

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 Transportation

BILL: SB 784

INTRODUCER: Senator Gainer

SUBJECT: Department of Highway Safety and Motor Vehicles

DATE: March 17, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Miller	TR	Pre-meeting
2.			ATD	
3.			AP	

I. Summary:

SB 784 makes numerous changes relating to the Department of Highway Safety and Motor Vehicles (DHSMV). Specifically, the bill:

- Updates various commercial motor vehicle (CMV) regulations to address compatibility issues with federal law;
- Requires interstate charter buses to register as apportionable vehicles;
- Increases the time-frame apportionable vehicles must replace their license plates from annually to every five years;
- Makes numerous changes to transporter license plates, including requiring more information from applicants for transporter plates and adding penalties for the misuse of such plates;
- Increases the amount of time a Florida Highway Patrol (FHP) trooper must stay employed with the FHP to avoid having to reimburse training costs from two years to three years;
- Revises DHSMV reporting requirements relating to driver license suspensions for persons who do not meet school attendance requirements;
- Authorizes tax collectors to retain fees or a portion of fees when they administer subsequent driver license examinations or reinstate licenses;
- Allows the DHSMV to issue a no-fee replacement identification card upon proof to the DHSMV that the card was stolen;
- Provides the option for expedited shipping of a driver license or identification card; and
- Removes an obsolete provision relating to specialty driver licenses.

The bill is intended to address a broad range of federal compliance, customer service and administrative efficiency issues; however, these changes have various indeterminate positive and negative fiscal impacts and the total fiscal impact of the bill is unknown. See V. Fiscal Impact Statement for additional information.

The bill takes effect October 1, 2017.

II. Present Situation:

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

III. Effect of Proposed Changes:

Federal Motor Carrier Safety Administration Compatibility (Section 1)

Present Situation

The Federal Motor Carrier Safety Administration (FMCSA) was established within the United State Department of Transportation on January 1, 2000. Its primary mission is to prevent commercial motor vehicle (CMV)-related fatalities and injuries.¹

Section 316.302, F.S., provides that all owners and drivers of CMVs² operated on the public highways of this state while engaged in *interstate* commerce are subject to the rules and regulations contained in the following parts of the Federal Motor Carrier Safety Regulations³:

- Part 382, Controlled Substance and Alcohol Use and Testing;
- 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.

Owners and drivers of CMVs engaged in *intrastate* commerce are subject to the same rules and regulations, unless otherwise provided in s. 316.302, F.S., as such rules and regulations existed on December 31, 2012.⁴ To remain compatible with the Federal Motor Carrier Safety Regulations, states generally have up to three years from the effective date of new federal requirements to adopt and enforce such requirements.⁵ States that remain incompatible risk losing federal funding. A 2007 Florida State Motor Carrier Safety Assistance Program (MCSAP) review found that the Florida Statutes contain multiple compatibility issues.⁶

¹ FMCSA website, *About Us*, available at <https://www.fmcsa.dot.gov/mission/about-us> (last visited Feb. 23, 2017).

² Section 316.003(12), F.S., defines “commercial motor vehicle” as “any self-propelled or towed vehicle used on the public highways in commerce to transport passengers or cargo, if such vehicle: (a) Has a gross vehicle weight rating of 10,000 pounds or more; (b) Is designed to transport more than 15 passengers, including the driver; or (c) Is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act, as amended (49 U.S.C. ss. 1801 et seq.).”

³ 49 C.F.R. ch. III, subchapter B.

⁴ Section 316.302(1)(b), F.S.

⁵ 49 C.F.R. *Appendix A to Part 355 – Guidelines for the Regulatory Review – State Determinations* (2016)

⁶ 2007 Florida State MCSAP Review, *Summary Findings, Recommendations, and Noteworthy Practices* (June 2007) (on file with the Senate Committee on Transportation).

2007 Florida State MCSAP Review Findings

Section 316.302(1)(b), F.S., provides an exception from 49 C.F.R. s. 390.5 as it relates to the definition of a bus, which is defined as “any motor vehicle designed, constructed, and/or used for the transportation of passengers, including taxicabs.” Florida law excludes taxicabs from the definition of a bus.⁷ The MCSAP Review noted that Florida Statutes “exempting, from the definition of a bus, taxicabs as it applies to the intrastate private transportation of passengers, is not compatible” with Federal law.⁸

Federal law prohibits certain lamps and reflective devices from being obscured on CMVs.⁹ However, s. 316.215(5), F.S., provides an exception from this requirement for front-end loading collection vehicles that are engaged in collecting solid waste or recyclable or recovered materials, and are being operated at less than 20 miles per hour with hazard-warning lights activated. According to the MCSAP review, federal law provides no such exemption.¹⁰

