

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: CS/CS/SB 1508

INTRODUCER: Infrastructure and Security Committee, Criminal Justice Committee and Senator Taddeo

SUBJECT: Police Vehicles

DATE: February 18, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wagoner</u>	<u>Jones</u>	<u>CJ</u>	Fav/CS
2.	<u>Proctor</u>	<u>Miller</u>	<u>IS</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1508 prohibits a person from knowingly selling, exchanging, or transferring a police vehicle without, before consummating the sale, exchange, or transfer, removing any police markings from the vehicle. The CS requires law enforcement agencies, before consummating the sale, exchange, or transfer, to provide an official letter of notification that police markings have been removed to the purchaser, customer, or transferee. The CS exempts the sales, exchanges, or transfers of police vehicles between law enforcements agencies. A person who knowingly sells, exchanges, or offers to sell or exchange a motor vehicle in violation of these provisions commits a second degree misdemeanor, which is punishable by up to 60 days in county jail and a fine of up to \$500.

The CS defines “police markings” as decals, stickers, distinctive paint schemes, or other markings attached or applied to a police vehicle that identify the vehicle as a police vehicle.

The CS may have a fiscal impact. See Section V. Fiscal Impact Statement.

The CS is effective July 1, 2020.

II. Present Situation:

Once police vehicles reach a certain age or mile limit, many law enforcement agencies find it more cost effective to purchase new vehicles than continue to utilize older vehicles.¹ Law enforcement agencies sometimes transition older vehicles to become administrative or training vehicles,² or in many cases, they sell them.³ Retired police cars on the road with their former agency's markings may create confusion for the public and law enforcement and enable illegal police impersonations.⁴

Section 319.14, F.S., provides requirements for the sale of police vehicles. A "police vehicle" is defined as a motor vehicle owned or leased by the state or a county or municipality and used in law enforcement.⁵ A person may not knowingly offer for sale, sell, or exchange any vehicle that has been licensed, registered, or used as a police vehicle until the Department of Highway Safety and Motor Vehicles (DHSMV) has stamped in a conspicuous place on the certificate of title of the vehicle, or its duplicate, words stating the nature of the previous use of the vehicle.⁶ Additionally, prior to consummating the sale, exchange, or transfer of a police vehicle, a person must disclose in writing to the purchaser, customer, or transferee the fact that the vehicle had previously been titled, registered, or used as a police vehicle.⁷ A violation of s. 319.14(5), F.S., is a second degree misdemeanor.⁸ Currently, there is no requirement for the removal of police markings prior to sale.

Although not statutorily required, many law enforcement agencies have adopted policies for removal before selling their vehicles. The DHSMV's Division of Florida Highway Patrol (FHP) decommissions vehicles by removing all police decals and painting over the tan portion of the marked patrol vehicle with oil-based black enamel paint in compliance with s. 321.03, F.S., which prohibits a person from coloring or causing to be colored any motor vehicle or motorcycle the same or similar color as those used by FHP.⁹ Such person would be guilty of a first degree misdemeanor.¹⁰

¹ Tom Kanewske, *What to do With Old Police Vehicles?*, Officer.com (February 15, 2017), available at <https://www.officer.com/on-the-street/vehicles-equipment/article/12291284/what-to-do-with-old-police-vehicles> (last visited February 13, 2020).

² *Id.*

³ Thi Dao, *How to Remarket Patrol Vehicles*, Policemag.com (February 7, 2018), available at <https://www.policemag.com/342406/how-to-remarket-patrol-vehicles> (last visited February 13, 2020).

⁴ Over the last five years, Florida has had 489 arrests for impersonating an officer. Brian Entin & Daniel Cohen, *They're not police cars – but they used to be. Retired law enforcement vehicle can create confusion*, WSVN News Miami (November 4, 2019), available at <https://wsvn.com/news/investigations/theyre-not-police-cars-but-they-used-to-be-retired-law-enforcement-vehicles-can-create-confusion/> (last visited February 13, 2020).

⁵ Section 319.14(1)(c)1., F.S.

⁶ Section 319.14(1)(a), F.S.

⁷ Section 319.14(2), F.S.

⁸ A second degree misdemeanor is punishable by up to 60 days in county jail and a fine of up to \$500. Sections 775.082 and 775.083, F.S.

