

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 395 Transportation

SPONSOR(S): Transportation & Infrastructure Subcommittee, Andrade

TIED BILLS: **IDEN./SIM. BILLS:** SB 1172

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	13 Y, 0 N, As CS	Johnson	Vickers
2) Transportation & Tourism Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The bill amends various statutory provisions relating to transportation. In summary, the bill:

- Revises the statutory definition of autocycle to incorporate a reference to federal safety standards;
- Increases the allowable weight of personal delivery devices;
- Authorizes portable radar speed display units to display flashing red and blue lights under certain circumstances;
- Allows the use of flashing lights on vehicles during periods of extreme low visibility on specified roads;
- Authorizes the Department of Highway Safety and Motor Vehicles to waive commercial driver license skill test requirements for qualifying veterans;
- Revises requirements governing the use of tarpaulins and other covers on vehicles hauling agricultural products;
- Authorizes for-hire vehicles to be insured by certain non-admitted carriers and reduces the number of for hire vehicles required before an owner or lessee may self-insure;
- Requires certain vessels to be removed from marinas located in deepwater seaports during hurricanes;
- Revises qualification requirements for contractors desiring to bid on certain Department of Transportation contracts, including the submission of specified financial statements; and
- Establishes a regulatory framework governing the operation of disability-accessible transportation network companies and preempts regulation of such companies to the state.

The bill may have a fiscal impact on the Department of Financial Services due to the authorization of disability-accessible transportation network companies. Local governments currently imposing fees on disability-accessible transportation network companies may see a reduction in revenues associated with the preemption of such regulation to the state. See Fiscal Analysis for details.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Autocycles

Current Situation

Florida law defines the term “autocycle” as a three-wheeled motorcycle that is equipped with a roll cage or roll hoops, a seat belt for each occupant, antilock brakes, a steering wheel, and seating that does not require the operator to straddle or sit astride it. The autocycle must be manufactured in accordance with the applicable federal motorcycle safety standards by a manufacturer registered with the National Highway Traffic Safety Administration.¹ Autocycle drivers are not required to hold a motorcycle endorsement on his or her driver license.²

Federal Motor Vehicle Safety Standard No. 122,³ provides standards for all motorcycle braking systems.

Effect of the Bill

The bill amends the definition of the term “autocycle” to provide that it must have a “steering mechanism” rather than a “steering wheel”. The bill also removes the requirement that an autocycle have antilock, replacing it with a requirement to have brakes meeting federal safety standards for motorcycle brakes.

Personal Delivery Devices

Present Situation

A personal delivery device (PDD) is electrically powered device that: is operated on sidewalks and crosswalks and intended primarily for transporting property; weighs less than 80 pounds, excluding cargo; has a maximum speed of 10 miles per hour; and is equipped with technology to allow for operation of the device with or without the active control or monitoring of a natural person.⁴

A PDD may operate on sidewalks and crosswalks where it has all the rights and duties applicable to a pedestrian, except that a PDD may not unreasonably interfere with pedestrians or traffic and must yield the right-of-way to pedestrians on the sidewalk or crosswalk.⁵

A PDD must obey all official traffic and pedestrian control signals and devices, include identifying information on the PDD, and be equipped with a braking system.⁶ However, PDDs may not operate on a public highway except to the extent necessary to cross a crosswalk, operate on a sidewalk or crosswalk unless the PDD operator is actively controlling or monitoring its navigation and operation, or transport hazardous materials.⁷

Effect of the Bill

The bill increases the statutory weight limit of a personal delivery device from 80 pounds to 150 pounds.

¹ Section 316.003(2), F.S.

² Sections 322.03(4) and 322.12, F.S.

³ 49 C.F.R. 571.122

⁴ Section 316.003(55), F.S.

⁵ Section 316.2071(1), F.S.

⁶ Section 316.0271(2), F.S.

⁷ Section 316.2071(3), F.S.

Flashing Red and Blue Lights

Present Situation

Florida law prohibits blue lights on any vehicle or equipment, except police vehicles, and vehicles of the Department of Corrections or any county correctional agency when responding to emergencies.⁸

Road or street maintenance equipment, road or street maintenance vehicles, road service vehicles, refuse collection vehicles, petroleum tankers, and mail carrier vehicles are authorized to display amber lights when in operation or a hazard exists.⁹ Additionally, road maintenance and construction equipment and vehicles may display flashing white lights or flashing white strobe lights when in operation and where a hazard exists.¹⁰

Effect of the Bill

The bill authorizes portable radar speed display units in advance of a work zone area on roadways with a posted speed limit of 55 miles per hour or more to show or display flashing red or blue lights when workers are present.