Section 316.302(2)(d), F.S., provides an exemption from compliance with 49 C.F.R. s. 395.8, requiring driver’s record of duty status, for drivers of CMVs if the driver:

- Is operating solely in intrastate commerce;
- Is not transporting any hazardous materials in amounts that require placarding¹¹;
- Is within 150-air miles of the vehicle’s base location; and
- Complies with specific federal requirements relating to hours of service.¹²

Additionally, state law provides that if a driver is not released from duty within 12 hours of arriving on duty, the motor carrier must maintain documentation of the driver’s driving times throughout the duty period. The MCSAP review found that the exemption and alternate records requirement contained in s. 316.302(2)(d), F.S., does not comply with federal regulations because the federal exemption also requires that the driver return to the work reporting location and is released from work within 12 consecutive hours.¹³

Federal law allows a state to exempt a CMV from all or part of its laws or regulations relating to intrastate commerce if the vehicle’s gross vehicle weight, gross vehicle weight rating, gross combined weight, or gross combined weight rating is less than 26,001, and the vehicle is not:

- Transporting hazardous materials requiring a placard; or
- Designed or used to transport 16 or more people, including the driver.¹⁴

However, s. 316.302(2)(f), F.S., provides exemptions from federal laws or regulations for a person who operates a CMV solely in intrastate commerce, having a *declared* gross vehicle weight of less than 26,001 pounds, and who is not transporting hazardous materials in an amount that requires placarding, or who is transporting petroleum products. According to the MCSAP Review, the State interprets this statute as exempting such vehicles transporting petroleum

⁷ Section 316.003(6), F.S.

⁸ 2007 Florida State MCSAP Review, *supra* note 6 at p. 2, *FL/FI-1*.

⁹ 49 C.F.R. s. 393.9(b)

¹⁰ 2007 Florida State MCSAP Review, *supra* note 6 at p. 4, *FL/FI-7*.

¹¹ Pursuant to 49 C.F.R. part 172

¹² As provided in 49 C.F.R. s. 395.1(e)(1)(iii) and (v).

¹³ 2007 Florida State MCSAP Review, *supra* note 6 at p. 5, *FL/FI-8*.

¹⁴ 49 C.F.R. s. 350.341(a)

products even if a hazardous materials placard is required, which is not in compliance with federal regulations.¹⁵

Maximum Driving Time

Section 316.302(2), F.S., provides prohibitions to length of time CMV drivers may drive, as well as exemptions from federal requirements for specified vehicles. Section 316.302(2)(b), F.S., provides that a person who operates a CMV solely in intrastate commerce without any hazardous materials in amounts requiring placarding may not drive:

- More than 12 hours following 10 consecutive hours off duty; or
- For any period after the end of the 16th hour after coming on duty following 10 consecutive hours off duty.

Except as provided in the federal hours of service rules¹⁶, a person operating a CMV solely in intrastate commerce not transporting any hazardous material may not drive after having been on duty more than 70 hours in any period of seven consecutive days or more than 80 hours in any period of eight consecutive days if the motor carrier operates every day of the week.¹⁷ Upon request of DHSMV, motor carriers are required to furnish time records or other written verification so that DHSMV can determine compliance with the hours of service requirements. Falsification of time records is subject to a civil penalty not to exceed \$100.¹⁸

Effect of Proposed Changes

The bill amends multiple provisions in s. 316.302, F.S., addressing Federal compatibility issues.

The bill amends s. 316.302(1), F.S., clarifying that the section applies to all CMVs except as provided in s. 316.302(3), F.S., relating to covered farm vehicles.

The bill amends s. 316.302(1)(b), F.S., removing an exception to federal law, as it relates to the definition of a bus.

The bill adopts federal laws that intrastate CMV owners and drivers are required to comply with as such federal rules and regulations existed on December 31, 2016.¹⁹ Examples of some of the regulations adopted that directly affect intrastate CMVs include:

- Requiring use of electronic logging devices by drivers required to prepare hours-of-service records of duty status;²⁰

¹⁵ 2007 Florida State MCSAP Review, *supra* note 6 at p. 5, *FL/FI-3*.

¹⁶ 49 C.F.R. s. 395.1

¹⁷ Section 316.302(2)(c), F.S.

¹⁸ This penalty is found in 316.302(2)(c), F.S.; However, s. 316.3025, F.S., relating to CMV penalties, provides that a penalty of \$100 may be assessed for a violation of s. 316.302(2)(b) or (c), F.S.

