

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 Infrastructure and Security

BILL: SPB 7090

INTRODUCER: Infrastructure and Security Committee

SUBJECT: Highway Safety and Motor Vehicles

DATE: April 4, 2019

REVISED: 4/4/2019

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Proctor</u>	<u>Miller</u>		IS Submitted as Comm. Bill/Fav

I. Summary:

SPB 7090 is a comprehensive bill relating the Department of Highway Safety and Motor Vehicles (DHSMV). The bill:

- Allows the DHSMV to collect payment for expedited shipping of driver license (DL) and identification (ID) cards at the request of the customer for online transactions;
- Allows the DHSMV to provide a no fee ID card, if the previous ID card was stolen, by providing a copy of the police report;
- Extends the renewal window for ID cards to match DLs;
- Creates a definition for “control person” and expands penalties to dealerships who employ a control person whose dealer license has been revoked;
- Strengthens the penalties for false information on an application for DL;
- Establishes a definition for the term “crash” in chapter 316 related to State Uniform Traffic Control;
- Establishes subpoena authority for the DHSMV to obtain testimony and documents from third-party entities that cannot be obtained under current law;
- Provides authority for the DHSMV and its agents (Tax Collectors) to collect and use email addresses and cellular telephones numbers to contact customers;
- Removes obsolete language related to the manual reporting of students whose driving privileges have been suspended for truancy;
- Updates Florida Statutes to resolve compatibility concerns from the Federal Motor Carrier Safety Administration (FMCSA) between existing state law and federal regulations;
- Incorporates violations for texting or using a handheld phone device while operating a commercial motor vehicle (CMV) as a serious disqualifying offense to align with federal regulations as noted in FMCSA compliance pre-audit;
- Revises the definition of "Apportionable Vehicle" to bring Florida's statutory definition of "Apportionable Vehicle" in alignment with the requirements of the International Registration Plan (IRP);
- Revises the issuance time frame for apportioned plates to be longer than one year, and will provide for free replacement for damaged or worn apportioned plates;

- Modifies existing law to indicate the DHSMV has statutory authority to adopt rules for the safe operations of commercial motor vehicles and conduct compliance reviews;
- Re-establishes the Privatized Rebuilt Vehicle Inspection Program (PRVIP) permanently and expand it statewide;
- Defines the term “platoon” as no more than 2 trucks that are wirelessly connected;
- Exempts platoon operators from state laws relating to “following too closely” and use of television receivers;
- Permits a platoon to be operated on Florida roadways after an operator provides notification to the Department of Transportation (DOT) and the DHSMV.
- Permits a district school board, by majority vote, to extend the period of enforcement for a school speed zone by an additional 15 minutes before, during, and additional 15 minutes after the periods of time when pupils are arriving at a regularly scheduled breakfast program or a regularly scheduled school session and leaving a regularly scheduled school session;
- Authorizes the DHSMV and Tax Collectors to collect and use cellular telephone numbers and email addresses to contact customers for business reasons other than vehicle renewals;
- Requires the DHSMV to provide tax collectors and their approved agents and vendors with real-time access to data that other third parties receive from the DHSMV related to registration of vehicles, mobile homes, and vessels;
- Changes the effective date for the bill’s changes to apportioned vehicle registrations to January 1, 2023;
- Provides tax collectors the option of purchasing validation stickers and paper stock used in producing vehicle registrations from the DHSMV’s contracted vendor or from other vendors, as long as the items meet the DHSMV’s specifications and are procured at prices that are at or lower than the pricing reflected in the DHSMV’s existing contracts for the items;
- Creates a Fleet Vehicle Temporary Tag Pilot Program, which allows the DHSMV to partner with a county tax collector to establish an agreement with up to ten companies allowing the issuance of up to 50 temporary tags at a time for use by the company’s fleet vehicles; and
- Clarifies that the DHSMV’s Mobile/Manufactured Home Repair and Remodeling Code, which has been adopted by rule, is uniform statewide and requires that all repairs and remodeling must conform to that Code

According to the DHSMV, the bill will have a negative, but insignificant fiscal impact to state expenditures. Additionally, classifying charter buses as an apportionable vehicle may have an indeterminate impact to state revenues. See fiscal comments in Section V.

The bill has an effect date of July 1, 2019.

II. Present Situation:

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

III. Effect of Proposed Changes:

Definitions - Crash and Serious Bodily Injury

Present Situation

Chapter 316 of Florida law, related to State Uniform Traffic Control, contains the term “crash” over 150 times, but does not contain a definition for the term. The absence of a standard definition leads to inconsistent policies and procedures across law enforcement agencies that investigate crashes and among courts that adjudicate cases involving crashes.

Chapter 316, F.S., defines “serious bodily injury” in ss. 316.192, 316.027, and 316.1933, F.S. However, the term is not defined in the definitions section of s. 316.003, F.S.

Effect of Proposed Changes

The bill amends s. 316.003, F.S., by establishing a definition for the term “crash”. “Crash” is defined as the operation of a motor vehicle, motorized scooter, or moped which results in property damage or death, bodily injury, or complaint of bodily injury to any person. The term “crash” includes separation of the operator or an occupant from a motor vehicle, motorized scooter, or moped, or trailer being drawn by a motor vehicle, while in motion, which results in property damage or death, bodily injury, or complaint of bodily injury to any person. The term “crash” does not include such operation:

- On private property, if such operation does not result in death or serious bodily injury, unless the operator is suspected of violating s. 316.193, F.S., relating to driving under the influence;
- On a closed course used for commercial or recreational purposes, such as a commercial driving school or racetrack, unless the operator is suspected of violating s. 316.193, F.S., relating to driving under the influence; or
- If such property damage or death, bodily injury, or complaint of bodily injury to any person results from an intentional act of a law enforcement officer to force a motor vehicle or moped to stop or reduce speed, such as use of a pursuit termination device or the precision immobilization technique, except that the term “crash” includes such operation that results in death, bodily injury, or complaint of bodily injury to, or damage to property of, anyone other than the operator or an occupant being forced to stop or reduce speed or the law enforcement officer.

The term “crash” also does not include the death or suffering of a medical episode by the operator or an occupant of a motor vehicle or moped if operation of the motor vehicle or moped did not result in such death or medical episode and does not result in property damage or death, bodily injury, or complaint of bodily injury to any other person.

The bill also amends s. 316.003, F.S., by creating a definition for the term “serious bodily injury” to be an injury to any person which consists of a physical condition that creates a substantial risk of death, significant personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

The bill amends ss. 316.027, 316.0271, 316.061, 316.194, 316.622, 316.640, 316.655, 321.05, 321.065, 321.23, 322.0602, 322.36, 323.001, 323.002, 324.011, 324.022, 324.023, 324.051, and 324.242, F.S., changing the word “accident” to “crash”.

The bill amends ss. 316.027, 316.192, and 316.1933, F.S., deleting the definition of “serious bodily injury.”

Federal Motor Carrier Safety Administration Compatibility

Present Situation

The primary mission of the Federal Motor Carrier Safety Administration (FMCSA), within the United States Department of Transportation, is to prevent commercial motor vehicle-related fatalities and injuries.¹ In 2007, the FMCSA presented to Florida a Motor Carrier Safety Assistance Program (MSCAP) review, which concluded that Florida Statutes have multiple compatibility concerns with federal CMV safety regulations.²

Section 316.003(13), F.S. defines “commercial motor vehicle” as any self-propelled or towed vehicle used on public highways in commerce to transport passengers or cargo, if such vehicle:

- Has a gross vehicle weight rating of 10,000 pounds or more;
- Is designed to transport more than 15 passengers, including the driver; or
- Is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act³, as amended.

Section 316.302(1)(a), F.S., provides that all owners and drivers of CMVs operating on the state’s public highways while engaged in interstate commerce are subject to the following parts of 49 C.F.R.:

- 382 Controlled Substance and Alcohol Use Testing
- 385 Safety Fitness Procedures
- 390 Federal Motor Carrier Safety Regulations; General
- 391 Qualifications of Drivers and Longer Combination Vehicle Driver Instructors
- 392 Driving of Commercial Motor Vehicles
- 393 Parts and Accessories Necessary for Safe Operation
- 395 Hours of Service for Drivers
- 396 Inspection, Repair, and Maintenance
- 397 Transportation of Hazardous Materials; Driving and Parking Rules

Section 316.302(1)(b), F.S., provides that, with certain exceptions, all owners or drivers of CMVs engaged in intrastate commerce are subject to the following parts of 49 C.F.R. except as it relates to the definition of bus, as those rules and regulations existed on December 31, 2012:

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

¹ Federal Motor Carrier Safety Administration, available at <https://www.fmcsa.dot.gov/mission/about-us> (last visited Mar. 1, 2019).

