

**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.)

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Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

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BILL: SB 1134

INTRODUCER: Senator Harrell

SUBJECT: Department of Highway Safety and Motor Vehicles

DATE: March 16, 2021

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Proctor</u>	<u>Vickers</u>	<u>TR</u>	<b>Favorable</b>
2.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	<b>Pre-meeting</b>
3.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 1134 includes the following provisions:

- Updates the date of adoption of federal regulations and rules for commercial motor vehicles (CMV) to December 31, 2020;
- Revises the length of time within which an officer of the Department of Highway Safety and Motor Vehicles (DHSMV) is authorized to give written notice requiring correction of an unduly hazardous operating condition from 14 days to 15 days;
- Updates statute to reflect the DHSMV is the agency responsible for the safe operations of nonpublic sector buses;
- Provides that current seat belt requirements are applicable when a vehicle is stationary at a traffic signal;
- Exempts from odometer disclosure a vehicle with a model year of 2011 or newer after 20 years;
- Provides that a motor carrier or vehicle owner whose registration has been suspended is required to return the license plate to the DHSMV or surrender it to law enforcement;
- Provides that a person who has been convicted of any felony involving human trafficking under state or federal law involving the use of a CMV may not be licensed as a CMV operator, or hold a CMV license;
- Provides that the expiration date for an original issuance of a commercial driver license is at midnight 8 years after the licensee's last birthday; and
- Incorporates violations for texting or using a handheld phone device while operating a CMV as a serious disqualifying offense, which may result in a person being disqualified from operating a CMV for a specified period of time, to align with federal regulations.

The bill may have an indeterminate fiscal impact. See Section V. Fiscal Impact Statement.

The bill takes effect on July 1, 2021.

## II. Present Situation:

### Federal Regulations

The primary mission of the Federal Motor Carrier Safety Administration (FMCSA), an agency within the U.S. Department of Transportation (USDOT), is to prevent CMV-related fatalities and injuries.<sup>1</sup>

Florida law 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 Act,<sup>2</sup> as amended.<sup>3</sup>

Section 316.302(1)(a), F.S., provides that all owners and drivers of a CMV operating on the state’s public highways while engaged in *interstate* commerce are subject to federal regulations.

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 federal regulations, as they existed on December 31, 2018.

Federal regulations provide that, with some exceptions, CMV drivers must be at least 21 years of age.<sup>4</sup> Federal regulations also provide maximum drive time requirements for property carrying vehicles.<sup>5</sup> 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 placarding<sup>6</sup> are not required to comply with the above-referenced federal regulations and are not 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.

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

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<sup>1</sup> Federal Motor Carrier Safety Administration, available at <https://www.fmcsa.dot.gov/mission/about-us> (last visited February 10, 2021).

<sup>2</sup> 49 U.S.C. ss. 1801 et seq.

<sup>3</sup> Section 316.003(13), F.S.

<sup>4</sup> 49 C.F.R. s. 391.11(b)(1).

<sup>5</sup> 49 C.F.R. s. 395.3(a) and (b).

<sup>6</sup> 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.

- For any period after the end of the 16th hour after coming on duty following 10 consecutive hours off duty.<sup>7</sup>

These provisions do not apply to drivers of utility service vehicles.<sup>8</sup>

Section 316.302(2)(c), F.S., provides that, except as provided in the federal hours of service (HOS) rules,<sup>9</sup> 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 must furnish time records or other written verification so that the DHSMV can determine compliance with the HOS 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 status<sup>10</sup> if the requirements of certain federal rules regarding short-haul operations<sup>11</sup> 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(9) F.S., requires carriers to provide written notification of the repair of a documented defect to the DHSMV within 14 days. This is inconsistent with federal requirements requiring carriers to provide written notification within 15 days.

### **Seat Belt Usage**

It is unlawful for any person to operate a motor vehicle<sup>12</sup> in Florida unless all drivers, all front seat passengers and all passengers under the age of 18 are restrained by a safety belt or by a child restraint device.<sup>13</sup>

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<sup>7</sup> Section 316.302(2)(b), F.S.

<sup>8</sup> 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;

(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.

<sup>9</sup> 49 C.F.R. s. 395.1.

<sup>10</sup> 49 C.F.R. s. 395.8.

<sup>11</sup> 49 C.F.R. s. 395.1(e)(1)(iii) and (v) are various rules relating to short-haul operations.