¹⁹ A list of Final Rules adopted as of December 31, 2016, that affect FMCSA rules and regulations are available on the FMCSA website, *Rulemaking Documents*, available at

<https://www.fmcsa.dot.gov/regulations/search/rulemaking?keyword=&dt=final&topic=> (last visited Mar. 13, 2017).

²⁰ Electronic Logging Devices and Hours of Service Supporting Documents, 80 Fed. Reg. 78291 (Dec. 16, 2015), available at <https://www.federalregister.gov/documents/2015/12/16/2015-31336/electronic-logging-devices-and-hours-of-service-supporting-documents> (last visited Mar. 6, 2017).

- Amending the definition of *gross combination weight rating* to provide clarification;²¹ and
- Requiring the use of a Unified Registration System to submit required registration and biennial update information to the FMCSA.²²

The bill amends s. 316.302(1)(d), F.S., removing an exemption from Federal law allowing specified CMVs to obscure certain lighting or reflective devices.

Due to changes in federal law, the bill amends s. 316.302(2)(a), F.S., to provide clarity that drivers of intrastate CMVs that are not transporting hazardous materials requiring placarding are exempt from 49 C.F.R. s. 395.3, which provides maximum driving times for property-carrying vehicles. These drivers continue to be subject to the maximum driving times required by state law.

The bill removes a duplicate penalty for falsifying hours of service records from s. 316.302(2)(c), F.S.

Section 316.302(2)(d), F.S., is amended to provide that to be exempt from being required to maintain records of duty status for short-haul drivers the driver must also return to the work reporting location and be released from work within 12 consecutive hours, or within 14 consecutive hours when the vehicle is a ready-mixed concrete delivery vehicle.

Lastly, the bill amends s. 316.302(2)(f), F.S., removing specified exemptions for drivers transporting petroleum products. The bill also removes that these exemptions apply when a CMV has a *declared* gross vehicle weight of less than 26,001 pounds. This criterion is changed to CMVs having a *gross vehicle weight, gross vehicle weight rating, or gross combined weight rating* of less than 26,001 pounds.

Commercial Motor Vehicle Operator Disqualifications (Sections 2 and 12)

Present Situation

Federal and state law prohibit drivers of commercial motor vehicles from texting while driving a commercial motor vehicle (CMV) and from using a hand-held mobile telephone while driving a CMV.²³ Section 316.3025, F.S., provides that a driver who violates these laws may be assessed a civil penalty of:

- \$500 for the first violation;
- \$1,000 and a 60-day CDL disqualification for a second violation; and
- \$2,750 and a 120-day CDL disqualification for a third and subsequent violation.

²¹ Gross Combination Weight Rating; Definition, 79 Fed. Reg. 15245 (Mar. 19, 2014), *available at* <https://www.federalregister.gov/documents/2014/03/19/2014-05502/gross-combination-weight-rating-definition> (last visited Mar. 13, 2017).

²² Unified Registration System, 78 Fed. Reg. 52607 (Aug. 23, 2013), *available at* <https://www.federalregister.gov/documents/2013/08/23/2013-20446/unified-registration-system> (last visited Mar. 13, 2017). However, the system is currently delayed until all necessary data is transferred to the new database and that is compatible with State partners. See 82 Fed. Reg. 5292.

²³ See 49 C.F.R. ss. 392.80 and 392.82, and s. 316.3025, F.S.

However, federal law requires the 60 and 120-day CDL disqualification for these offenses to be assessed for any combination of certain serious traffic violations during a 3-year period. Specifically, federal law requires, for offenses occurring within a 3-year period while operating a CMV, a 60-day CDL disqualification for a second conviction and a 120-day CDL disqualification for a third or subsequent conviction of any combination of the following offenses²⁴:

- Excessive speeding (15 mph or more over the posted speed limit);
- Reckless driving;
- Improper lane changes;
- Following too closely;
- A violation of any state or local law relating to motor vehicle traffic control arising in connection with a fatal accident;
- Driving a CMV:
 - Without obtaining a CDL;
 - Without a CDL in the driver's possession;
 - Without the proper class of CDL or endorsements required;
- Violating a state or local law or ordinance on motor vehicle traffic control prohibiting:
 - Texting while driving a CMV; or
 - Use of a hand-held mobile telephone while driving a CMV.