² 2007 Florida State MSCAP Review (Copy on file with Senate Committee on Infrastructure and Security).

³ 49 U.S.C. ss. 1801 *et seq.*

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

Federal regulations define “bus” as “any motor vehicle designed, constructed, and/or used for the transportation of passengers, including taxicabs.”⁴ In its 2007 review, the FMCSA found that Florida’s exemption for taxicabs was not compatible with federal regulations, which includes taxicabs in the definition of “bus.”⁵

In its 2007 review, the FMCSA also found that the statutory provision exempting trucks transporting solid waste and recyclable materials with specified mechanisms operating at speeds of less than 20 miles per hour from certain lighting provisions is incompatible with federal regulations,⁶ which does not contain a similar exemption and that federal regulations expressly prohibit lamps and reflectors from being obscured.⁷

Federal regulations provide that with some exceptions, CMV drivers are required to be at least 21 years of age.⁸ Federal regulations also provide maximum drive time requirements for property carrying vehicles.⁹ Section 316.302(2)(a), F.S., provides that a person operating a CMV solely in intrastate commerce and not transporting any hazardous material in amounts that require placarding¹⁰ is not required to comply with the above-referenced federal regulations.

Federal regulations provide hours of service rules for CMV drivers.¹¹ Florida law also provides that, except as provided in federal regulations, a person operating a CMV solely in intrastate commerce and not transporting any hazardous material 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.¹²

These provisions do not apply to drivers of utility service vehicles.¹³

⁴ 49 C.F.R. s. 390.5T.

⁵ 2007 Florida State MSCAP Review, at p. 2.

⁶ 49 C.F.R. 393 Subpart B.

⁷ 2007 Florida State MSCAP Review, at p. 4.

⁸ 49 C.F.R. s. 391.11(b)(1).

⁹ 49 C.F.R. s. 395.3(a) and (b).

¹⁰ Placarding is required pursuant to 49 C.F.R. part 172. In this analysis, everywhere there is a discussion regarding the transportation of hazardous materials, it is assumed to be in amounts that require placarding.

¹¹ 49 C.F.R. s. 395.

¹² Section 316.302(2)(b), F.S.

¹³ 49 C.F.R. s. 395.2, defines “utility service vehicle” as any commercial motor vehicle:

(1) Used in the furtherance of repairing, maintaining, or operating any structures or any other physical facilities necessary for the delivery of public utility services, including the furnishing of electric, gas, water, sanitary sewer, telephone, and television cable or community antenna service;

Section 316.302(2)(c), F.S., provides that, except as provided in the federal hours of service rules¹⁴, 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. Upon request of the DHSMV, motor carriers are required to furnish time records or other written verification so that the DHSMV can determine compliance with the hours of service requirements. Falsification of time records is subject to a civil penalty not to exceed \$100.

Section 316.302(2)(d), F.S., provides that a person operating a CMV solely in intrastate commerce not transporting any hazardous material within a 150 air-mile radius is not required to comply with federal provisions regarding a driver's record of duty status¹⁵ if the requirements of certain federal rules regarding short-haul operations¹⁶ are met. If a driver is not released from duty within 12 hours after the driver arrives for duty, the motor carrier must maintain documentation of the driver's driving times throughout the duty period.

Section 316.302(2)(f), F.S., provides that a person who is operating a CMV having a declared gross vehicle weight of less than 26,001 pounds operating solely in intrastate commerce and who is not transporting hazardous materials or who is transporting petroleum products¹⁷ is exempt from s. 316.302(1), F.S. However, such person must comply with 49 C.F.R. parts 382, 392, and 393, and with 49 C.F.R. ss. 396.3(a)(1) and 396.9.

In its 2007 findings, the FMCSA determined that s. 316.302(2)(f), F.S., is not compatible with federal regulations since it exempts vehicles transporting petroleum products and the state definition of petroleum products includes liquids that could require placarding, while federal regulations do not allow drivers of vehicles requiring placarding to be exempt from applicable requirements.¹⁸

Effect of Proposed Changes

The bill amends various provisions of ss. 316.302(1) and (2), F.S., addressing issues related to Florida's CMV regulations and their incompatibility with federal regulation.

(2) While engaged in any activity necessarily related to the ultimate delivery of such public utility services to consumers, including travel or movement to, from, upon, or between activity sites (including occasional travel or movement outside the service area necessitated by any utility emergency as determined by the utility provider); and

(3) Except for any occasional emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the vehicle is owned, leased, or rented by the utility.

¹⁴ 49 C.F.R. s. 395.1.

¹⁵ 49 C.F.R. 395.8.

¹⁶ 49 C.F.R. s. 395.1(e)(1)(iii) and (v) are various rules relating to short-haul operations.

¹⁷ Section 376.301(33), F.S., defines "petroleum product" as "any liquid fuel commodity made from petroleum, including, but not limited to, all forms of fuel known or sold as diesel fuel, kerosene, all forms of fuel known or sold as gasoline, and fuels containing a mixture of gasoline and other products, excluding liquefied petroleum gas and American Society for Testing and Materials grades no. 5 and no. 6 residual oils, bunker C residual oils, intermediate fuel oils used for marine bunkering with a viscosity of 30 and higher, asphalt oils, and petrochemical feedstocks."

¹⁸ 2007 Florida State MSCAP Review, at p. 3.

The bill amends s. 316.302(1)(b), F.S., removing the exception for the federal definition of a bus and updating the date of adoption to December 31, 2018, which updates the state law referencing the applicable federal rules applicable to intrastate CMVs.

The bill amends s. 316.302(1)(d), F.S., removing exceptions regarding headlamps and turn signals by waste collection vehicles under specified circumstances.

The bill creates s. 316.302(1)(e), F.S., providing that the requirement for electronic logging devices and hours of service support documents¹⁹ do not go into effect for motor carriers engaged in intrastate commerce, and not carrying hazardous materials in amounts requiring placarding, until December 31, 2019.

The bill amends s. 316.302(2)(a), F.S., no longer requiring intrastate CMVs that are not carrying hazardous materials to comply with certain federal regulations providing maximum drive time requirements. Therefore, these vehicles will not be required to comply with 49 C.F.R. 395.3, documenting the maximum driving time for operators of property carrying vehicles. These drivers continue to be subject to the maximum driving times required by state law.

The bill amends s. 316.302(2)(c), F.S., by removing the \$100 fine for falsifying hours of service records, because it is duplicative of the fine provided in the CMV penalties statute.²⁰

The bill amends s. 316.302(2)(d), F.S., to update and correct a reference to federal regulations, 49 C.F.R. 395.1(e)(1)(ii) and (iii)(A) and (C) and (v), that allow a short-haul driver, not transporting hazardous materials requiring a placard, to be exempt from maintaining documentation of the driver's driving times. In order to be exempt, a driver must return to the work reporting location and be released from work within 12 consecutive hours and have either 10 or 8 hours off.

The bill amends s. 316.302(2)(f), F.S., to remove specific exemptions from federal regulations for drivers transporting petroleum products due to the inclusion of flammable liquids that could require a hazardous material placard. The paragraph is also amended to refer to the federal criteria for the exemption: CMVs having a *gross vehicle weight*, *gross vehicle weight rating*, and *gross combined weight rating* of less than 26,001 pounds, instead of a declared gross vehicle weight.

The bill deletes s. 316.302(2)(j), F.S., removing the requirement that a qualified driver who operates a CMV in intrastate commerce only, and who does not transport hazardous materials in amounts that require placarding, be exempt from the diabetes requirement for medical examination of 49 C.F.R. part 391, subpart E, ss. 391.41(b)(3) and 391.41(c).

¹⁹ Electronic Logging Devices and Hours of Service Supporting Documents, 80 Fed. Reg. 78291 (Dec. 16, 2015), <https://www.federalregister.gov/documents/2015/12/16/2015-31336/electronic-logging-devices-and-hours-of-servicesupporting-documents> (last visited Mar. 4, 2019).

²⁰ Section 316.3025(3)(b)1., F.S.

Platooning

Present Situation

Platooning is an emerging automated driving technology that allows vehicles to communicate with one another in order to electronically “link” to each other in a line at close proximity, where the lead vehicle controls the speed and braking of the following vehicles. Vehicles platoon by using an onboard computer connected to a vehicle-to-vehicle (V2V) communications device that receives and transmits data using Dedicated Short-Range Communications (DSRC), a two-way wireless communications capability permitting very high data transmission. DSRC is used by both V2V communications as well as vehicle-to-infrastructure (V2I) communications to provide connectivity among vehicles and between infrastructure to prevent crashes, and enable safety, mobility, and environmental sustainability.

