

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1287 Temporary Tags for Fleet Vehicles

SPONSOR(S): Transportation & Tourism Appropriations Subcommittee and Drake

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	10 Y, 0 N	Darden	Miller
2) Transportation & Tourism Appropriations Subcommittee	11 Y, 0 N, As CS	Cobb	Davis
3) Government Accountability Committee			

SUMMARY ANALYSIS

This is a bill relating to the Department of Highway Safety and Motor Vehicles (DHSMV).

DHSMV is authorized to design, issue, and regulate the use of temporary tags. Temporary tags can be used while waiting for a permanent license plate or where a permanent plate may not be issued.

A fleet vehicle is a non-apportioned motor vehicle owned or leased by a company and used for business purposes (other than short-term rental). DHSMV sets minimum size requirements for fleets and fleets are registered as a group. Temporary tags are not currently authorized for fleet vehicles.

The bill authorizes DHSMV to partner with county tax collectors to issue temporary tags to fleet companies awaiting permanent registration and title. A fleet company must have a minimum of 3,500 fleet vehicles registered in the state as fleet vehicles and enter into a memorandum of understanding with DHSMV to receive temporary tags. DHSMV may issue up to 50 temporary tags to an eligible fleet company. Each temporary tag is assigned to one vehicle and becomes invalid upon receipt of the vehicle's permanent license plate and registration. DHSMV may terminate the memorandum of understanding upon a finding that a fleet company has misused a temporary tag.

The bill allows for the use of an electronic copy of rental or lease documentation by an individual who rents a motor vehicle. The bill specifies that the act of presenting to a law enforcement officer or agent of the department an electronic device displaying an electronic copy of rental or lease documentation does not constitute consent for the officer or agent to access any information on the device other than the displayed rental or lease documentation. The bill provides that the individual, rather than the law enforcement officer, assumes all liability for any damage resulting to the electronic device. Additionally, the bill requires that an individual or company wishing to rent a vehicle to another using an electronic rental agreement must verify that the individual possesses a valid driver license.

According to DHSMV, the bill may have a negative, but insignificant fiscal impact on its expenditures, and an indeterminate, positive fiscal impact on the Highway Safety Operating Trust Fund and the Brain and Spinal Cord Injury Program Trust Fund. Additionally, the bill may have an indeterminate, positive fiscal impact on local government revenues.

The bill provides an effective date of October 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Electronic Rental Car Documentation and Driver License Requirements (Sections 1 & 3)

Current Situation

Section 320.0605, F.S., requires certificates of registration for motor vehicles. The registration certificate or an official copy, a true copy of rental or lease documentation issued for a motor vehicle or issued for a replacement vehicle in the same registration period, a temporary receipt printed upon self-initiated electronic renewal of a registration via the Internet, or a cab card issued for a vehicle registered under the International Registration Plan must, at all times while the vehicle is being used or operated on the roads of this state, be in the possession of the operator of the vehicle or be carried in the vehicle for which issued and must be exhibited upon demand of any authorized law enforcement officer or any agent of the DHSMV, except for a vehicle registered under s. 320.0657, F.S.¹ This provision does not apply during the first 30 days after purchase of a replacement vehicle. A violation is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in Ch. 318, F.S.²

Section 320.0605(2), F.S., provides that rental or lease documentation that is sufficient to satisfy the above requirement includes the following:

- Date of rental and time of exit from rental facility;
- Rental station identification;
- Rental agreement number;
- Rental vehicle identification number;
- Rental vehicle license plate number and state of registration;
- Vehicle's make, model, and color;
- Vehicle's mileage; and
- Authorized renter's name.

Section 322.38, F.S., provides the following requirements for an individual who wishes to rent a motor vehicle to another:

- No person shall rent a motor vehicle to any other person unless the latter person is then duly licensed, or if a nonresident he or she shall be licensed under the laws of the state or country of his or her residence, except a nonresident whose home state or country does not require that an operator be licensed.
- No person shall rent a motor vehicle to another until he or she has inspected the driver license of the person to whom the vehicle is to be rented, and compared and verified the signature thereon with the signature of such person written in his or her presence.
- Every person renting a motor vehicle to another shall keep a record of the registration number of the motor vehicle so rented, the name and address of the person to whom the vehicle is rented, the number of the license of said latter person, and the date and place when and where the said license was issued. Such record shall be open to inspection by any police officer, or officer or employee of the department.

Effect of Proposed Changes

The bill amends s. 320.0605, F.S., authorizing a copy of rental or lease documentation to be in electronic format.

¹ Section 320.0657, F.S., provides for permanent registration of fleet license plates.

² Chapter 318, F.S., relates to the disposition of traffic infractions.

The bill provides that presenting to a law enforcement officer an electronic device displaying an electronic copy of rental or lease documentation does not constitute consent for the officer to access any information on the device other than the displayed rental or lease documentation. The person who presents the device to the officer assumes the liability for any resulting damage to the device. This language is almost identical to the digital proof of automobile insurance statute.³

The bill also revises the requirements of the rental documentation to not require the time of exit from the rental facility.