With the exception of texting while driving a CMV and the use of a hand-held mobile phone while driving a CMV, the above penalties and offenses are in state law.²⁵ To align with federal law, these two offenses need to be added to the list of disqualifying offenses in s. 316.3025, F.S. According to the DHSMV, non-compliance could result in a loss of federal highway funds.²⁶

Effect of Proposed Changes

The bill removes the commercial driver license disqualification penalty for texting while driving a CMV and using a hand-held mobile telephone while driving a CMV from s. 316.3025, and adds those offenses to the list of serious disqualifying offenses while operating a commercial motor vehicle listed in s. 322.61, F.S. This change aligns Florida law with federal regulations.

International Registration Plan – Charter Buses (Section 3)

Present Situation

The International Registration Plan (IRP) is a registration reciprocity agreement among all states in the contiguous United States, the District of Columbia, and several Canadian provinces. It provides for the payment of license fees based on fleet operation in various member jurisdictions.²⁷ This allows carriers to operate inter-jurisdictionally while only needing to register

²⁴ 49 C.F.R. s. 383.51 (2015), Table 2, available at <https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-subtitleB-chapIII-subchapB.pdf> at p. 206-207 (last visited Feb 9, 2017).

²⁵ See s. 322.61(1), F.S.

²⁶ Meeting with the DHSMV and Senate Transportation Committee Staff (Jan. 23, 2017).

²⁷ International Registration Plan, Inc., *About IRP*, <http://www.irponline.org/?page=AboutIRP> (last visited Feb. 1, 2017).

its vehicles in its base jurisdiction, which is the state or province where the registrant has an established place of business²⁸.

All apportionable vehicles domiciled in the state are required to be registered in accordance with the IRP and display “Apportioned” license plates.²⁹ Motor carriers registered under the IRP are also required to maintain specified records for the DHSMV, and may have their registrations and license plates withheld if:³⁰

- An identifying number issued by the federal agency responsible for motor carrier safety is not provided for the motor carrier and entity responsible for motor carrier safety for each motor vehicle; or
- A motor carrier or vehicle owner has been prohibited from operating by a federal or state agency responsible for motor carrier safety.

Additionally, the DHSMV has authority to suspend, with notice, any commercial motor vehicle or license plate issued to a motor carrier or vehicle owner who has been prohibited from operating by a federal or state agency responsible for motor carrier safety.³¹ Apportionable vehicles that do not regularly operate in a particular jurisdiction also have the option to register for trip permits in order to operate in IRP member jurisdictions for limited periods where they do not pay license taxes.³²

The IRP defines an apportionable vehicle as:³³

[A]ny Power Unit that is used or intended for use in two or more Member Jurisdictions and that is used for the transportation of persons for hire or designed, used, or maintained primarily for the transportation of property, and:

- (i) Has two Axles and a gross Vehicle weight or registered gross Vehicle weight in excess of 26,000 pounds, or
- (ii) Has three or more Axles, regardless of weight, or
- (iii) Is used in combination, when the gross Vehicle weight of such combination exceeds 26,000 pounds.

The definition excludes a recreational vehicle, a vehicle displaying restricted plates, or a government-owned vehicle. However, those excluded vehicles may choose to register under the IRP.

²⁸ As defined by the IRP, (January 2017) available at http://c.ymcdn.com/sites/www.irponline.org/resource/resmgr/publications/IRP_agreement_eff_january_1_.pdf at p. 16 (last visited Feb. 1, 2017).

²⁹ Section 320.0715(1), F.S.

³⁰ Section 320.0715(4), F.S.

³¹ Section 320.0715(4)(c), F.S.

³² See IRP, Inc., *Trip Permits- Cost/Duration* (May 2016), available at http://www.irponline.org/resource/resmgr/Jurisdiction_Info_2/Trip_Permits_5.19.2016.xlsx (last visited Feb. 6, 2017).

³³ International Registration Plan (Jan. 2017), available at http://c.ymcdn.com/sites/www.irponline.org/resource/resmgr/publications/IRP_agreement_eff_january_1_.pdf at p. 12-13 (last visited Feb. 2, 2017).

Prior to January 1, 2016, charter buses were also excluded from having to register under the IRP, but retained the option to do so. The IRP was amended to remove charter buses from the exemption, requiring charter bus operations to register under the IRP. This registration ensures that charter bus operations will pay license fees to each jurisdiction it operates in, and prevents or suspends the registration of unsafe carriers.³⁴ As of January 1, 2016, the DHSMV estimates that less than 200 charter bus carriers or companies within the state were required to register under the IRP in order for the state to remain compliant with the reciprocity agreement.³⁵

Effect of Proposed Changes

Section 320.01, F.S., is amended to remove charter buses from the apportionable vehicle exclusion. This change is necessary to align with the requirements of the IRP. All charter buses operating interstate are now required to obtain an IRP registration or purchase trip permits.