The National Highway Traffic Safety Administration (NHTSA) published a Notice of Proposed Rulemaking in January 2017, proposing to mandate V2V communications for new light vehicles and standardize the message and format of V2V transmissions to create a standard system, which enables vehicle manufacturers to develop safety applications using V2V communications. These V2V communication device requirements would use DSRC devices to transmit basic information on the road, such as a vehicle’s speed, heading, brake status, path predictions, and other vehicle information that can be used to provide drivers timely warnings of impending crash situations that a driver may not be capable of seeing. NHTSA has expressed that V2V communication “shows great promise in helping to avoid crashes, ease traffic congestion, and improve the environment.”

Driver-Assistive Truck Platooning

One form of V2V technology is DATP, which allows trucks to communicate with one another and to travel as close as 30 feet apart with automatic acceleration and braking. A draft is created, reducing wind resistance and cutting down on fuel consumption.

In 2016, s. 316.0896, F.S., was created to require the DOT, in consultation with the HSMV, to study the use and safe operation of DATP technology, develop and conduct a pilot project to test the use and safe operation of vehicles equipped to operate using DATP, and submit results of the study and any findings or recommendations from the pilot project to Florida’s Governor and Legislature. The DOT developed the pilot project as a demonstration and operational phase to:

- Evaluate impacts of DATP on surrounding traffic and infrastructure;
- Evaluate feasibility of conducting enforcement responsibilities when DATP trucks are operating; and
- Evaluate administrative aspects of permitting DATP systems.

The pilot project was conducted with Peloton Technology, one developer of DATP vehicle systems. Peloton’s DATP is a cloud-based system that uses integrated sensors, controls, and wireless communications to determine in real time whether conditions are appropriate to allow specific trucks to engage in platooning operations. Using V2V communications, 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. According to Peloton Technology, Peloton’s demonstration of its DATP technology

occurred on the Florida Turnpike and covered over 1,000 miles using two trucks traveling at a separation distance of approximately 65 feet.

Platoon Laws in Other States

According to Peloton, nine states have confirmed allowance for commercial deployment of DATP. At least ten states with “following too closely” laws, including Florida, exempt vehicles equipped with a DATP system or a platooning system from such state law. Additionally, Arkansas, Michigan, Nevada and Tennessee passed laws expressly allowing a person to operate DATP or platooning systems; however, Arkansas, Michigan, and Tennessee only allow operation upon state approval of a submitted operations plan, or following a certain number of days after submission of such plan, if the plan is not rejected by the overseeing agency. Several states and the federal government are continuing testing of DATP and other platooning systems.

Following Too Closely and TV Receiver Prohibitions

Section 316.0895, F.S., prohibits a driver of a motor vehicle to follow another vehicle more closely than is reasonable and prudent. It is unlawful, when traveling upon a roadway outside a business or residence district, for a motor truck, motor truck drawing another vehicle, or vehicle towing another vehicle or trailer to follow within 300 feet of another vehicle.

Section 316.303, F.S., prohibits a motor vehicle operated on the highways of this state to be equipped with television-type receiving equipment that is visible from the driver’s seat; however, this prohibition does not apply to an electronic display:

- Used in conjunction with a vehicle navigation system;
- Used in a vehicle equipped with autonomous technology in autonomous mode; or
- Used in a vehicle equipped and operating with DATP technology.

Effect of Proposed Changes

The bill amends s. 316.003, F.S., to define “platoon” to mean a group of no more than two trucks that do not require placards, either laden or unladen, traveling in a unified manner using wireless vehicle-to-vehicle communications that electronically coordinate speeds and following distances of the trucks.

The bill repeals s. 316.0896, F.S., which created the Assistive truck platooning technology pilot project conducted by the DOT in consultation with the DHSMV.

The bill amends s. 316.0897, F.S., so that s. 316.0895, F.S., for following too closely, does not apply to the operator of a nonlead vehicle in a platoon, and that a platoon may be operated on a roadway in Florida after an operator provides notification to the DOT and the DHSMV.

The bill amends s. 316.303, F.S., to add that the prohibition on television receivers does not apply to an electronic display used by an operator of a platoon, as defined in s. 316.003, F.S.

School Speed Zones

Present Situation

Section 316.1895, F.S., relates to the establishment of speed zones. A school zone is an area designated for the purpose of establishing a reduced school zone speed limit that is in effect at the beginning and end of the regularly scheduled school day. Section 316.1895(5), F.S., provides: "A school zone speed limit may not be less than 15 miles per hour except by local regulation. No school zone speed limit shall be more than 20 miles per hour in an urbanized area, as defined in s. 334.03. Such speed limit may be in force during those times 30 minutes before, during, and 30 minutes after the periods of time when pupils are arriving at a regularly scheduled breakfast program or a regularly scheduled school session and leaving a regularly scheduled school session."

Effect of Proposed Changes

The bill creates s. 316.1895(5)(b), F.S., to allow a district school board as defined in s. 1003.01(1), F.S., by simple majority vote to increase the time a school zone speed limit is in force by an additional 15 minutes, before, during, and an additional 15 minutes after the periods of time when pupils are arriving at a regularly scheduled breakfast program or at a regularly scheduled school session and leaving a regularly scheduled school session.

This may result in a school zone speed limit potentially being in force for up to a total of 45 minutes before, during, and up to a total of 45 minutes after the periods of time when pupils are arriving at a regularly scheduled breakfast program or at a regularly scheduled school session and leaving a regularly scheduled school session, if enacted by a district school board.

Safety Rules for Nonpublic Sector Buses

Present Situation

Section 316.70, F.S., provides that the DOT must establish and revise standards contained in federal law²¹ to ensure the safe operation of nonpublic sector buses. The standards should be directed toward ensuring that:

- Nonpublic sector buses are safely maintained, equipped, and operated.
- Nonpublic sector buses are carrying the insurance required by law and carrying liability insurance on the checked baggage of passengers not to exceed the standard adopted by the United States Department of Transportation.
- Florida license tags are purchased for nonpublic sector buses pursuant to state law.
- The driving records of drivers of nonpublic sector buses are checked by their employers at least once each year to ascertain whether the driver has a suspended or revoked driver license.

DOT personnel may conduct compliance reviews for the purpose of determining compliance with these requirements. A civil penalty not to exceed \$5,000 in the aggregate may be assessed against any person who violates any provision of this section or who violates any rule or order of DOT. A civil penalty not to exceed \$25,000 in the aggregate may be assessed for violations

²¹ 49 C.F.R. parts 382, 385, and 390-397.

found in a follow-up compliance review conducted within a 24-month period. A civil penalty not to exceed \$25,000 in the aggregate may be assessed and the motor carrier may be enjoined pursuant to s. 316.3026, F.S., if violations are found after a second follow-up compliance review within 12 months after the first follow-up compliance review.

Effect of Proposed Changes

The bill amends s. 316.70, F.S., to change the agency who has statutory authority to adopt rules for the safe operations of commercial motor vehicles and conduct compliance reviews from the DOT to the DHSMV. This change addresses which agency is responsible for the safe operations of nonpublic sector buses, which should have been changed during the merger of the Office of Motor Carrier Compliance within the DOT to the Office of Commercial Vehicle Enforcement with the DHSMV.

The bill provides that a law enforcement officer of the DHSMV or an appointed agent who holds a current safety inspector certification from the Commercial Vehicle Safety Alliance may require the driver of a commercial motor vehicle operated in Florida to stop and submit to an inspection of the vehicle and the driver's records. If a specified issue is found, then the motor vehicle or driver may be removed from service or a written 15-day notice requiring correction of the condition may be provided.

The bill cross-references the applicable Code of Federal Regulations, removes duplicative standards for nonpublic sector buses.

The bill removes a civil penalty that may be applied should a motor carrier continue to be in violation of any provision of s. 316.70, F.S., or the DHSMV rules following a second follow up compliance review within 12 months after the first follow up compliance review.

Privatized Rebuilt Vehicle Inspection Program

Present Situation

In 2013, the Legislature created s. 319.141, F.S., creating a PRVIP in Miami-Dade and Hillsborough counties through June 30, 2018.²² The DHSMV set standards for the program and certified private sector inspection facilities in Miami-Dade County. The program's purpose was to evaluate private sector alternatives for rebuilt inspection services, including the feasibility of using private facilities, the cost impact to consumers, and the potential savings to the DHSMV. The DHSMV was required to establish a memorandum of understanding (MOU) allowing private parties participating in the pilot program to conduct rebuilt vehicle inspections and specifies requirements for oversight, bonding and insurance, procedure and forms, and requires the electronic submission of documents.

²² Section 319.14(1)(c)3., defines "rebuilt vehicle" for purposes of that section as a motor vehicle or motor home built from salvage or junk.