Flashing Lights on Vehicles

Present Situation

Florida law prohibits flashing lights on vehicles except:

- As a means of indicating a right or left turn, to change lanes, or to indicate that the vehicle is lawfully stopped or disabled upon the highway;
- When a motorist intermittently flashes his or her vehicle's headlamps at an oncoming vehicle notwithstanding the motorist's intent for doing so; and
- For certain lamps authorized in statute, which may flash, including various types of emergency vehicles.¹¹

With the exception of funeral processions,¹² Florida law does not expressly authorize the use of hazard lights in moving vehicles. The Florida Driver Handbook indicates you **should not** use your emergency flashers in instances of low visibility or rain, and may only be used when a vehicle is disabled or stopped on the side of the road.¹³

Effect of the Bill

The bill authorizes the use of flashing lights during periods of extreme low visibility on roadways with a posted speed limit of 55 hours or more, effectively authorizing the use of hazard lights on moving vehicles under specified circumstances.

Agricultural Loads on Vehicle

Present Situation

Federal rules require that each commercial motor vehicle, when transporting cargo on public roads to have its cargo secured to prevent the cargo from leaking, spilling, blowing or falling from the motor vehicle.¹⁴

Under Florida law, a vehicle may not be driven or moved on any highway unless the vehicle is constructed or loaded as to prevent any of its load from dropping, shifting, leaking, blowing, or otherwise escaping from the vehicle.¹⁵

⁸ Section 316.2397(2), F.S.

⁹ Section 316.2397(4), F.S.

¹⁰ Section 316.2397(5), F.S.

¹¹ Section 316.2397(7), F.S.

¹² Section 316.1974(3)(c), F.S.

¹³ Department of Highway Safety and Motor Vehicles, *2018 Florida Driver Handbook*, available at: <https://www3.flhsmv.gov/handbooks/englishdriverhandbook.pdf> (last visited Oct. 30, 2019).

¹⁴ 49 C.F.R. 393.100

¹⁵ Section 316.520(1), F.S.

Every vehicle owner and driver has the duty to prevent items from escaping from his or her vehicle. Covering and securing the load with a close-fitting tarpaulin or other appropriate cover or a load securing device meeting Federal requirements or a device designed to reasonably ensure that cargo will not shift upon or fall from the vehicle is required and constitutes compliance.¹⁶

However, Florida's load covering and securing provisions do not apply to vehicles carrying agricultural products locally from a harvest site or to or from a farm on roads where the posted speed limit is 65 miles per hour or less and the distance driven on public roads is less than 20 miles.¹⁷

Effect of the Bill

The bill removes the 20-mile maximum distance that vehicles carrying agricultural products may travel without covering the load. This will allow vehicles hauling agricultural products to travel an unlimited distance across the state without covering the load.

Commercial Driver License Testing Exemption for Veterans

Present Situation

Florida law requires every applicant for an original driver license to pass an examination. However, the Department of Highway Safety and Motor Vehicles (DHSMV) may waive the knowledge, endorsement, and skills tests requirements for an applicant who is otherwise qualified and who surrenders a valid driver license issued by another state, a Canadian province, or the United States Armed Forces, if the driver applies for a Florida license of an equal or lesser classification.¹⁸

Under Florida law, the examination for a commercial driver license (CDL) must include various tests including an actual demonstration of the applicant's ability to operate a motor vehicle or combination of vehicles of the type covered by the license classification which the applicant is seeking, including his or her ability to perform a vehicle inspection.¹⁹

Under Federal Motor Carrier Safety Administration rules, states may waive knowledge and skill test requirements for CDLs for military veterans for current and former military service members who have experience driving a commercial motor vehicle in the military for an equivalent state license. The application must be made within one year of discharge of military service and certain conditions must be met.²⁰

Under DHSMV's rules, applicants seeking a waiver of CDL skill testing due to military experience must pass all written knowledge exams for the CDL class and any applicable endorsements, and apply for a waiver while on active duty or within 90 days of separation from military service. Additionally, he or she must certify that he or she for at least two years immediately preceding the application operated a motor vehicle in the appropriate class, and present a Certificate for Waiver of Skill Test for Military Personnel form signed by his or her commanding officer.²¹

Effect of the Bill

The bill authorizes DHSMV to waive the skill test requirements for a CDL for persons with military commercial motor vehicle experience while on active military service or within one year of honorable discharge, which is consistent with Federal rules regarding CDL license waivers for veterans.