Additionally, the bill amends s. 320.38, F.S., eliminating the requirement of an individual who wishes to rent a motor vehicle to another to verify the latter individual's signature on his or her driver license, and adding the requirement that the individual renting the vehicle verify that the driver license is unexpired. The bill also eliminates the requirement that the individual renting the vehicle record the date on which the driver license was issued.

Finally, the bill creates subsection (4) of s. 320.38, F.S., which deems that a rental car company rents a motor vehicle to a person through digital, electronic, or other means which allows the renter to obtain possession of the motor vehicle without direct contact with an agent or employee of the rental car company, or where the renter does not execute a rental contract at the time he or she takes possession of the vehicle, the rental car company shall be deemed to have met all obligations of subsections (1) and (2) when the rental car company, at the time the renter enrolls in a membership program, master agreement, or other means of establishing use of the rental car company's services, or any time thereafter, requires the renter to verify that he or she is duly licensed and that the license is unexpired.

Temporary Tags and Fleet Vehicles (Section 2)

Current Situation

Temporary Tags

The Department of Highway Safety and Motor Vehicles (DHSMV) is authorized to design, issue, and regulate the use of temporary tags.⁴ A temporary tag may be issue where:

- a dealer license plate may not be lawfully used;
- a casual or private sale has occurred;⁵
- a certified common carrier or driveway company transports a motor vehicle, mobile home, or recreational vehicle from one place to another for persons other than themselves;
- a bank, credit union, or other financial institutional is not required to license a vehicle, but needs temporary tags for the purpose of demonstrating repossessions for sale;
- a motor vehicle is sold to a resident of another state for registration in that state and the motor vehicle is not required to be registered under s. 320.38, F.S.;
- a motor vehicle must have a vehicle identification number verified or must be weighed or have an emissions test performed prior to registration;⁶
- an out-of-state resident must secure documentation of ownership from his or her home state for a vehicle subject to registration in Florida;
- a motor vehicle is made available for lease by a rental car company, in accordance with rules established by DHSMV;⁷

³ Section 316.646(1), F.S.

⁴ Section 320.131(1), F.S.

⁵ A "casual or private sale" is any sale other than by a licensed dealer. S. 320.0131(1)(b), F.S.

⁶ A temporary tag issued for this purpose is valid for ten days. S. 320.131(1)(f), F.S.

⁷ If a motor vehicle receives a temporary tag under this sub-section, the license plate fee shall be calculated from the original issuance date of the temporary tag.

- a personalized prestige or specialty license plate is being manufactured for use on the motor vehicle;⁸
- a licensed dealer is transporting motor vehicles and recreational vehicles from the dealer's licensed location to an off-premise sales location and return; and
- DHSMV has determined an applicant has demonstrated a need for a temporary tag, but does not otherwise qualify.

The unlawful issuance or use of a temporary tag is a non-criminal infraction punishable as a moving violation under ch. 318, F.S., as well as subject to administrative action by DHSMV.⁹ The use of a temporary tag that has been expired for seven days or less is a non-criminal infraction punishable as a non-moving violation under ch. 318, F.S. Knowing and willful use of the temporary tag issuance process to avoid registering a vehicle is a first degree misdemeanor.¹⁰ If a person knowingly and willfully issues a temporary tag or causes another to issue a temporary tag to a fictitious person or entity to avoid disclosure of the true owner, that person has committed a third degree felony.¹¹ If DHSMV has determined a licensed dealer, common carrier, or financial institution has abused the temporary tag issuing process, the department may prohibit the party from purchasing temporary tags.¹²

DHSMV may also sell temporary tags to their agents where need is demonstrated by a consumer complainant.¹³ A \$2 fee is charged, which is divided between the Brain and Spinal Cord Injury Program Trust Fund and the Highway Safety Operating Trust Fund. DHSMV may also levy a service charge per transaction. Purchase requests made by DHSMV or its agents must be made on letterhead stationery and notarized, where applicable. A temporary tag issued under this subsection is valid for 30 days and no more than two shall be issued to the same person for the same vehicle.

Temporary tags must be displayed in the rear license plate bracket.¹⁴ If a vehicle also requires the front display of a license plate, the temporary tag must be displayed on the front of the vehicle in the location where a metal license plate would normally be displayed. The tag must be made of materials, designated by DMSHV, that are either non-permeable or subject to weatherproofing.¹⁵

The issuers of temporary tags must keep records as required by ch. 320, F.S., as well as DHSMV rules.¹⁶ These records must be open to inspection by DHSMV or its agents during reasonable business hours. Knowingly and willfully failing to comply with record-keeping requirements is a second degree misdemeanor.

DHSMV maintains an electronic system for licensed motor vehicle dealers to issue temporary tags.¹⁷ DHSMV may deny, suspend, or revoke the license of a dealer who fails to comply with departmental requirements for issuing temporary tags. The system allows DHSMV to issue a temporary tag number in response to a request from the issuer using a secure transmission and then enable the issuer to print the tag containing all required information.¹⁸ If a system outage occurs, the issuer may use a backup manual issuance method which requires recordkeeping of information by DHSMV and timely electronic reporting of information to the department.¹⁹ DHSMV may adopt rules to administer the system,

⁸ A temporary tag issued for this purpose is valid for 90 days. S. 320.131(1)(j), F.S.