To be approved for the program, an applicant was required to:

- Have and maintain a surety bond or irrevocable letter of credit in the amount of \$100,000, executed by the applicant;
- Secure and maintain a facility at a permanent structure at an address recognized by the U.S. Postal Service where the only services provided are rebuilt inspection services;
- Annually attest that he or she is not employed by or does not have an ownership interest in or financial arrangement with a motor vehicle repair shop, motor vehicle dealer, towing company, storage company, vehicle auction, insurance company, salvage yard, metal retailer, or metal rebuilder, from which he or she receives remuneration for the referral of customers for rebuilt inspection services;
- 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 DHSMV determines necessary to conduct proper inspections.²³

As required by law, in 2015, the DHSMV submitted a report²⁴ that summarized the implementation of the pilot program and program results. The DHSMV certified eight private businesses in the Miami area to conduct rebuilt vehicle inspections.²⁵ The DHSMV employees in Miami-Dade County were responsible for conducting rebuilt vehicle inspections at the DHSMV Regional Office and at various off-site locations, and for monitoring the PRVIP businesses to ensure inspections were conducted in accordance with program standards.²⁶

According to the DHSMV, each of the eight pilot program participants met all of the statutory requirements and the MOU executed with the DHSMV.²⁷ Statutorily authorized state rebuilt inspection fees (\$40) and re-inspection fees (\$20) were collected and remitted to the state as required. In addition, each pilot program participant was allowed to assess customers a service fee for each inspection. Service fees ranged from \$50 to \$85 and were not regulated in any manner by the DHSMV.²⁸

As provided in its authorizing legislation, the PRVIP was repealed on July 1, 2018, as it was not saved from repeal or reauthorized by the Legislature.

Effect of Proposed Changes

The bill revives, reenacts, and amends s. 319.141, F.S., notwithstanding its repeal on July 1, 2018. The bill re-establishes the PRVIP permanently and expands it statewide. The DHSMV will oversee the program and establish MOUs with participating private entities to include bonding and insurance, procedures, forms, and document transmittals. Proposed language would prohibit

²³ Section 319.141(4), F.S.

²⁴ DHSMV, *Florida's Private Rebuilt Vehicle Inspection Program – Pilot Program Report* (Jan. 30, 2015), available at <http://www.flhsmv.gov/pdf/cabinetreports/privaterebuiltreport.pdf> (last viewed March 9, 2019). No entities from Hillsborough County applied to participate in the pilot program.

²⁵ DHSMV, Office of Inspector General, *Rebuilt Vehicle Inspection Program Audit Report 201617-24* (Dec. 5, 2017), available at <https://www.flhsmv.gov/pdf/igoffice/20161724.pdf> (last viewed March 9, 2019).

²⁶ *Supra* note 60 at p. 3.

²⁷ *Id.*

²⁸ *Id.*

conflicts of interest, establish prohibited business practices, and provide authority for the DHSMV to conduct investigations.

The bill amends s. 319.001, F.S., to define:

- “Conflict” or “conflict of interest” means a situation in which a private interest could benefit from or interfere with official duties or a public interest, including, but not limited to, having a direct or indirect financial interest in a vehicle being inspected pursuant to s. 319.141, F.S.; or being employed by, or directly or indirectly having an ownership interest in, an entity that has a financial interest in a vehicle being inspected pursuant to s. 319.141, F.S.;
- “Private rebuilt inspection provider” means a person or an entity conducting rebuilt motor vehicle inspections who is physically located in this state and is authorized by the DHSMV and operating under this chapter;
- “Rebuilt courier service” means an individual or entity who provides services to vehicle owners or motor vehicle dealers who use the inspection services of a private rebuilt inspection provider. These services include, but are not limited to, preparing, compiling, or providing forms, applications, certificates of title, or other documentation required to conduct a rebuilt inspection, or engaging in or arranging for the transportation of vehicles for inspection; and
- “Rebuilt inspection” means an examination of a rebuilt vehicle and the required documentation. Required documentation includes, but is not limited to: a properly endorsed certificate of title, salvage certificate of title, or manufacturer’s statement of origin; an application for a rebuilt branded certificate of title; a rebuilder’s affidavit; a photograph of the junk or salvage vehicle taken before repairs began; receipts or invoices for all major component parts, as defined in s. 319.30, F.S.; repairs conducted; and proof that notice of rebuilding of the vehicle has been reported to the National Motor Vehicle Title Information System. If an airbag or airbags were deployed, before and after photos must be provided which clearly show the deployed airbags and that the airbags have been replaced.

The bill creates s. 319.002, F.S., providing rulemaking authority to the DHSMV for the PRVIP.

The bill creates s. 319.1411, F.S., to provide that the DHSMV may monitor and inspect the operations of the PRVIP providers as it deems necessary to determine whether the PRVIP provider is operating in compliance of law and to determine if the PRVIP provider has engaged in any prohibited business practices.

The bill creates s. 319.142, F.S., to establish rules of conduct and prohibited business practices for the PRVIP. The following business conduct is prohibited:

- Engaging in any business transaction or activity that is in substantial conflict with the proper discharge of the PRVIP provider’s duties in the public interest;
- Allowing a vehicle to pass inspection knowing that there was a material misrepresentation in the required documentation or that the documentation submitted in support of the inspection was counterfeit or materially altered;
- Failure to report to the DHSMV the identification of a suspected stolen part or stolen vehicle during a rebuilt inspection;
- In connection with providing private rebuilt inspection services, engaging in any course of conduct that is fraud or deceit upon the DHSMV, a dealer, or a vehicle owner;

- Knowingly falsifying the DHSMV records or knowingly providing materially false or misleading information to the DHSMV;
- Failing to allow an examination or inspection of a PRVIP provider facility, including a review of books and records, by the DHSMV or law enforcement during regular business hours;
- Passing a vehicle through inspection without having a reasonable basis to believe that all airbags that are subject to a safety recall issued by the National Highway Transportation Safety Administration were replaced with airbags not subject to such a safety recall;
- Failure to timely respond to a subpoena issued by the DHSMV;
- Conducting rebuilt inspection services at a physical location not approved in writing by the DHSMV or providing services from a mobile unit not approved in writing by the DHSMV;
- Failure to maintain at all times a garage liability insurance in the amount of at least \$100,000;
- Failure to maintain at all times a good and sufficient surety bond or irrevocable letter of credit in the amount of \$100,000 which covers all activities under the PRVIP and names the DHSMV as an insured;
- Violation of law or the contract between the DHSMV and the PRVIP provider; and
- The use of advertising that would reasonably lead the public to believe that the provider was or is an employee or representative of the DHSMV, or the use in its name of the terms “Department of Highway Safety and Motor Vehicles,” “DMV,” “DHSMV,” “FLHSMV,” or “HSMV” or any other terms or logos that are associated with the DHSMV.

The DHSMV is provided the authority to terminate a vendor contract for any violation of the above listed items.

The bill creates s. 319.1414, F.S., providing the DHSMV the authority to conduct investigations and examinations of approved PRVIP vendors. The purpose of the inspections is to determine whether a person has violated the terms of their contract. The DHSMV is authorized to subpoena records, examine witnesses under oath, and collect any business records as part of an investigation. The DHSMV is authorized to seek a court order for any vendor who refuses to comply with an investigation.

Subpoena and Investigative Authority

Present Situation

The DHSMV has jurisdiction over multiple chapters of Florida Statutes, for which they do not have subpoena authority, without which they are often unable to obtain documents and testimony from third-party entities (banks, tow companies, etc.) to conduct administrative or criminal investigations.

Effect of Proposed Changes

The bill creates s. 322.71, F.S., and amends ss. 319.25 and 320.861, F.S., authorizing the DHSMV to exercise the power of subpoena and to administer oaths or affirmations, examine witnesses, require affidavits, take depositions, and compel the attendance of witnesses and the production of books, papers, documents, records, and other evidence. The subpoena is to be used

for investigations or examinations conducted by the DHSMV of suspected violations of Chapters 319, 320, or 322, F.S., and may be served by an authorized representative of the DHSMV.

If a person refuses to obey the subpoena, the DHSMV may petition a court in the county in which the person or business is located. The court may direct the person to obey the subpoena, and any court costs incurred by the DHSMV in the process, must be paid by the subpoenaed person.

For the purpose of any investigation, examination, or proceeding initiated by the DHSMV under Chapters 319, 320, and 322, F.S., the DHSMV may designate agents to serve subpoenas and other processes and administer oaths or affirmations. A witness subpoenaed under this section is entitled to witness fees as established in statute for a witness in a civil case.²⁹

International Registration Plan – Charter Buses

Present Situation

The 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.³⁰ This allows carriers to operate inter-jurisdictionally while only needing to register its vehicles in its base jurisdiction, which is the state or province where the registrant has an established place of business.³¹

All apportionable vehicles domiciled in the state are required to be registered in accordance with the IRP and display “Apportioned” license plates.³² 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:

- 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.³³

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.³⁴ Apportionable vehicles that do not regularly operate in a particular jurisdiction also have the option to register

²⁹ Section 92.142, F.S.