For-hire Passenger Vehicle Insurance

Current Situation

¹⁶ Section 316.520(2), F.S.

¹⁷ Section 316.520(4), F.S.

¹⁸ Section 322.12(1), F.S.

¹⁹ Section 322.12(4), F.S.

²⁰ 49 C.F.R. 383.77

²¹ Rule 15A-7.018, F.A.C.

Section 324.031, F.S., provides that the owner or operator of a taxicab, limousine, jitney, or any other for-hire passenger transportation vehicle may prove financial responsibility by providing satisfactory evidence of holding a motor vehicle liability policy issued by an insurance carrier that is a member of the Florida Insurance Guaranty Association (FIGA).²² However, a motor vehicle owner or lessee required to maintain insurance, including lessors of motor vehicles and owners who loan their motor vehicles, and who operates at least 300 for-hire passenger vehicles may prove financial responsibility through self-insurance.²³

Proposed Changes

The bill provides that a for-hire passenger vehicle's motor vehicle liability policy must be provided by an insurer authorized to do business in this state, and who is a member of FIGA, or by an eligible nonadmitted insurer that has a superior, excellent, exceptional, or equivalent financial strength rating by a rating agency acceptable to the Office of Insurance Regulation. The bill reduces the minimum number of for-hire passenger vehicles an owner or lessee must operate to be eligible to self-insure, from 300 vehicles to 150 vehicles.

Evacuation of Marinas

Present Situation

In order to ensure that protecting the lives and safety of vessel owners is placed before interests of protecting property, s. 327.59(1), F.S., prohibits marinas from adopting, maintaining, or enforcing policies requiring vessels to be removed from marinas following the issuance of a hurricane watch or warning.

After a tropical storm or hurricane watch has been issued, a marina owner or operator may take reasonable actions to further secure any vessel within the marina to minimize damage to a vessel and to protect marina property, private property, and the environment and may charge a reasonable fee for such services.²⁴

A marina owner may provide by contract that in the event a vessel owner fails to promptly remove a vessel from a marina after a tropical storm or hurricane watch has been issued, the marina owner may remove the vessel, if reasonable, from its slip or take whatever reasonable actions are deemed necessary to properly secure a vessel to minimize damage to a vessel and to protect marina property, private property, and the environment. The marina owner may charge the vessel owner a reasonable fee for any such services rendered. In order to add such a provision to a contract, the marina owner must provide notice to the vessel owner in any such contract.²⁵

A marina owner is not liable for any damage incurred to a vessel from storms or hurricanes and is held harmless as a result of such actions. Nothing in s. 327.59, F.S., may be construed to provide immunity to a marina owner for any damage caused by intentional acts or negligence when removing or securing a vessel as permitted under s. 327.59, F.S.²⁶

Several of the state's deepwater seaports have recreational marinas located within the seaport, and have encountered problems associated with marina tenants not removing their boats during hurricanes. Seaport managers have expressed concerns that if a boat leaves its slip or bulkhead, it may cause damage to port infrastructure or sink, which may adversely impact other port activities such as cruise traffic and fuel delivery.

Effect of the Bill

²² The Florida Insurance Guaranty Association is created in s. 631.55, F.S.

²³ Section 324.032(2), F.S. The maximum amount of self-insurance permissible under this section is \$300,000 on a per occurrence basis, and the self-insurer must maintain adequate excess insurance issued by an authorized or eligible insurer licensed or approved by the Office of Insurance Regulation.

²⁴ Section 327.59(2), F.S.

²⁵ Section 327.59(3), F.S.

²⁶ Section 327.59(4), F.S.

The bill provides upon the issuance of a hurricane watch affecting the waters of a marina located in a deepwater seaport, vessels weighing under 500 gross tons may not remain in the waters of such marinas that have been deemed not suitable for refuge during a hurricane.