Issuance of Apportionable Vehicle Plates (Sections 4 and 5)

Present Situation

Registration license plates, which bear a graphic symbol and alphanumeric system of identification, are issued for a 10-year period. However, “Apportioned” license plates issued to vehicles registered under the International Registration Plan (IRP), are issued annually.³⁶ Each original plate costs \$28, which is deposited into the Highway Safety Operating Trust Fund (HSOTF). Apportioned vehicles are also issued an annual cab card that denotes the declared gross vehicle weight for each apportioned jurisdiction where the vehicle is authorized to operate.³⁷

Effect of Proposed Changes

The bill provides that beginning October 1, 2018, apportioned vehicles will be issued license plates valid for a 5-year period, instead of annually. If the license plate is damaged or worn prior to the end of the 5-year period, the DHSMV will replace it, upon application and surrender of the current plate, at no charge. Cab cards will continue to be issued annually, and the \$28 annual fee will apply to the issuance of an original or renewal cab card, instead of for the cost of the plate.

Transporter License Plates (Section 6)

Present Situation

Section 320.133, F.S., allows the DHSMV to issue transporter license plates. Transporter plates are available for an applicant who, incidental to the conduct of the applicant’s business, engages in the transporting of unregistered motor vehicles, and who pays a license tax and provides proof of liability insurance coverage of at least \$100,000. A transporter plate is valid for 1 year,

³⁴ See IRP, Inc., *Official Amendment to the International Registration Plan* (June 2014) http://c.ymcdn.com/sites/www.irponline.org/resource/resmgr/irp_ballots/ballot_391.pdf (last visited Feb. 3, 2017).

³⁵ Email from the DHSMV (Feb. 17, 2017) (on file with the Senate Committee on Transportation).

³⁶ Section 320.06(1)(b)1., F.S.

³⁷ See IRP, Inc., *State of Florida Apportioned Cab Card Sample*, http://c.ymcdn.com/sites/www.irponline.org/resource/resmgr/cab_cards/fl_cc_sample.pdf (last visited Feb. 8, 2017).

beginning January 1 to December 31, for a flat license tax of \$101.25.³⁸ To apply for a transporter plate, the business applicant certifies he understands the plate may only be used for motor vehicles in possession of the business that are being transported in the course of the business.³⁹

Types of businesses that may require the use of transporter plates include:

- Motor vehicle detail shops;
- Van conversion shops or other shops installing specialized equipment on vehicles;
- Businesses that transport mobile homes and recreational vehicles;
- Licensed repossessors; and
- Businesses that deliver unregistered vehicles (Drive away services).

Currently, there are 8,332 transporter license plates issued by the state, and approximately 4,618 businesses and individuals who have these plates issued to them.⁴⁰ There is no requirement for the business applying for the plate to prove it is engaged in transporting unregistered vehicles. The DHSMV has discovered businesses are using transporter license plates on company vehicles rather than on vehicles being transported for the business. According to DHSMV, it has little authority under current law to inquire as to whether the license plates are being used appropriately by applicants.⁴¹

Effect of Proposed Changes

The bill makes numerous changes to s. 320.133, F.S., concerning transporter license plates, including defining a “transporter license plate eligible business,” requiring additional business information from applicants for transporter licenses, and adding penalties for improper use of transporter license plates.

The bill requires applicants for transporter license plates to provide proof satisfactory to the DHSMV that the business is a “transporter license plate eligible business,” which is defined as a business engaged in the limited operation of unregistered motor vehicles or a reposessor who contracts with lending institutions to repossess or recover motor vehicles or mobile homes. Additionally, the application for a transporter license plate must include:

- The legal name of the person or persons applying for the license plate;
- The name of the business, and principal or principals of the business;
- A description of the exact physical location of the place of business within the state;
- Proof of a garage liability insurance policy or a business automobile policy in the amount of \$100,000;
- Proof that the business is registered with the Division of Corporations of the Department of State to conduct business in the state; and
- A description of the business processes the business conducts that requires a need for a transporter license plate.

³⁸ Sections 320.08(15) and 320.133(3), F.S.

³⁹ See DHSMV, *Application for Transporter License Plates* (May 2011), available at <https://www.flhsmv.gov/pdf/forms/83065.pdf> (last visited Feb. 10, 2017).

⁴⁰ DHSMV, *Legislative Package Talking Points* (Jan. 24, 2017) (on file with the Senate Committee on Transportation).