⁹ Department of Highway Safety and Motor Vehicles, *2020 Agency Legislative Bill Analysis for SB 1508*, (January 14, 2020) (on file with the Senate Committee on Infrastructure and Security).

¹⁰ Section 321.03, F.S. A first degree misdemeanor is punishable by up to one year in jail and a fine of up to \$1,000. Sections 775.082 and 774.083, F.S.

Additionally, it is a first degree misdemeanor for any unauthorized person to color or cause to be colored any motor vehicle or motorcycle the statutorily prescribed color combination of motor vehicles and motorcycles used by sheriffs of Florida and their deputies.¹¹

Further, it is a first degree misdemeanor for an unauthorized person to own or operate a motor vehicle marked or identified in any manner by words, lettering, marking, insignia, or coloration officially used to identify the vehicle as a law enforcement vehicle or a vehicle used by a criminal justice agency¹² or fire department with the intent to mislead or cause another person to believe that such vehicle is an official vehicle of those agencies.¹³

III. Effect of Proposed Changes:

The CS prohibits a person from knowingly selling, exchanging, or transferring a police vehicle without, before consummating the sale, exchange, or transfer, removing any police markings from the vehicle and certifying in writing to the purchaser, customer, or transferee the fact that the vehicle has had the police markings removed. The CS requires law enforcement agencies, sellers, and auction houses, before consummating the sale, exchange, or transfer, to provide an official letter of notification to the purchaser, customer, or transferee confirming the fact that the vehicle has had the police markings removed. A person¹⁴ who knowingly sells, exchanges, or offers to sell or exchange a motor vehicle in violation of these provisions commits a second degree misdemeanor, which is punishable by up to 60 days in county jail and a fine of up to \$500.¹⁵

The CS defines “police markings” as decals, stickers, distinctive paint schemes, or other markings attached or applied to a police vehicle that identify the vehicle as a police vehicle.

The CS does not apply to sales, exchanges, or transfers of police vehicles between law enforcement agencies.

In addition, the CS does not apply to sales, exchanges, or transfers of police vehicles to members of the general public for the purposes of collection or display. However, upon the sale, exchange, or transfer of a police vehicle for either of those purposes, the seller, exchanger, or transferor shall provide a notice to the purchaser, customer, or transferee in substantially the following form:

USE OF THIS VEHICLE FOR THE DELIBERATE IMPERSONATION OF A
PUBLIC OFFICER OR EMPLOYEE IS A FELONY OF THE THIRD DEGREE,
PUNISHABLE AS PROVIDED IN SECTION 843.0855, FLORIDA STATUTES.

¹¹ Section 30.46, F.S.

¹² For purposes of this section, as defined in s. 943.045(11), F.S., “criminal justice agency” means a court, the Department of Law Enforcement, the Department of Juvenile Justice, the protective investigations component of the Department of Children and Families, and any other governmental agency or subunit thereof that performs the administration of criminal justice pursuant to a statute or rule of court and that allocates a substantial part of its annual budget to the administration of criminal justice.

¹³ Section 843.085(2) and (5), F.S.

¹⁴ Section 319.14(5), F.S., provides that any officer, agent, or employee of a person who knowingly authorizes, directs, aids in, or consents to sales contrary to this section are also subject to criminal liability.

¹⁵ *Supra*, note 8.

The CS is effective July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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:

The CS may have a negative fiscal impact on sellers and auction houses that do not currently practice the removal of police markings before selling decommissioned police vehicles

C. Government Sector Impact:

The CS may have a negative fiscal impact on law enforcement agencies that do not currently practice the removal of police markings before selling decommissioned police vehicles.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 319.14

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Infrastructure and Security on February 17, 2020:

The committee substitute:

- Provides that sellers and auction houses must provide an official letter of notification to the receiver confirming the fact that the vehicle has had the police markings removed.
- Provides that sales, exchanges, or transfers of police vehicles to members of the general public for the purposes of collection or display are exempt from the requirements of the bill. However, the seller, exchanger, or transferor must provide written notice that use of the vehicle for impersonation of a public officer or employee is a third degree felony.

CS by Criminal Justice on February 11, 2020:

The committee substitute:

- Revises the notification of police markings removal requirement.
- Revises the definition of “police markings” to include distinctive paints schemes and specifies that such markings must be used to identify the vehicle as a police vehicle.
- Exempts the sales, exchanges, or transfers of police vehicles between law enforcement agencies from the requirements of the bill.

- B. **Amendments:**

None.