Vessel owners must promptly remove their vessels upon issuance of an evacuation order by the deepwater seaport. If the U.S. Coast Guard Captain of the Port sets the deepwater seaport condition to Yankee²⁷ and a vessel owner has failed to remove a vessel, the marina owner, operator, employee or agent, regardless of existing contractual provisions between the marina owner and vessel owner, must remove the vessel, or cause it to be removed, if reasonable, from its slip and may charge the vessel owner a reasonable fee for any such services.

A marina owner, operator, employee or agent is not liable for any damage incurred to a vessel from hurricanes and is held harmless as a result of such actions to remove the vessel from the waterways. Section 327.59, F.S., does not provide immunity to a marina owner, operator, employee or agent for any damage caused by intentional acts or negligence when removing a vessel. After the hurricane watch has been issued, the owner or operator of any vessel that has not been removed from the waterway of the marina, pursuant to an order from the deepwater seaport, may be subject to the penalties under s. 313.22(3), F.S., providing that vessels that unnecessarily delay moving in order to vacate or change positions may be penalized up to \$1,000 per hour, plus 150 percent of the damage incurred by a waiting vessel.²⁸

DOT Application for Qualification

Present Situation

Any contractor desiring to bid for the performance of any construction contract in excess of \$250,000 which DOT proposes to let must first be certified by DOT as qualified pursuant to s. 337.14, F.S., and DOT's rules.^{29, 30}

Any contractor who is not qualified and in good standing with DOT as of January 1, 2019, and desires to bid on contracts in excess of \$50 million must have satisfactorily completed two projects, each in excess of \$15 million, for DOT or for any other state department of transportation.³¹

Each application for certification must be accompanied by the applying contractor's latest annual financial statement, which must have been completed within the last 12 months. If the application or the annual financial statement shows the applying contractor's financial condition more than four months prior to the date on which DOT receives the application, the applying contractor must also submit an interim financial statement and an updated application. Each required annual or interim financial statement must be audited and accompanied by the opinion of a certified public accountant.³²

Effect of the Bill

The bill clarifies that any contractor who desires to bid on contracts in excess of \$50 million must, in addition to have successfully completed two projects, each in excess of \$15 million for DOT or another state transportation department, must also first be certified by DOT as qualified.

The bill requires each application for certification to be accompanied by audited financial statements prepared in accordance with United States generally accepted accounting principles and United States generally accepted auditing standards by a certified public accountant licensed in this state or another state. The applying contractor's audited financial statements must be specifically for the applying contractor and must have been prepared within the immediately preceding 12 months. DOT may not

²⁷ Hurricane Port Condition Yankee means condition set when weather advisories indicate that sustained gale force winds (39-54 mph/34-47 knots) from a tropical or hurricane force storm are predicted to make landfall at the port within 24 hours. 33 C.F.R. s. 165.781

²⁸ Section 313.22, F.S., relates to vessel movements and interference with such movements.

²⁹ DOT's rules regarding qualifications to bid are contained in Ch. 14-22, F.A.C.

³⁰ Section 337.14(1), F.S.

³¹ *Id.*

³² *Id.*

consider any financial information relating to the applying contractor's parent entity. DOT may not certify as qualified any applying contractor that fails to submit the required audited financial statements.

If the application or the annual financial statement shows the applying contractor's financial condition more than four months before the date on which DOT receives the application, the applying contractor must also submit interim audited financial statements.

Disability-Accessible Transportation Network Companies

Present Situation

Transportation Network Companies (TNCs)

In 2017, the Legislature established a regulatory framework for transportation network companies (TNCs). The law defines a "TNC" as an entity operating in this state that uses a digital network to connect a rider³³ to a TNC driver, who provides prearranged rides. A TNC is not deemed to own, control, operate, direct, or manage the TNC vehicles or TNC drivers that connect to its digital network, except where agreed to by written contract, and is not a taxicab association or for-hire vehicle owner. The term does not include entities arranging nonemergency medical transportation for individuals who qualify for Medicaid or Medicare pursuant to a contract with the state or a managed care organization.³⁴

A "TNC vehicle" is defined as a vehicle that is used by a TNC driver to offer or provide a prearranged ride and that is owned, leased, or otherwise authorized to be used by the TNC driver. A vehicle that is let or rented to another for consideration may be used as a TNC vehicle. The law specifies that a taxicab, jitney, limousine, or for-hire vehicle is not a TNC vehicle.³⁵