<sup>12</sup> Section 316.003(44), F.S., defines "motor vehicle" as a self-propelled vehicle not operated upon rails or guideway, but not including any bicycle, electric bicycle, motorized scooter, electric personal assistive mobility device, mobile carrier, personal delivery device, swamp buggy, or moped.

<sup>13</sup> Section 316.614, F.S.

Drivers and passengers 18 or older can be cited if they, or any passenger under the age of 18, are not properly strapped in. Drivers will be charged with a seat belt violation if any passenger under the age of 18 is not restrained with a seat belt or child restraint device.

Florida law requires the use of safety belts for all drivers and passengers in all motorized vehicles, except:

- A person certified with a physician as having a medical condition that causes seat belt use to be inappropriate or dangerous. (Keep a copy of certification while driving/being driven);
- Employee of a newspaper home delivery service while delivering newspapers;
- An employee of a solid waste or recyclable collection service is not required to be restrained by a safety belt while in the course of employment collecting solid waste or recyclables on designated routes;
- The living quarters of a recreational vehicle or a space within a truck body primarily intended for merchandise or property;
- School buses purchased new prior to December 31, 2000;
- Buses used for transportation of persons for compensation;
- Farm equipment;
- Trucks of a net weight of more than 26,000 pounds; and
- A rural letter carrier of the United States Postal Service while performing duties in the course of his or her employment on a designated postal route.<sup>14</sup>

A seat belt (without a booster seat) may only be used for children 4-5 years of age when the driver is not a member of the child's immediate family and the child is being transported as a favor or in an emergency.<sup>15</sup>

Wearing a seat belt reduces the risk of being injured or killed in a crash by almost 50 percent.<sup>16</sup>

### **Nonpublic Sector Buses**

Chapter 2011-69, Laws of Florida, moved motor carrier compliance (to include nonpublic sector buses) from the Florida Department of Transportation (FDOT) to the DHSMV.<sup>17</sup> However, some statutes were not amended to reflect the corresponding changes. The FDOT no longer revises standards for the safe operation of nonpublic sector buses since those functions have been moved to the DHSMV.

### **Odometer Exemption**

The federal odometer law, 49 U.S.C. Chapter 327 (Public Law 103-272), prohibits the disconnection, resetting, or alteration of a motor vehicle's odometer with intent to change the number of miles indicated. The law requires that a written disclosure of the mileage registered on an odometer be provided by the seller to the purchaser on the title to the vehicle when the ownership of a vehicle is transferred. If the odometer mileage is incorrect, the law requires a

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<sup>14</sup> Section 316.614(6), F.S.

<sup>15</sup> Section 316.613(1)(a)2., F.S.

<sup>16</sup> *Id.*

<sup>17</sup> Ch. 2011-69, Laws of Fla.

statement to that effect to be furnished on the title to the buyer. However, vehicles ten years old and older are exempt from the written disclosure requirements.<sup>18</sup>

Violations of any of the above requirements may subject the violator to civil liability if it is determined that their actions were intended to defraud the purchaser. The law makes available to the buyer a remedy in the amount of \$1,500 or treble damages, whichever is greater, together with attorney's fees. To obtain this remedy, 49 U.S. Code Section 32710 of federal law permits the buyer to bring a private civil action in State or Federal court.<sup>19</sup>

Beginning January 1, 2021, the USDOT National Highway Traffic Safety Administration began enforcing a new rule for odometer disclosures for every transfer of ownership for the first 20 years, beginning with model year 2011 vehicles.<sup>20</sup> Model year 2010 and older vehicles will continue to be subject to the previous 10-year disclosure requirements and thus are exempt from extended Federal odometer disclosure requirements.<sup>21</sup>

Current state law only provides for odometer exemptions for vehicles manufactured with a 2010 model year or older remain exempt under the 10-year exemption.<sup>22</sup> Any person who fails to complete or acknowledge an odometer disclosure statement as required by law is guilty of a misdemeanor of the second degree.<sup>23</sup>

### **Performance and Registration Information Systems Management**

The Performance Information Systems Management (PRISM) program is a cooperative federal-state safety program developed to reduce commercial vehicle accidents. PRISM utilizes the commercial vehicle registration process of the states to improve motor carrier safety in two ways:

- By determining the safety fitness of the motor carrier prior to issuing license plates; and,
- By motivating the carrier to improve its safety performance either through an improvement process or the application of registration sanctions.