⁹ Section 320.131(3), F.S.

¹⁰ Section 320.131(5), F.S.

¹¹ Section 320.131(6), F.S.

¹² Section 320.131(1), F.S.

¹³ Section 320.131(2), F.S.

¹⁴ Section 320.131(4)(a), F.S.

¹⁵ Section 320.131(4)(b), F.S.

¹⁶ Section 320.131(7), F.S.

¹⁷ Section 320.131(8), F.S.

¹⁸ Section 320.131(9)(a), F.S.

¹⁹ Section 320.131(9)(b), F.S.

including exemptions as feasibly required to administer the program and for issuers who do not require a dealer license due to the type or size of vehicle being sold.²⁰

Fleet Vehicles

A fleet vehicle is a non-apportioned motor vehicle owned or leased by a company and used for business purposes.²¹ DHSMV is authorized to determine the minimum number of vehicles which constitute a fleet. Short-term rental vehicles are excluded from the definition of fleet vehicles.

The owner or lessee of a fleet vehicle may receive permanent fleet license plates by filing an application with DHSMV and paying a license tax.²² The owner or lessee of a fleet vehicle must also pay an annual fleet management fee of \$2 and a one-time license plate manufacturing fee.²³ An issuance fee of \$10 per vehicle is charged when the size of a fleet is increased. The license plate manufacturing fee is included in the issuance fee. If a recipient of fleet vehicle plates fails to renew or initially register vehicles in the fleet within 30 days, DHSMV may impose a penalty equal to the greater of \$50 or 10 percent of the delinquent taxes due.²⁴ If the delinquent taxes are more than 30 days past due, DHSMV may levy an additional penalty of the greater of \$50 or 10 percent of the delinquent taxes due up to the total amount of taxes due.

Fleet license plates must have a distinctive color and have the word "Fleet" printed at the bottom.²⁵ The operators of fleet vehicles are not required to maintain a copy of the certificate of registration in the vehicle and fleet vehicle plates do not require an annual validation sticker.²⁶ Recipients of fleet license plates must provide an annual reconciliation with DHSMV and must surrender all unassigned plates.²⁷

Temporary tags are not currently authorized for fleet vehicles.

Effect of Proposed Changes

The bill authorizes DHSMV to partner with county tax collectors to issue temporary tags to fleet companies awaiting permanent registration and title. A fleet company must have a minimum of 3,500 fleet vehicles registered in the state as fleet vehicles and enter into a memorandum of understanding with DHSMV to receive temporary tags. DHSMV may issue up to 50 temporary tags to an eligible fleet company. Each temporary tag is assigned to one vehicle and becomes invalid upon receipt of the vehicle's permanent license plate and registration. DHSMV may terminate the memorandum of understanding upon a finding that a fleet company has misused a temporary tag.

B. SECTION DIRECTORY:

Section 1: Amends s. 320.0605, F.S., relating to certificates of registration and required possession.

Section 2: Amends s. 320.131, F.S. authorizing the DHSMV to issue temporary tags for fleet vehicles.

Section 3: Amends s. 322.38, F.S., relating to renting a motor vehicle to another individual.

Section 4: Provides that the bill shall take effect October 1, 2018.

²⁰ Section 320.131(9)(c), F.S.

²¹ Section 320.0657(1), F.S.

²² Section 320.0657(2)(a), F.S.

²³ Section 320.0657(2)(c), F.S. The license plate manufacturing fee is the greater of \$1.50 or the actual cost of producing the plate.

²⁴ Section 320.0657(3), F.S.

²⁵ Section 320.0657(2)(b), F.S.

²⁶ Section 320.0657(2)(c), F.S.

²⁷ Section 320.0657(4), F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

There is currently a \$2 temporary tag fee for certain vehicles, whose revenues are divided evenly between the Highway Safety Operating Trust Fund and the Brain and Spinal Cord Injury Program Trust Fund. To the extent that fleet companies choose to utilize this new authority to purchase temporary tags for their vehicles, there may be an indeterminate, positive fiscal impact on the Highway Safety Operating Trust Fund and the Brain and Spinal Cord Injury Program Trust Fund.

2. Expenditures:

DHSMV estimates that 87 hours, or the equivalent of \$3,045 in FTE and contracted resources will be required in order to implement the bill. This cost can be absorbed within existing resources²⁸.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

County tax collectors are currently authorized to collect a \$3 surcharge for each temporary tag issuance. To the extent that fleet companies choose to utilize this new authority to purchase temporary tags for their vehicles, there may be an indeterminate, positive fiscal impact on local government revenues.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

²⁸ Email from DHSMV dated February 1, 2018, on file with the Transportation and Tourism Appropriations Subcommittee.

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 6, 2018, the Transportation & Tourism Appropriations Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment authorizes the use of an electronic copy of rental car documentation. Additionally, the strike-all amendment requires that an individual or rental car company renting a motor vehicle to another must verify that the individual possesses a valid driver license.

The analysis is drafted to the committee substitute as reported favorably by the Transportation & Tourism Appropriations Subcommittee.