A "prearranged ride" is defined as the provision of transportation by a TNC driver to a rider, beginning when a TNC driver accepts a ride requested by a rider through a digital network³⁶ controlled by a TNC, continuing while the TNC driver transports the requesting rider, and ending when the last requesting rider departs from the TNC vehicle. The term does not include a taxicab, for-hire vehicle, or street hail³⁷ service and does not include ridesharing,³⁸ carpool,³⁹ or any other type of service in which the driver receives a fee that does not exceed the driver's cost to provide the ride.⁴⁰

A "TNC driver" is defined as an individual who receives connections to potential riders and related services from a TNC and in return for compensation, uses a TNC vehicle to offer or provide a prearranged ride to a rider upon connection through a digital network. The law specifies that a TNC or TNC driver is not a common carrier, contract carrier, or motor carrier and does not provide taxicab or for-hire vehicle service. The law provides that a TNC driver is not required to register a TNC vehicle as a commercial motor vehicle or a for-hire vehicle. It requires the TNC's digital network to display the TNC driver's photograph and the TNC vehicle's license plate number before the rider enters the TNC vehicle.⁴¹

³³ Section 627.748(1)(c), F.S., defines the term "Rider" as an individual who uses a digital network to connect with a TNC driver in order to obtain a prearranged ride in the TNC driver's TNC vehicle between points chosen by the rider.

³⁴ Section 627.748(1)(e), F.S.

³⁵ Section 627.748(1)(g), F.S.

³⁶ Section 627.748(1)(a), F.S., defines the term "digital network" as any online-enabled technology application service, website, or system offered or used by a TNC that enables the prearrangement of riders with TNC drivers.

³⁷ The term "street hail" means an immediate arrangement on a street with a driver by a person using any method other than a digital network to seek immediate transportation.

³⁸ Section 341.031(9)(a), F.S., defines the term "ridesharing" as an arrangement between persons with a common destination, or destinations, within the same proximity, to share the use of a motor vehicle on a recurring basis for round-trip transportation to and from their place of employment or other common destination.

³⁹ Section 450.28(3), F.S., defines the term "carpool" as an arrangement made by the workers using one worker's own vehicle for transportation to and from work and for which the driver or owner of the vehicle is not paid by any third person other than the members of the carpool.

⁴⁰ Section 627.748(1)(b), F.S.

⁴¹ Section 627.748(1)(f), F.S.

If a fare is collected from a rider, a TNC is required to disclose the fare or fare calculation method on its website or within the online-enabled technology application service before beginning the prearranged ride. If the fare is not disclosed, the rider must have the option to receive an estimated fare before beginning the prearranged ride. In addition, a TNC is required to transmit to the rider an electronic receipt within a reasonable period of time after the completion of a ride. The receipt must list the origin and destination of the ride, total time and distance of the ride, and total fare paid.

A TNC or TNC driver is not a common carrier, contract carrier, or motor carrier and does not provide taxicab or for-hire vehicle service. Therefore, a TNC driver is not required to register the TNC vehicle as a commercial motor vehicle or a for-hire vehicle.⁴²

While a TNC driver is logged on to the digital network but is not engaged in a prearranged ride, the TNC or TNC driver must have automobile insurance that provides:

- Primary automobile liability coverage of at least \$50,000 for death and bodily injury per person, \$100,000 for death and bodily injury per incident, and \$25,000 for property damage; and
- Personal injury protection benefits that meet the minimum coverage amounts required under the Florida Motor Vehicle No-Fault Law.^{43, 44}

When a TNC driver is engaged in a prearranged ride, the automobile insurance must provide:

- Primary automobile liability coverage of at least \$1 million for death, bodily injury, and property damage; and
- Personal injury protection benefits that meet the minimum coverage amounts required of a limousine under the Florida Motor Vehicle No-Fault Law.⁴⁵

The coverage requirements may be satisfied by automobile insurance maintained by the TNC driver, an automobile insurance policy maintained by the TNC, or a combination of automobile insurance policies maintained by the TNC driver and the TNC.⁴⁶

The law preempts to the state the regulation of TNCs and specifies that a county, municipality, special district, airport authority, port authority, or other local governmental entity or subdivision may not:

- Impose a tax on or require a license for a TNC, TNC driver, or TNC vehicle if such tax or license relates to providing prearranged rides;
- Subject a TNC, TNC driver, or TNC vehicle to any rate, entry, operation, or other requirement of the county, municipality, special district, airport authority, port authority, or other local governmental entity or subdivision; or
- Require a TNC or TNC driver to obtain a business license or any other type of similar authorization to operate within the local governmental entity's jurisdiction.⁴⁷

For-Hire Vehicles

With certain exceptions, offering for lease or rent any motor vehicle qualifies the vehicle as a “for-hire vehicle.” A “for-hire vehicle” is a motor vehicle used for transporting persons or goods for compensation. When goods or passengers are transported for compensation in a motor vehicle outside a municipal corporation of this state, or when goods are transported in a motor vehicle not owned by the person owning the goods, such transportation is considered “for hire”. The carriage of goods and other personal property in a motor vehicle by a corporation or association for its stockholders, shareholders, and members, cooperative or otherwise, is transportation “for hire”.⁴⁸

Florida law provides specific financial responsibility requirements to for-hire vehicles. For-hire vehicles, such as taxis and limousines must maintain a motor vehicle liability policy with minimum limits of

⁴² Section 627.748(2), F.S.

⁴³ Sections 627.730-627.7405, F.S. The amount of insurance required is \$10,000 for emergency medical disability, \$2,500 non-emergency medical, and \$5,000 for death.

⁴⁴ Section 627.748(7)(b), F.S.

⁴⁵ Section 627.748(7)(c), F.S.

⁴⁶ Section 627.748(7)(b) & (c), F.S.

⁴⁷ Section 627.748(15), F.S.

⁴⁸ Section 320.01(15)(a), F.S.

\$125,000 per person for bodily injury, \$250,000 per incident for bodily injury, and \$50,000 for property damage.⁴⁹ The owner or operator of a for-hire vehicle may also prove financial responsibility by providing satisfactory evidence of holding a motor vehicle liability policy issued by an insurance carrier, which is a member of the Florida Insurance Guaranty Association, or by providing a certificate of self-insurance.⁵⁰

For counties, to the extent not inconsistent with general or special law, the legislative and governing body of a county has the power to carry on county government, including, but not restricted to, the power to license and regulate taxis, jitneys, and limousines for hire, rental cars, and other passenger vehicles for hire that operate in the unincorporated areas of the county.⁵¹

Americans with Disabilities Act

The Americans with Disabilities Act (ADA) is a civil rights law prohibiting discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public. The purpose of the law is to make sure that people with disabilities have the same rights and opportunities as everyone else and guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation government services, and telecommunications.⁵²

Private entities providing transportation services to the public are required to be accessible to individuals with disabilities.⁵³ Federal regulations provide ADA specifications for various transportation vehicles including disability accessible buses and vans.⁵⁴

Effect of the Bill

The bill defines the term “disability-accessible TNC,” as a company that uses a digital network to connect riders exclusively to drivers who operate disability accessible vehicles

The bill defines the term “disability-accessible vehicle” as a for hire vehicle, which meets or exceeds the requirements of the ADA.

The entity may elect, upon written notification to the Department of Financial Services (DFS), to be regulated as a disability-accessible TNC. A disability-accessible TNC must comply with all of the requirements of s. 627.748, F.S., that are applicable to a TNC, including the preemption requirements, but is not required to comply with any requirements that prohibit the company from connecting riders to drivers who operate for-hire vehicles. At all times a disability-accessible TNC must maintain insurance coverage at the levels at least equal to the greater of those required in s. 627.748, F.S., and those required of for-hire vehicles, regardless of whether the driver is operating as a for-hire vehicle driver or disability accessible TNC driver. However, a prospective disability access TNC that satisfies minimum financial responsibility requirements at the time of written notification to DFS by using self-insurance may continue to use self-insurance to satisfy the insurance requirements for a disability accessible TNC.