³⁰ International Registration Plan, Inc., *About IRP*, <http://www.irponline.org/?page=AboutIRP> (last visited Mar. 4, 2019).

³¹ As defined by the International Registration Plan, (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 Mar. 4, 2019).

³² Section 320.0715(1), F.S.

³³ Sections 320.0715(4)(a) and (b), F.S.

³⁴ Section 320.0715(4)(c), F.S.

for trip permits in order to operate in IRP member jurisdictions for limited periods where they do not pay license taxes.³⁵

The IRP defines an apportionable vehicle as:³⁶

[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.

Prior to January 1, 2016, charter buses were 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.³⁷

Effect of Proposed Changes

The bill amends s. 320.01(24), F.S., to revise the definition of "Apportionable Vehicle" to remove charter buses, and bring Florida's statutory definition of "Apportionable Vehicle" in alignment with the requirements of the IRP. All charter buses operating interstate will be required to obtain an IRP registration or purchase trip permits.

Issuance of Apportionable Vehicle Plates

Present Situation

Florida law requires all apportionable vehicles domiciled in Florida to be registered in accordance with the IRP and to display required license plates.³⁸

Section 320.06, F.S., provides for motor vehicle registration certificates, license plates, and validation stickers. Registration license plates, which bear a graphic symbol and alphanumeric system of identification, most are issued for a 10-year period. However, "Apportioned" license plates issued to vehicles registered under the IRP are issued annually.³⁹ Apportioned vehicles are

³⁵ 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 Mar. 4, 2019).

³⁶ International Registration Plan, *supra* note 36 at p. 12-13 (last visited Mar. 4, 2019). 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.

³⁷ 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 Mar. 4, 2019).

³⁸ Section 320.0715(1), F.S.

³⁹ Section 320.06(1)(b)1., F.S.

also issued an annual cab card that denotes the declared gross vehicle weight for each apportioned jurisdiction where the vehicle is authorized to operate.⁴⁰

Section 320.0607, F.S., provides for replacement license plates, validation decals, or mobile home stickers. It requires that upon the issuance of an original license plate (whether every 10 years or annually for apportioned vehicles), the applicant pay a fee of \$28 to be deposited into the Highway Safety Operating Trust Fund (HSOTF).

Effect of Proposed Changes

The bill repeals s. 320.06(1)(b)2., F.S., on January 1, 2023, which provides that an apportioned vehicle must be issued an annual license plate and cab card denoting the declared gross vehicle weight.

Additionally, the bill amends s. 320.06, F.S., providing that upon implementation of a new operating system for apportioned vehicle registration, a vehicle registered in accordance with the IRP, will be issued a license plate for a five-year period, an annual cab card denoting the declared gross vehicle weight, and an annual validation sticker showing the month and year of expiration. The license plate and validation sticker will be issued based on the applicant's appropriate renewal period. The registration period for an apportionable vehicle is for 12 months and the validation sticker is valid for 12 months. The annual fee for an original and renewed validation sticker (rather than license plate) is \$28, which is deposited into the Highway Safety Operating Trust Fund. If the license plate is damaged or worn it may be replaced at no charge by applying to the DHSMV and surrendering the current license plate.

The bill amends s. 320.0607(5), F.S., providing that upon implementation of a new operating system for apportioned vehicle registration, the \$28 fee for a replacement license plate does not apply to vehicles registered under the IRP and issued an apportionable license plate. Instead, vehicles registered under the IRP will be issued an annual cab card and validation sticker for the same \$28 fee.

Collection and Use of Cellular Telephone Numbers

Present Situation

The DHSMV lacks statutory authority to collect and use cellular telephone numbers as a method to communicate with customers in an expedited manner. Florida Statutes already allows for the collection of email addresses and the use of email, in lieu of USPS, to provide motor vehicle registration renewal notices. However, current law does not allow the e-mail to be used for other business purposes.^{41 42 43 44 45}

⁴⁰ 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 Jan. 15, 2018).

⁴¹ Section 319.40, F.S.

⁴² Section 320.95, F.S.

⁴³ Section 322.08(10), F.S.

⁴⁴ Section 328.30, F.S.

⁴⁵ Section 328.80, F.S.

Effect of Proposed Changes

The bill amends ss. 319.40, 320.95, 322.08, and 328.30, F.S., and creates s. 328.80(2), F.S., authorizing the DHSMV and tax collectors to collect and use e-mail addresses and cellular telephone numbers to contact customers for business reasons other than vehicle registration, vessel registration, and driver license renewal notices. Providing an electronic mail address or cellular telephone number would be optional for the applicant, and before collecting an electronic mail address or cellular telephone number the DHSMV or tax collector must disclose to the applicant the purposes for which the electronic mail addresses and cellular telephone numbers may be used.

Vehicle and Vessel Registration Data***Present Situation*****Registration Requirements*****Motor Vehicles***

The motor vehicle registration process is set out in s. 320.02, F.S. Applicants must provide the street address of the owner's permanent residence and a valid driver license, identification card, or passport.⁴⁶ Any vehicle registered outside the state must be accompanied by a sworn affidavit from the seller and purchaser verifying the vehicle identification number (VIN), or a copy of the outside state's departmental form indicating that the vehicle has been physically inspected and the VIN verified.⁴⁷ The owner of any motor vehicle registered in the state must notify the DHSMV in writing of any change of address within 30 days of such change.⁴⁸ Additionally, the owner of the vehicle must provide proof that personal injury protection benefits, property damage liability coverage, bodily injury or death coverage, and combined bodily liability insurance and property damage liability insurance have been purchased.⁴⁹

Upon the receipt of an initial application for registration and payment of the appropriate license tax and other fees required by law, the DHSMV must assign to the motor vehicle a registration license number consisting of letters and numbers and issue to the owner a certificate of registration and a registration license plate.⁵⁰

License plates equipped with validation stickers subject to the registration period are valid for not more than 12 months and expire at midnight on the last day of the registration period. A registration license plate equipped with a validation sticker subject to the extended registration period is valid for not more than 24 months and expires at midnight on the last day of the extended registration period. For each registration period after the one in which the metal license plate is issued, and until the license plate is required to be replaced, a validation sticker showing the month and year of expiration shall be issued upon payment of the proper license tax amount and fees and is valid for not more than 12 or 24 months accordingly.⁵¹

⁴⁶ Section 320.02(2)(a), F.S.

⁴⁷ Section 320.02(3), F.S.

⁴⁸ Section 320.02(4), F.S.

⁴⁹ Section 320.02(5)(a), F.S.

⁵⁰ Section 320.06(1)(a), F.S.

⁵¹ Section 320.06(1)(c), F.S.

Vessels

A purchaser of a new or used vessel has 30 days to title and register the vessel.⁵² During the 30-day period before registration, the owner must have proof of the date of purchase aboard the vessel.⁵³ Section 328.48, F.S., establishes the steps for applying for vessel registration in Florida. The DHSMV is responsible for issuing vessel registrations.⁵⁴ Applications for titles and registrations must be filed at a county tax collector office.⁵⁵ Every vessel operated, used, or stored on the waters of Florida must be registered unless it is:

- A vessel operated, used, and stored exclusively on private lakes and ponds;
- A vessel owned by the United States Government;
- A vessel used exclusively as a ship's lifeboat; or
- A non-motor-powered vessel less than 16 feet in length or a non-motor-powered canoe, kayak, racing shell, or rowing scull, regardless of length.⁵⁶

Vessels that are required to be registered are classified for registration purposes according to a schedule set out in s. 328.72(1)(a), F.S. The certificate of registration must be pocket-sized and must be available for inspection on the vessel for which it is issued whenever such vessel is in operation.⁵⁷ Each certificate of registration issued must include (among other items):

- The numbers awarded to the vessel;
- The hull identification number;
- The name and address of the owner; and
- A description of the vessel.⁵⁸

Additionally, a decal signifying the year or years during which the certificate is valid must be furnished by the DHSMV with each certificate of registration issued and affixed to the front of the vessel.⁵⁹

Florida Real Time Vehicle Information System

The DHSMV maintains the Florida Real Time Vehicle Information System (FRVIS) that facilitates the collection of taxes and fees for tags, titles, and registrations associated with motor vehicles and vessels.⁶⁰ Local tax collector and tag agent offices throughout the state process tag, title, and registration transactions through FRVIS.⁶¹ According to the DHSMV, FRVIS processed approximately 404.6 million transactions for the collection of approximately \$3.026 billion in revenue from taxes and fees associated with tags, titles, and registrations for motor vehicles and vessels during fiscal year 2017-18, including amounts retained by local tax collector

⁵² Section 328.46(1), F.S.

