt from federal regulations that:

- Require a CMV driver to be at least 21 years of age;²⁰
- Limit maximum driving time for property-carrying vehicles;²¹ and
- Require duty status record-keeping (“log book”).²²

In addition, a person under 18 years of age is exempt from the prohibition against operating a CMV with a gross vehicle weight of less than 26,001 pounds while transporting agricultural products, including horticultural or forestry products, from farm or harvest place to storage or market.²³

¹⁵ Section 316.003(70), F.S., defines “straight truck” as any truck on which the truck’s power unit and cargo unit are located on the same vehicle frame. Straight trucks include commonly recognized vehicles such as large pick-up trucks, flat-bed trucks, box trucks, and the like.

¹⁶ See s. 316.515, F.S.

¹⁷ Section 316.515(5)(c), F.S.

¹⁸ Section 316.515(5)(b), F.S.

¹⁹ Section 316.515(5)(a), F.S.

²⁰ Section 316.302(2)(a), F.S.

²¹ Section 316.302(2)(a), F.S.

²² Section 316.302(2)(d), F.S.

²³ Section 316.302(3), F.S.

Federal Covered Farm Vehicle Exemption

The Moving Ahead for Progress in the 21st Century Act (MAP-21)²⁴ defines and exempts “covered farm vehicles” (CFVs) and their drivers from certain federal motor carrier safety regulations.²⁵ Under the MAP-21, CFV’s and their drivers are exempt from federal regulations relating to controlled substances and alcohol use and testing; commercial driver licenses; physical qualifications and examinations; hours of service of drivers; and vehicle inspection, repair, and maintenance.²⁶ However, vehicles transporting placardable quantities of hazardous materials are not eligible for the exemptions.

The MAP-21 defines a “CVF” as a straight truck or articulated vehicle²⁷ that is:

- Registered in a state with a license plate or other designation issued by the state of registration that allows law enforcement officials to identify it as a farm vehicle;
- Operated by the owner or operator of a farm or ranch, or an employee or family member;
- Used to transport agricultural commodities, livestock, machinery, or supplies to or from a farm or ranch; and
- Not used in for-hire motor carrier operations. A tenant’s use of a vehicle to transport the landlord’s share of crops pursuant to a crop share farm lease agreement is not treated as “for-hire motor carrier operations.”

The MAP-21 authorizes CFVs to maintain CFV exemption status when traveling across state lines within 150 air miles of the home farm or ranch, and anywhere within the state of registration. Specifically, CFVs that have a gross vehicle weight or gross vehicle weight rating, whichever is greater, of:

- 26,001 pounds or less may operate anywhere in the United States;
- 26,001 pounds or more may operate anywhere in the state of registration, or across state lines within 150 air miles of the home farm or ranch.²⁸

To avoid withholding of certain federal grant funds, federal law requires states to adopt compatible regulations within 3 years after the effective date of any newly adopted or amended federal regulation. The final rule on the CFV exemptions became effective March 2013, therefore states should be compliant by March 2016.²⁹ Currently, Florida law does not authorize the federal CVF exemptions.

III. Effect of Proposed Changes:

The bill expressly authorizes in state law new federal CFV exemptions.

Section 1 defines “covered farm vehicle” as a straight truck, or an articulated vehicle, which is:

²⁴ Pub. L. No. 112-141

²⁵ *Id* at s. 32934.

²⁶ 49 C.F.R. parts 382; 383; 391, subpart E; 395; and 396, respectively.

²⁷ Articulated vehicles, in contrast to straight trucks, include those having a power unit coupled to the cargo-carrying unit. *See* also s. 316.003(60) and (71), F.S.

²⁸ *Supra* note 24 at s. 32101(d).

²⁹ *Infra* note 30.

- Registered in a state with a license plate, or any other designation which allows law enforcement officers to identify it as a farm vehicle;
- Operated by the owner or operator of a farm or ranch or by an employee or a family member of an owner or operator of a farm or ranch;
- Used to transport agricultural commodities, livestock, machinery, or supplies to or from a farm or ranch; and
- Not used in for-hire motor carrier operations; however, for-hire motor carrier operations do not include the operation of a vehicle by a tenant pursuant to a crop-share farm lease agreement to transport the landlord's portion of the crops under that agreement.

Section 2 exempts the driver of a CFV and a CFV from the following federal motor carrier safety regulations:

- Part 382, Controlled Substance and Alcohol Use and Testing.
- Part 383, Commercial Driver's License Standards.
- Part 391, subpart E, Physical Qualifications and Examinations.
- Part 395, Hours of Service of Drivers.
- Part 396, Inspection, Repair, and Maintenance.

The CFV must be registered with a license plate or other designation issued by the state of registration when operating:

- Anywhere in this state if the CFV has a gross vehicle weight or gross vehicle weight rating, whichever is greater, of 26,001 pounds or less; or
- Anywhere in the state of registration, or across state lines within 150 air miles of the farm or ranch with respect to which the vehicle is being operated, if the CFV has a gross vehicle weight or gross vehicle weight rating, whichever is greater, of more than 26,001 pounds.

The bill, consistent with the Federal Motor Carrier Safety Administration's final rule on the matter,³⁰ does not allow the federal exemptions if the vehicle is transporting hazardous materials in amounts that require placarding.³¹

This section of the bill also corrects a cross-reference necessitated by the changes in the bill.

Section 3 amends s. 322.53(2), F.S., to exempt the driver of a CFV from the requirement to hold a valid CDL, if the CFV is operated in accordance with the s. 316.302(3), F.S., as discussed in Section 2 above.

Sections 4 and 5 amend ss. 316.3025(3)(e) and 316.3026(1), F.S., respectively, to correct cross-references necessitated by the changes in the bill.

Section 6 provides that the bill is effective July 1, 2016.

³⁰ See Federal Register, Vol. 78, No. 50, (March 14, 2013) at p. 16190, available at: <https://www.gpo.gov/fdsys/pkg/FR-2013-03-14/pdf/2013-05897.pdf> (last visited Feb. 4, 2016).

³¹ *Supra* note 14.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Those qualifying for the CFV exemptions may experience a positive fiscal impact as a result of the exemption, including but not limited to, the \$75 fee for a CDL.³² Farmers and ranchers may realize a positive fiscal impact should the new exemptions facilitate more efficient operations, thereby reducing costs.

C. Government Sector Impact:

The Revenue Estimating Conference has not yet analyzed this bill. However, a negative fiscal impact resulting from the potential loss of CDL fees is likely. The DHSMV estimates a minimal fiscal impact to the department to update computer systems that can be absorbed within existing resources.³³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.003, 316.302, 316.3025, 316.3026, and 322.53.

³² See the DHSMV website, *Fees*, available at: <http://www.flhsmv.gov/fees/> (last visited Feb. 5, 2016).

³³ *Id.*

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 Transportation on January 20, 2016:

The CS modifies the bill by:

- Deleting section 2 of the original bill to retain compliance with federal law.
- Creating a new subsection (3) of s. 316.302, F.S., to address CFVs, notwithstanding contrary provisions of subsections (1) and (2), to retain compliance with federal law.
- Revising language to conform to federal language relating to CFV operation.
- Correcting cross-references.

- B. **Amendments:**

None.