⁴¹ *Id.*

The business certificate of insurance must also indicate the number of transporter license plates reported to the insurance company, which will be the maximum number the DHSMV will issue to the applicant. The applicant is required to maintain such coverage for the entire transporter license plate registration period. The applicant is also required to maintain for two years records of use for each transporter license plate. Such records must be at the business's location and open to inspection by the DHSMV or any law enforcement agency during reasonable business hours.

The bill clarifies that the transporter license plate is only valid for use on an unregistered motor vehicle being transported in the course of the transporter's business and cannot be used on any motor vehicle that would require registration by the business. The DHSMV has authority to cancel any transporter license plate.

Finally, the bill adds penalties for the improper use of transporter license plates. Specifically:

- A person who sells or unlawfully possesses, distributes, or brokers a transporter license plate to be attached to any vehicle commits a second-degree misdemeanor⁴², and the plate is subject to removal;
- A person who fails to maintain true and accurate records of transporter license plate usage commits a second-degree misdemeanor⁴³, all transporter plates issued to the person may be subject to cancellation, and the person is disqualified from future transporter license plate issuance;
- A person who operates a motor vehicle with a transporter license plate attached who fails to provide the registration issued for the transporter license plate and proof of required insurance commits a second-degree misdemeanor⁴⁴, and the plate is subject to removal. This penalty does not apply to a person who contracts with dealers and auctions to transport motor vehicles; and
- A person who *knowingly and willfully* sells or unlawfully possesses, distributes, or brokers a transporter plate to avoid registering a vehicle that requires registration commits a first-degree misdemeanor⁴⁵, and all transporter plates issued to the person's business are canceled and must be returned to the DHSMV;

FHP Law Enforcement Training Reimbursement (Section 7)

Present Situation

Section 321.25, F.S., authorizes the DHSMV "to provide for the training of law enforcement officials and individuals in matters relating to the duties, functions, and powers of the Florida Highway Patrol..." The DHSMV is authorized to charge a fee for providing authorized training, as well as tuition, lodging, and meals. New FHP troopers receive 28 to 29 weeks of paid Law Enforcement Training at the FHP Training Academy. During this paid training, meals, lodging, equipment, and study materials are provided to FHP Academy trainees at no cost to the trainee.⁴⁶

⁴² The second-degree misdemeanor is punishable as provided in ss. 775.082 or 775.083, F.S., which is a definite term of imprisonment not exceeding 60 days or a fine of no more than \$500.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ The first-degree misdemeanor is punishable as provided in ss. 775.82 or 775.083, which is a definite term of imprisonment not exceeding one year or a fine of no more than \$1,000.

⁴⁶ FHP, *Be A Trooper- Requirements- Benefits*, available at <http://beatrooper.com/requirements/> (last visited Feb. 10, 2017).

The DHSMV estimates that the cost of training and other course expenses to the DHSMV is approximately \$12,386 per trooper trainee.⁴⁷

In Florida, if an officer trainee who attends an approved training program at the expense of an employing agency terminates employment with such agency within two years after graduation from the basic recruit training program, he or she may be required to reimburse the employing agency for the full cost of tuition and other expenses.⁴⁸ Section 943.16, F.S., allows an employing agency to institute a civil action to collect these expenses if it is not reimbursed, provided that the trainee signed acknowledgement of this requirement. Trainees are not required to reimburse the employing agency if they resign their law enforcement certification upon terminating employment. Additionally, an employing agency may waive the reimbursement requirement in part or in full for a trainee who terminates employment due to hardship or extenuating circumstances.⁴⁹

Since 2012, 86 FHP members terminated employment with the FHP within two years of completing training. According to the DHSMV, the FHP only pursues reimbursement if a trooper leaves within the two years to secure employment with another law enforcement agency.⁵⁰ An additional 37 FHP members terminated employment within the third year of completing FHP training.

Effect of Proposed Changes

Section 321.21, F.S., relating specifically to FHP training provided at patrol schools, is amended to increase the employment period length to which the reimbursement requirement applies from two years to three years. If an FHP trainee terminates employment with FHP prior to completing three years of service, the DHSMV may require the trainee to reimburse the cost of the FHP training tuition and other course expenses.

The amended section retains that the DHSMV may institute a civil action to collect tuition and other related expenses if it is not reimbursed, provided the trainee signed written acknowledgement of the (3-year) requirement. Additionally, the DHSMV retains authority to waive the reimbursement requirement in part or in full if the trainee terminates employment due to hardship or extenuating circumstances. However, the amendment removes the ability of FHP trainees to resign their law enforcement certification upon termination in order to avoid having to reimburse the DHSMV for the cost of tuition and other course expenses.