A disability-accessible TNC is not considered a for-hire vehicle for purposes of Ch. 627, F.S. In order for the bill’s definition of “disability-accessible TNC” to be compatible with current law, the bill makes conforming changes to the definitions of “prearranged ride”, “transportation network company”, and “transportation network company vehicle”, by removing references to “for-hire vehicle”, and “for-hire vehicle owner.” Additionally, the reference to “for-hire vehicle” is removed from the provision of law that states that a TNC or TNC driver is not considered a common carrier and does not have to register a TNC vehicle as a commercial motor vehicle or vehicle for-hire.

⁴⁹ Section 324.032(1), F.S.

⁵⁰ Section 324.031, F.S.

⁵¹ Section 125.01(1)(n), F.S.

⁵² ADA National Network Website, *What is the Americans with Disabilities Act*, Available at: <https://adata.org/learn-about-ada> (Last visited Jan. 29, 2020).

⁵³ ADA National Network Website, *The ADA & Accessible Ground Transportation*, Available at: <https://adata.org/factsheet/ADA-accessible-transportation> (Last visited Jan 29, 2020).

⁵⁴ 59 C.F.R. part 38

The bill authorizes TNC vehicle owners, rather than just TNC drivers, to maintain insurance that satisfies the insurance requirements required for TNCs. This allows the owner of a TNC, who is not necessarily the driver, to maintain insurance on the vehicles.

Lastly, the bill preempts to the state the regulation of disability accessible TNCs, disability accessible TNC drivers, and disability accessible TNC vehicles.

B. SECTION DIRECTORY:

Section 1 amends s. 316.003, F.S., defining terms.

Section 2 amends s. 316.2397, F.S., providing that certain lights are prohibited.

Section 3 amends s. 322.12, F.S., relating to the examination of applicants.

Section 4 amends s. 316.520, F.S., relating to loads on vehicles.

Section 5 amends s. 324.031, F.S., relating to the manner of providing financial responsibility.

Section 6 amends s. 324.032, F.S., relating to proving financial responsibility; for-hire passenger transportation vehicles.

Section 7 amends s. 327.59, F.S., relating to marina evacuations.

Section 8 amends s. 337.14, F.S., providing for applications for qualification and certificates of qualification.

Section 9 amends s. 627.748, F.S., relating to transportation network companies.

Section 10 provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to impact state revenues.

2. Expenditures:

This bill may have a fiscal impact on DFS, but the impact is unknown at this time.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to impact local government revenues.

2. Expenditures:

This bill preempts to the state the regulation of disability-accessible TNCs. To the extent municipalities, counties, and other governmental entities are imposing fees on disability-accessible TNCs, they will experience an indeterminate fiscal impact.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Owners of vessels at marinas located in deepwater seaports may incur some expenditures associated with removing their vessels prior to hurricanes.

D. FISCAL COMMENTS:

Federal rules require that each commercial motor vehicle, when transporting cargo to have its cargo secured to prevent the cargo from leaving the motor vehicle. The bill authorizes agricultural loads to travel across the state uncovered. It is unknown if this conflict with Federal law will jeopardize Federal funding.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply because this bill reduces the ability of a county or municipality to raise revenue; however, an exception may apply since the bill is expected to have an insignificant fiscal impact.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DOT may need to amend Rule 14-22, F.A.C., regarding qualifications to bid on construction projects to incorporate changes made in the bill.

DHSMV may need to amend rule 15A-7.018, F.A.C., to authorize additional time for veterans to be exempt from CDL testing requirements.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 28, 2020, the Transportation & Infrastructure Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Removed provisions authorizing the use of blue lights on construction vehicles;
- Amended the definition of the term "autocycle" to clarify equipment requirements;
- Removed provisions establishing the Secretary of Transportation's salary;
- Increased the allowed weight of a personal delivery device to from 80 to 150 pounds;
- Authorized an exemption for commercial driver license skill test requirements for certain veterans;
- Authorized certain vehicles to transport agricultural products without covering the load;
- Removed the expansion of a public records exemption for certain DOT bid documents;
- Removed provisions revising DOT contractor liability;
- Authorized for-hire vehicles to be insured by certain non-admitted carriers and reduced the number of for hire vehicles required before an owner or lessee may self-insure;
- Required certain vessels to be removed from marinas located in deepwater seaports during hurricanes;
- Authorized disability-accessible TNCs and preempted their regulation to the state; and
- Removed provisions relating to the reinstatement of tolls after an emergency evacuation.

This analysis is drafted to the committee substitute as approve by the Transportation & Infrastructure Subcommittee.