⁵³ Section 328.46(1), F.S.

⁵⁴ Section 328.48(3), F.S.

⁵⁵ Section 328.48(1)(a), F.S.

⁵⁶ Section 328.48(2), F.S.

⁵⁷ Section 328.48(4), F.S.

⁵⁸ Section 328.48(4), F.S.

⁵⁹ Section 328.48(5), F.S.

⁶⁰ Department of Highway Safety and Motor Vehicles, *Florida Real Time Vehicle Information System (FRVIS): Information Technology Operational Audit*, at 1 (April 2014), available at https://flauditor.gov/pages/pdf_files/2014-183.pdf (last visited April 4, 2019).

⁶¹ *Id.* at 1-2.

and tag agent offices.⁶² These funds, together with all other sources of the DHSMV's revenue, are distributed through FRVIS to various state agencies, including the DHSMV, and non-state entities in accordance with governing Florida Statutes.⁶³

FRVIS is composed of two processing environments. The first is a distributed environment that consists of the servers at local tax collector and tag agent offices that process tag, title, and registration transactions throughout the state. The second environment is the host portion that consists of the back-end processing that is conducted centrally at the DHSMV's primary data center.⁶⁴

In addition to residential street addresses, the DHSMV is authorized to collect and store (in FRVIS) e-mail addresses. E-mail addresses may be used, in lieu of the United States Postal Service, to provide certain renewal notices, including registration renewal notices, driver license renewal notices, and vessel registration renewal notices.^{65,66,67,68,69}

Registration Duties of Tax Collectors

Motor Vehicles

Tax collectors are authorized agents of the DHSMV that issue registration certificates, registration license plates, validation stickers, and mobile home stickers to applicants.⁷⁰ The DHSMV may require each tax collector to give a bond, payable to the DHSMV, conditioned that the tax collector faithfully and truly perform the duties imposed upon him or her according to the requirements of law and the rules and regulations of the DHSMV.⁷¹ Each tax collector must keep a full and complete record and account of all validation stickers, mobile home stickers, or other properties received by him or her from the DHSMV.⁷² FRVIS must be installed in every tax collector's and license tag agent's office in accordance with a schedule established by the DHSMV in consultation with the tax collectors and contingent upon funds being made available for the system by the state.⁷³

Vessels

Tax collectors must issue registration certificates and vessel numbers and decals to applicants, subject to the requirements of law and in accordance with the rules of the DHSMV.⁷⁴ Each tax collector must keep a full and complete record and account of all vessel decals or other

⁶² Email from Kevin Jacobs, Deputy Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, FW: FRVIS, (April 4, 2019).

⁶³ DHSMV, *supra* at 2, FN 60.

⁶⁴ *Id.*

⁶⁵ Section 319.40, F.S.

⁶⁶ Section 320.95, F.S.

⁶⁷ Section 322.08(10), F.S.

⁶⁸ Section 328.30, F.S.

⁶⁹ Section 328.80, F.S.

⁷⁰ Section 320.03(1), F.S.

⁷¹ Section 320.03(2), F.S.

⁷² Section 320.03(3), F.S.

⁷³ Section 320.03(4)(b), F.S.

⁷⁴ Section 328.73(1), F.S.

properties received by him or her from the DHSMV and must make prompt remittance of moneys collected by them at the times and in the manner prescribed by law.⁷⁵

Registration Data Access Concerns

The DHSMV provides tax collectors (and the tax collectors' third-party agents) with most, but not all, access to customer data available through FRVIS. For example, tax collectors are unable to run searches on real-time bulk data in FRVIS because they are only authorized to look up customer vehicle or vessel data individually in real-time data. Tax Collectors must therefore run any bulk data searches on batched bulk data from the previous business day. This limits the tax collectors' ability to analyze the data. Tax collectors believe that full access to real-time customer data will provide more efficiency within each tax collector's office, which will lead to better and more cost effective customer service.

Effect of Proposed Changes

The bill amends ss. 320.03 and 328.73, F.S., requiring the DHSMV to provide tax collectors acting on behalf of the DHSMV, and tax collector-approved agents and vendors, contingent upon an approved request and memorandum of understanding, real-time access to data that other third parties receive from the DHSMV related to vehicle and mobile home registration certificates, registration license plates, and validation stickers, including, but not limited to, the most current address information and electronic mail addresses of applicants. The memorandum of understanding required may not be more restrictive than any memorandum of understanding between the DHSMV and other third-party vendors.

Purchasing of Validation Stickers and Paper Stock

Present Situation

Section 320.06(2), F.S., requires the DHSMV to provide the tax collectors and license plate agents with the necessary number of validation stickers for plates. To do this, the DHSMV analyzes past usage, and anticipated future renewal needs in each county. This estimate is then compared against each order placed in the FRVIS system, and then processed on a weekly basis for delivery. If a tax collector or license plate agent requests an amount in excess of the anticipated need in the FRVIS system, then they may request an exception for increased delivery, which the DHSMV processes within a week.

Effect of Proposed Changes

The bill amends s. 320.06(2), F.S., allowing the tax collectors and their agents to have the option to purchase validation stickers and paper stock that is used to produce vehicle registrations from the DHSMV's contracted vendor or from other vendors if such items meet the DHSMV's specifications and are procured at prices that are at or lower than the pricing reflected in the DHSMV's existing contracts for procuring the items. Such purchases by the tax collectors and their agents are exempt from the competitive bid requirements of chapter 287. The DHSMV will reimburse the tax collectors and their agents for these purchases, but reimbursement may not be made at prices higher than the pricing contained in the DHSMV's existing contract. The tax

⁷⁵ Section 328.73(2), F.S.

collectors and their agents will be required to invoice the DHSMV in arrears for the validation stickers and vehicle registrations as they are issued.

Fleet Vehicle Temporary Tag Pilot Program

Present Situation

Section 320.131, F.S., provides that the DHSMV is authorized and empowered to design, issue, and regulate the use of temporary tags for use in certain cases provided in law when a permanent plate may not be immediately available. It also provides penalties for the misuse of temporary tags. Generally, a temporary tag is valid for 30 days.⁷⁶ Temporary tags cost \$2 each, of which \$1 is deposited into the Brain and Spinal Cord Injury Program Trust Fund and \$1 into the Highway Safety Operating Trust Fund.⁷⁷ The DHSMV uses a print-on-demand electronic temporary tag registration, record retention, and issue system that is required to be used by every DHSMV-authorized issuer of temporary tags.⁷⁸ These issuers include motor vehicle dealers and tax collectors who frequently issue temporary tags on behalf of the DHSMV.

Effect of Proposed Changes

The bill amends s. 320.131, F.S., and creates a Fleet Vehicle Temporary Tag Pilot Program. The bill provides that the DHSMV may partner with a county tax collector to conduct a pilot program that provides up to 50 temporary tags at a time to fleet companies who have at least 3,500 fleet vehicles registered in Florida. The DHSMV must establish a memorandum of understanding (MOU) that allows a maximum of ten companies to participate in the pilot program.

The bill provides that:

- The temporary tags are for exclusive use on the company's fleet vehicles, and may not be used on any other vehicle;
- Each temporary tag may be used on only one vehicle;
- Upon issuance of the vehicle's permanent license plate and registration, the temporary tag becomes invalid and must be removed from the vehicle and destroyed;
- Upon a finding by the DHSMV that a temporary tag has been misused under this program, the DHSMV may terminate the MOU with the company, invalidate all temporary tags issued to the company, and require such company to return any unused temporary tags.

The issuance of a temporary tag must be reported to the DHSMV within two business days after the issuance of the tag, and the tax collector must keep a record of each temporary tag issued. This program is repealed October 1, 2022, unless saved from repeal through reenactment by the Legislature.

⁷⁶ Section 320.131(2), F.S.

⁷⁷ *Id.*

⁷⁸ Section 320.131(9), F.S.

Motor Vehicle Dealer Licensing

Present Situation

Section 320.27, F.S., provides the DHSMV with the authority to revoke a dealership license for failure to comply with certain requirements. Oftentimes, persons who have previously had their dealer license revoked are able to re-establish themselves in other dealerships. The DHSMV lacks the authority to act on those who operate in this capacity. Current law allows the DHSMV to file for an injunction against a dealer who fails to comply with the law. However, the DHSMV does not have the authority to petition the court to prohibit the person who operated the dealership from operating in a similar capacity in the future.