Truancy Reporting (Section 8)

Present Situation

A minor is not eligible for driving privileges unless he or she⁵¹:

- Is enrolled in a public school, nonpublic school, or home education and satisfies relevant attendance requirements;

⁴⁷ Email from the DHSMV (Feb. 17, 2017) (on file with the Senate Committee on Transportation).

⁴⁸ Section 943.16, F.S.

⁴⁹ *Id.*

⁵⁰ DHSMV, *Legislative Package Talking Points* (Jan. 24, 2017) (on file with the Senate Committee on Transportation).

⁵¹ Section 322.091, F.S.

- Has received a high school diploma, a high school equivalency diploma, a special diploma, or a certificate of high school completion;
- Is enrolled in a study course in preparation for the high school equivalency examination and satisfies relevant attendance requirements; or
- Has been issued a certificate of exemption or hardship waiver under.

Subsection 322.091(5), F.S., requires the DHSMV to submit a report quarterly to each school district containing the legal name, sex, date of birth, and social security number of each student whose driving privileges have been suspended under this section.

Effect of Proposed Changes

Subsection 322.091(5), F.S. is amended to remove obsolete language. According to the DHSMV, access to this report is available to school boards electronically on an accessible website.⁵² The report via the website is updated in real-time whenever a new student is added.

Tax Collector Fee Distribution (Sections 9 and 11)

Present Situation

In 2010, the Florida Legislature required all driver license issuance services be transferred to tax collectors who are constitutional officers under s. 1(d), Art. VIII of the State Constitution by June 30, 2015.⁵³ As part of that transfer, tax collectors retain portions of specified fees when processing certain driver license services. Additionally, tax collectors charge a \$6.25 service fee for completing driver license services.⁵⁴

Tax collectors are not currently able to retain portions of fees for some services that the tax collectors are regularly performing. For example, an applicant who fails an initial driving knowledge or skills test is required to pay a \$10 or \$20 fee, respectively, to be issued a subsequent test. These fees are deposited into the Highway Safety Operating Trust Fund (HSOTF), regardless of whether the DHSMV or the tax collectors administered the exam.⁵⁵

Similarly, service fees for license reinstatements collected pursuant to s. 322.21(8), F.S., are deposited into the General Revenue Fund and HSOTF, regardless of whether the reinstatement was conducted by the DHSMV or tax collectors. Of the \$45 service fee to reinstate a driver license suspension, \$15 is deposited in the General Revenue Fund and \$30 in the HSOTF. Of the \$75 service fee to reinstate a driver license revocation or CDL disqualification, \$35 is deposited in the General Revenue Fund and \$40 in the HSOTF.

Effect of Proposed Changes

The bill requires, for subsequent driver license initial knowledge and skills tests, that the tax collector retain the \$10 or \$20 fee for administering tests to applicants. The bill also requires the

⁵² Meeting with the DHSMV and Senate Transportation Committee Staff (Jan. 23, 2017).

⁵³ Chapter 2010-163, Laws of Florida and s. 322.02(1), F.S.

⁵⁴ Section 322.135(1)(c), F.S.

⁵⁵ Section 322.12(1), F.S.

tax collectors to retain a portion of service fees when processing driver license reinstatements. If the reinstatement is processed by the tax collector:

- Of the \$45 fee for suspension reinstatement, \$15 shall be retained by the tax collector and \$15 shall be deposited into the HSOTF; and
- Of the \$75 fee for revocation or disqualification reinstatement, \$20 shall be retained by the tax collector, \$20 shall be deposited into the HSOTF, and \$35 shall be deposited into the General Revenue Fund.

Stolen Identification Cards (Section 10)

Present Situation

Section 322.17, F.S., provides that in the event that an instruction permit or driver license is stolen from an individual, upon proof of identity and proof satisfactory to the DHSMV that such permit or license was stolen (generally, with copy of a police report), a replacement permit or license will be issued at no cost to the individual.

Replacement driver licenses and identification cards cost \$25. According to the DHSMV, in Fiscal Year 2015-2016, individuals reported approximately 7,123 stolen identification cards to the DHSMV.⁵⁶

Effect of Proposed Changes

Section 322.17, F.S., is amended to include that identification cards shall be replaced at no cost to an individual who provides proof of identity and proof satisfactory to the DHSMV that the card was stolen.

Specialty Driver License or Identification Cards (Section 11)

Present Situation

Section 322.1415, F.S., provided authority for DHSMV to issue specialty driver licenses and identification cards recognizing, at a minimum, Florida universities, Florida professional sports teams, and all branches of the United States Armed Forces. Additionally, s. 322.1415(5), F.S. provided that the section was repealed effective August 31, 2016.