Effect of Proposed Changes

The bill amends s. 320.27, F.S., to create a definition for “control person” to mean any person who has significant authority, directly or indirectly, to direct the management or policies of a company, whether through ownership, by contract, or otherwise. The term includes any person who is an owner, director, general partner, officer, manager, or employee exercising decision-making responsibility or exercising similar executive status or functions. The term does not include an employee whose function is only clerical, ministerial, or in sales under the supervision of an owner or manager or other person exercising decision-making responsibility.

The bill authorizes the DHSMV to deny an initial or renewal application for dealer license. The bill also allows the DHSMV to deny an application or suspend or revoke a license upon proof that the applicant or licensee has:

- Been convicted of a felony and has either not completed the resulting felony sentence or completed the felony sentence less than ten years after the date of licensure application.
- Previously owned a majority interest in, or acted as a control person of, a motor vehicle dealer that within the past ten years has been the subject of any decision, finding, injunction, suspension, revocation, denial, judgment, or administrative order by any court of competent jurisdiction, administrative law judge, or state agency that resulted in a finding of violation of any federal or state law relating to unlicensed activity, or fraud in connection with the sale of a motor vehicle, or knowingly employs or contracts such a person as a control person, or knowingly employs or contracts as a control person a person who has been convicted of a felony and has either not completed the resulting felony sentence or completed the felony sentence less than ten years from the date of licensure application.

The bill also provides that if a court grants an injunction, the court may bar, permanently or for a specific time period, any person found to have violated any federal or state law relating to unlicensed activity or fraud in connection with the sale of a motor vehicle. If a person is barred, the person may not continue in any capacity within the industry. The person will have no management, sales, or other role in the operation of a dealership. Further, if permanently barred, the person may not derive income from the dealership beyond reasonable compensation for the sale of his or her ownership interest in the business.

Establishment of Uniform Standards for Mobile Homes

Present Situation

Sections 320.8232(2), F.S., provides that the provisions of the repair and remodeling code must ensure safe and livable housing and must not be more stringent than those standards required to be met in the manufacture of mobile homes. The provisions of the code must include, but are not limited to, standards for structural adequacy, plumbing, heating, electrical systems, and fire and life safety.

Rule 15C-2.0081, F.A.C, provides more specificity by providing the guidelines that must be used to assure safe and livable housing. The rule provides that additions must be free standing and self-supporting with only the flashing attached to the main unit unless the added unit has been designed to be married to the existing unit. Anchoring of additions must be in compliance with requirements for similar type construction. Repair or remodeling of a mobile home must require the use of material and design equivalent to the original construction. The structure must include, but not be limited to, roof system, walls, floor system, windows, and exterior doors of the mobile home.

Effect of Proposed Changes

The bill amends s. 320.8232(2), F.S., by changing the reference to the repair and remodel code to the “Mobile and Manufactured Home Repair and Remodeling Code” which has been adopted by rule by the DHSMV. The bill also provides that all repair and remodeling of mobile and manufactured homes must be done in accordance with the DHSMV rules.

ID Card Renewal

Present Situation

A Florida DL can be renewed within 12 months of expiration⁷⁹; however, an ID card can only be renewed within 90 days of expiration.⁸⁰ Individuals outside the renewal window are not eligible to renew online.

Effect of Proposed Changes

The bill amends s. 322.051(2)(a), F.S., to extend the renewal window for ID cards to within 12 months of expiration to be consistent with the DL renewal period.

Truancy Reporting

Present Situation

A minor is not eligible for driving privileges unless that minor:

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

⁷⁹ Section 322.18(7), F.S.

⁸⁰ Section 322.051(2)(a), 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;
- Is enrolled in other educational activities approved by the district school board and satisfies relevant attendance requirements;
- Has been issued a certificate of exemption; or
- Has received a hardship waiver.

The DHSMV may not issue a driver license or learner's permit to, or will suspend the driver license or learner's permit of, any minor concerning whom the DHSMV receives notification of noncompliance with the above requirements.⁸¹

The DHSMV must report quarterly to each school district the legal name, sex, date of birth, and social security number of each student whose driving privileges have been suspended for one of the reasons above.⁸² According to the DHSMV, the reporting function is now automated for all school districts to access in real time.⁸³

Effect of Proposed Changes

The bill amends s. 322.091(5), F.S., to remove language related to the manual quarterly reporting of students whose driving privileges have been suspended for truancy, and instead requires the DHSMV to make the report available upon request. The amended language is more consistent with the current automated nature of the report.

Stolen Identification Cards

Present Situation

Section 322.17(1)(b), F. S., provides for the replacement of a DL for no fee when reported stolen and accompanied by a police report to the person to whom the same was issued. There is no statutory authority to issue a no fee replacement ID card when stolen, even when a police report is provided.

Effect of Proposed Changes

The bill amends s. 322.17, F.S., by adding an ID card to the list of cards that can be replaced for free when stolen.

Expedited Shipping Service

Present Situation

The DHSMV has the authority to charge a service fee for individuals to receive expedited service on title transfers, title issuances, duplicate titles, and recordation of liens.⁸⁴ A fee of

⁸¹ Section 322.091(1), F.S.

⁸² Section 322.091(5), F.S.

⁸³ Department of Highway Safety and Motor Vehicles, 2019 Legislative Concepts (on file with Infrastructure and Security).

⁸⁴ Section 319.323, F.S.

\$10.00 is charged for this service⁸⁵, which is in addition to the standard fees on title transfers, title issuances, duplicate titles, and recordation of liens.⁸⁶ The fee, minus deductions for odometer fraud prevention and detection⁸⁷ and \$3.50 to be retained by the processing agency, are deposited into the General Revenue Fund.⁸⁸ Application for expedited service may be made by mail or in person and the DHSMV must issue each title within 5 working days after receipt of the application, except for an application for a duplicate title certificate covered by s. 319.23(4), F.S., in which case the title must be issued within 5 working days after compliance with the DHSMV's verification requirements.⁸⁹

Currently, the law does not provide the authority for the DHSMV to collect an expedited shipping cost related to DLs and ID cards from customers. For example, Florida residents needing an immediate DL or ID card issuance, such as a replacement or renewal, often call the The DHSMV customer service center to request expedited shipping of their transaction via the online portal. To assist these individuals, the DHSMV must have the individual pre-pay directly to a mail courier service for the expedited shipping cost.⁹⁰

Effect of Proposed Changes

The bill creates s. 322.21(10), F.S., to provide that an applicant who submits an application for a renewal or replacement DL or ID card to the DHSMV for online transactions must be provided with an option for expedited shipping in which the DHSMV, at the applicant's request, must issue the DL or ID card within 5 working days after receipt of the application and ship the DL or ID card using an expedited mail service. Fees collected for the expedited shipping option will be deposited into the HSOTF.

Penalties for False Information on Application for Driver License

Present Situation

A person may not have or display a blank, stolen, fictitious, counterfeit, or unlawfully issued driver license or identification card.⁹¹ Likewise, a person may not sell, manufacture, or deliver a blank, forged, stolen, fictitious, counterfeit, or unlawfully issued driver license or identification card.⁹²

It is unlawful for a person to use a false or fictitious name in any application for a driver license or identification card or knowingly to make a false statement, knowingly conceal a material fact, or otherwise commit a fraud in any such application.⁹³

A person who violates any of the above provisions is guilty of a felony of the third degree, except that a person who gives a false age in any application for a driver license or identification

⁸⁵ *Id.*

⁸⁶ Section 319.32, F.S.

⁸⁷ Section 319.324, F.S.

⁸⁸ Section 319.323, F.S.

⁸⁹ *Id.*

⁹⁰ Department of Highway Safety and Motor Vehicles, 2019 Legislative Concepts (on file with Infrastructure and Security).

⁹¹ Section 322.212(1)(a), F.S.

⁹² Section 322.212(1)(d), F.S.

⁹³ Section 322.212(5)(a), F.S.

card or who possesses a driver license, identification card, or any instrument in the likeness thereof, on which the date of birth has been altered is guilty of a misdemeanor of the second degree.⁹⁴

In addition to any other penalties provided above, a person who provides false information when applying for a commercial driver license or commercial learner's permit or is convicted of fraud in connection with testing for a commercial driver license or commercial learner's permit shall be disqualified from operating a commercial motor vehicle for a period of 1 year.⁹⁵

Effect of Proposed Changes

The bill amends s. 322.212, F.S., to strengthen the penalties in statute. The bill provides that in addition to any other penalties provided, if a person provides false information when applying for a driver license, identification card, commercial driver license, or commercial learner's permit or is convicted of fraud in connection with testing for a driver license, commercial driver license, or commercial learner's permit, such person's driving privilege shall be suspended for 1 year.

Serious Disqualifying Offense for a Commercial Motor Vehicle

Present Situation

In 2013, the Legislature amended s. 316.3025, F.S., codifying a federal prohibition on CMV drivers using handheld devices while operating a CMV.⁹⁶ However, s. 322.61, F.S., relating to offenses disqualifying someone from driving a CMV was not amended to list using a handheld device while operating a CMV as a serious disqualifying offense regarding a commercial driver license.

Section 316.3025(6)(a), F.S., provides penalties associated with texting and using a handheld mobile telephone while driving a CMV. A driver violating the federal prohibitions against texting or using a handheld mobile telephone⁹⁷ while operating a CMV, may be assessed a civil penalty and commercial driver license disqualification⁹⁸ as follows:

- First violation: \$500;
- Second violation: \$1,000 and a 60-day commercial driver license disqualification;⁹⁹
- Third and subsequent violations: \$2,750 and a 120-day commercial driver license disqualification.

Section 322.61, F.S., provides a list of serious disqualifying offenses regarding the operation of a CMV. If while operating a CMV, a person is convicted of two or more of the following offenses within a three year period, that person is disqualified from operating a CMV for a period of 60 days for:

⁹⁴ Section 322.212(6), F.S.

⁹⁵ Section 322.212(7), F.S.

⁹⁶ Chapter 2013-160, L.O.F.

⁹⁷ 49 C.F.R. 392.82

⁹⁸ Section 320.01(15), F.S., defines "disqualification" as "a prohibition, other than an out-of-service order, that precludes a person from driving a commercial motor vehicle."

⁹⁹ Commercial driver license disqualification is pursuant to 49 C.F.R. part 383.

- A violation of any state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with a crash resulting in death;
- Reckless driving;¹⁰⁰
- Unlawful speed of 15 miles per hour or more above the posted speed limit;
- Improper lane change;¹⁰¹
- Following too closely;¹⁰²
- Driving a commercial vehicle without obtaining a commercial driver license;
- Driving a commercial vehicle without the proper class of commercial driver license or commercial learner's permit or without the proper endorsement; or
- Driving a commercial vehicle without a commercial driver license or commercial learner's permit in possession.¹⁰³

Effect of Proposed Changes

The bill amends s. 322.61, F.S., to incorporate violations for texting or using a handheld phone device while operating a CMV as a serious disqualifying offense to align with federal regulations.

Administration of vessel registration and titling laws; records

Present Situation

The DHSMV has the authority to protect personal information contained in a motor vehicle record under the federal Driver's Privacy Protection Act of 1994 and s. 119.0712(2), F.S., and an entity that is allowed to receive motor vehicle record information may not use it for mass commercial solicitation of clients for litigation against motor vehicle dealers. No such protection for personal information contained in a vessel title or registration exists.

Effect of Proposed Changes

The bill amends s. 328.40, F.S., to allow the DHSMV to protect personal information contained in a vessel registration and title, subject to inspection and copying, as provided in chapter 119.

Effective Date

The act takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹⁰⁰ Reckless driving is defined in s. 316.192, F.S.

¹⁰¹ Improper lane change is defined in s. 316.085, F.S.

¹⁰² Following too closely is defined in s. 316.0895, F.S.

¹⁰³ A license or learner permit is required to drive a commercial motor vehicle pursuant to s. 322.03, F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

There is a potential impact to the CMV industry associated with changes to the CMV regulations contained in the bill; however, the impact is indeterminate at this time.

Classifying charter buses as apportionable vehicles may change the registration fees for these vehicles; however, the actual impact for any specific vehicle will be based on motor vehicle details, jurisdictions where the vehicle travels, and the mileage percentages in each of the jurisdictions.¹⁰⁴

Individuals whose ID cards are stolen will see a reduction in costs since they will be able to obtain a replacement card at no cost.

Additionally, there may be a positive fiscal impact on fleet companies who qualify to be part of the Fleet Vehicle Temporary Tag pilot program because such companies will be able to receive up to 50 temporary tags at a time, which can reduce the amount of time a replacement fleet vehicle is inoperable while awaiting permanent registration and title.

C. Government Sector Impact:

According to the FMCSA, failure to adopt regulations to comply with federal compatibility requirements by February 16, 2019, may jeopardize federal funding for the

¹⁰⁴ Email from Kevin Jacobs, Deputy Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, DHSMV Package - Fiscal, (March 21, 2019).

state's motor carrier safety program for federal fiscal year 2019.¹⁰⁵ Federal funding for the state's motor carrier safety program for fiscal year 2018-2019 totaled \$12,778,315, and when matched with state funds in the amount of \$2,254,997, totaled \$15,033,312.¹⁰⁶

Tax collectors, and tax collector-approved agents and vendors, may see a positive indeterminate fiscal impact as a result of having real-time access to data and thus being able to provide more efficient service to customers.

The DHSMV may incur an indeterminate programming cost implementing real-time data access to tax collectors, and tax collector-approved agents and vendors.

VI. Technical Deficiencies:

None.

VII. Related Issues:

SPB 7092 contains fee provisions impacting this bill. The fees cover:

- Costs incurred by the DHSMV to obtain an order requiring a person to obey a subpoena, in whole or in part, and such fees must be charged to the subpoenaed person;
- The \$28.00 initial validation sticker and any renewed validation stickers for a apportionable vehicle; and
- A charged for the expedited shipping option, not to exceed the cost of the expedited mail service, for a DL or ID card.

SPB 7094 contains public record exemptions impacting this bill. The public record exemptions are:

- Personal information, including highly restricted personal information, contained in any record that pertains to a vessel title or vessel registration issued by the DHSMV;
- Verified e-mail addresses and Cellular Telephone numbers collected by the DHSMV; and
- Information received by the DHSMV as a result of an investigation or examination, until the investigation or examination ceases to be active or administrative action taken by the DHSMV has concluded or been made part of any hearing or court proceeding.

VIII. Statutes Affected:

This proposed bill substantially amends sections 316.003, 316.027, 316.0271, 316.061, 316.0896, 316.0897, 316.1895, 316.192, 316.193, 316.1933, 316.194, 316.302, 316.303, 316.622, 316.640, 316.655, 316.70, 318.19, 319.001, 319.141, 319.25, 319.40, 320.01, 320.03, 320.06, 320.0607, 320.131, 320.27, 320.8232, 320.861, 320.95, 321.05, 321.065, 321.23, 322.051, 322.0602, 322.08, 322.091, 322.17, 322.21, 322.212, 322.36, 322.61, 323.001, 323.002,

¹⁰⁵ William A. Quade, Associate Administrator for Enforcement (Federal Motor Carrier Safety Administration), letter to Colonel Gene Spaulding, Director (Florida Highway Patrol), August 10, 2018 TS (on file with the Committee on Infrastructure and Security).

¹⁰⁶ Email from Kevin Jacobs, Deputy Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, Mcsap funds, (February 7, 2019).

324.011, 324.022, 324.023, 324.051, 324.242, 328.30, 328.40, 328.73, 328.80, 627.7415, 316.251, 501.976, 655.960, and 856.015 of the Florida Statutes.

This proposed bill creates the sections 319.002, 319.1411, 319.142, 319.1414, and 322.71 of the Florida Statutes.

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:

SPB by Infrastructure and Security on April 2, 2019 was amended to:

- Define the term “platoon” as no more than 2 trucks that are wirelessly connected;
- Exempt platoon operators from state laws relating to “following too closely” and use of television receivers;
- Permit a platoon to be operated on Florida roadways after an operator provides notification to the DOT and the DHSMV.
- Permit a district school board, by majority vote, to extend the period of enforcement for a school speed zone by an additional 15 minutes before, during, and additional 15 minutes after the periods of time when pupils are arriving at a regularly scheduled breakfast program or a regularly scheduled school session and leaving a regularly scheduled school session;
- Authorize the DHSMV and Tax Collectors to collect and use cellular telephone numbers and email addresses to contact customers for business reasons other than vehicle renewals;
- Require the DHSMV to provide tax collectors and their approved agents and vendors with real-time access to data that other third parties receive from the DHSMV related to registration of vehicles, mobile homes, and vessels;
- Change the effective date for the bill’s changes to apportioned vehicle registrations to January 1, 2023;
- Provide tax collectors the option of purchasing validation stickers and paper stock used in producing vehicle registrations from the DHSMV’s contracted vendor or from other vendors, as long as the items meet the DHSMV’s specifications and are procured at prices that are at or lower than the pricing reflected in the DHSMV’s existing contracts for the items;
- Create a Fleet Vehicle Temporary Tag Pilot Program, which allows the DHSMV to partner with a county tax collector to establish an agreement with up to ten companies allowing the issuance of up to 50 temporary tags at a time for use by the company’s fleet vehicles; and
- Clarify that the DHSMV’s Mobile/Manufactured Home Repair and Remodeling Code, which has been adopted by rule, is uniform statewide and requires that all repairs and remodeling must conform to that Code.