Effect of Proposed Changes

The bill removes an obsolete reference to specialty driver license and identification card costs from s. 322.21, F.S.

Expedited Shipping Service (Section 11)

Present Situation

The DHSMV is not currently authorized to offer expedited shipping services for renewal or replacement driver licenses or identification cards. The fastest way to receive a renewal or replacement driver license or identification card is to go in-person to a Florida driver license

⁵⁶ DHSMV, *Legislative Package Talking Points* (Jan. 24, 2017) (on file with the Senate Committee on Transportation).

office. However, for individuals out-of-state or who cannot get to a driver license office, renewals and replacement driver licenses or identification cards may be requested using a convenience service⁵⁷, including the DHSMV's virtual office⁵⁸.

According to the DHSMV, it can take seven to fourteen days to receive a renewal or replacement driver license or identification card after it is ordered from the DHSMV's virtual office.

Effect of Proposed Changes

The bill provides that an applicant for a renewal or replacement driver license or identification card, when using a convenience service, will have the option to request expedited shipping. If the applicant chooses expedited shipping, the DHSMV shall issue the license or identification card within five working days of receiving the application and will ship the license or card using an expedited mail service. The DHSMV may charge a fee for the expedited shipping that does not exceed the cost of the expedited mail service. This shipping fee is in addition to any fee that would have been charged for the license or card, excluding the expedited shipping. The DHSMV shall deposit expedited shipping fees into the Highway Safety Operating Trust Fund.

Effective Date (Section 13)

This bill takes effect October 1, 2017.

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:

The Revenue Estimating Conference (REC) reviewed identical sections of the bill on March 10, 2017.⁵⁹ The REC estimates that replacing stolen identification cards at no charge to a customer (section 10 of the bill) will have an insignificant negative impact to

⁵⁷ Section 322.01(10), F.S., defines "convenience service" as "any means whereby an individual conducts a transaction with the department other than in person."

⁵⁸ Available at <https://services.flhsmv.gov/virtualoffice/Lobby.aspx> (last visited Feb. 13, 2017).

⁵⁹ Office of Economic and Demographic Research, Revenue Estimating Conference, *Highway Safety Fees – HB 545* (Mar. 10, 2017), available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2017/pdf/Impact0310.pdf> at p. 22-30 (last visited Mar. 15, 2017).

the General Revenue Fund until Fiscal Years 2020 through 2022, when it will have a negative impact of \$100,000 annually.

The REC estimates that allowing local tax collectors to retain fees or portions of fees for administering subsequent driver license examinations or reinstating licenses (sections 9 and 11) will shift approximately \$5 million from the HSOTF and \$400,000 from the General Revenue Fund each year to the local tax collectors.

Additionally, the REC estimates, authorizing expedited shipping fees for driver licenses and identification cards (section 11) will have a positive indeterminate impact to the extent that expedited shipping is requested.

B. Private Sector Impact:

The bill may have a positive impact on individuals who are issued a free replacement identification card to replace a stolen card (section 10), as well as CMV operators who may replace a damaged apportioned license plate at no charge (sections 4 and 5).

However, the bill may have a negative impact on individuals or businesses who misuse transporter license plates due to the added penalties for their misuse (section 6).

The bill will have an indeterminate impact on the CMV industry as a result of changes made to CMV requirements within the bill (sections 1, 2, and 12).

C. Government Sector Impact:

The bill makes changes to address compliance issues with federal laws relating to commercial motor vehicles (sections 1, 2, and 12). According to the DHSMV, Florida failing to comply with FMCSA compatibility requirements could result in a reduction of up to four percent of Federal-aid highway funds following the first year of noncompliance and up to eight percent for subsequent years.⁶⁰ Noncompliance could also affect the potential awarding of future grants.

To the extent that FHP troopers leave the FHP for another agency between their second and third year of service, the DHSMV may receive reimbursement for training costs from the individual (section 7). The DHSMV estimates that the cost of training and other course expenses to the DHSMV is approximately \$12,386 per trooper trainee.⁶¹

The DHSMV will likely incur programming costs associated with changes made by the bill.

The bill is intended to address a broad range of federal compliance, customer service and administrative efficiency issues; however, these changes have various indeterminate positive and negative fiscal impacts and the total fiscal impact of the bill on the government sector is unknown.

⁶⁰ Email from the DHSMV (Feb. 17, 2017) (on file with the Senate Committee on Transportation).

⁶¹ *Id.*

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.302, 316.3025, 320.01, 320.06, 320.0607, 320.133, 321.25, 322.091, 322.12, 322.17, 322.21, and 322.61.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.