The PRISM program encompasses two major processes registration and enforcement, which are integrated to identify motor carriers and hold them responsible for the safety of their operations. The performance of unsafe carriers is improved through a comprehensive system of identifications, education, data gathering, safety monitoring, and treatment.<sup>24</sup>

The PRISM program is a key component to FMCSA efforts to reduce the number of CMV crashes, injuries and fatalities in a rapidly expanding interstate motor carrier population. Currently, the DHSMV does not have the authority to deny vehicle registration to a commercial

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<sup>18</sup> National Highway Traffic Safety Administration, Odometer Fraud, <https://one.nhtsa.gov/Vehicle-Safety/Odometer-Fraud/Odometer-Information-Overview-for-Consumers> (last visited February 12, 2021).

<sup>19</sup> *Id.*

<sup>20</sup> National Highway Traffic Safety Administration, Press Releases, <https://www.nhtsa.gov/press-releases/odometer-disclosure-requirements-change> (last visited February 12, 2021).

<sup>21</sup> 49 C.F.R. part 580.

<sup>22</sup> Section 319.225(4), F.S.

<sup>23</sup> *Id.*

<sup>24</sup> Federal Motor Carrier Safety Administration, PRISM Management Grant, <https://www.fmcsa.dot.gov/grants/prism-management-grant/performance-and-registration-information-systems-management-prism> (last visited February 12, 2021).

motor carrier who has received an out of service order by FMCSA but attempts to circumvent the order by obtaining a new USDOT number and company name. These carriers are commonly referred to as “reincarnated” or “chameleon” carriers because they often operate the same vehicles under a different USDOT number and name but maintain the same officers and directors, business address, telephone number, and email of the out of service carrier.

Companies that operate commercial vehicles transporting passengers or hauling cargo in interstate commerce must be registered with the FMCSA, have a USDOT number, and comply with federal safety regulations in order to have their vehicles registered under the International Registration Plan. When a company fails to meet FMCSA safety requirements, it may be placed out of service. However, an out of service order does not automatically impact a vehicle’s registration.

In 2019, over 5,000 motor carriers with serious safety deficiencies were issued a federal out-of-service order that required registration sanctions. PRISM state registration agencies suspended 27,905 vehicle registrations of these motor carriers.<sup>25</sup>

An effectiveness evaluation report released in February 2016 by the FMCSA determined that between 2008 and 2013 states that fully participate in PRISM when compared to non-fully participating states experience a:

- 20.4 percent observable reduction in all CMV crashes;
- 9.8 percent observable reduction in fatalities involving all CMV crashes; and
- 6.9 percent reduction in state registered CMVs being placed out of service roadside for operating while under a federal order.<sup>26</sup>

In addition, vehicles registered in states that fully participate in PRISM compared to non-fully participating states experienced the equivalent of 777 lives saved between 2008 and 2013. These results equate to 130 lives saved each year.<sup>27</sup>

### **Human Trafficking**

The federal Victims of Trafficking and Violence Protection Act of 2000<sup>28</sup> defines “sex trafficking” as the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial act. “Severe forms of trafficking in persons” includes:

- Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.<sup>29</sup>

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<sup>25</sup> Federal Motor Carrier Safety Administration, PRISM, <https://www.fmcsa.dot.gov/PRISM> (last visited February 12, 2021).

<sup>26</sup> Department of Highway Safety and Motor Vehicles, *2021 Legislative Bill Analysis for SB 1134*, (February 9, 2021), p. 4 (on file with the Senate Committee on Transportation).

<sup>27</sup> *Id.*

<sup>28</sup> Public Law 106-386, s. 103, 22 U.S.C. s. 7102.

<sup>29</sup> *Id.*

There are approximately 2.5 million victims of human trafficking in the United States. Many victims are lured with false promises of financial or emotional security; instead they are forced or coerced into commercial sex, domestic servitude, or other types of forced labor. Any minor under the age of 18 who is induced to perform a commercial sex act is a victim of human trafficking, regardless of whether there is forced fraud or coercion. Increasingly, criminal organizations such as gangs, are luring children from local schools into commercial sexual exploitation or trafficking. According to the U.S. Department of Justice, every two minutes a child is trafficked for the purpose of sexual exploitation in the United States.<sup>30</sup>

On January 8, 2019, the “No Human Trafficking on Our Roads Act” was signed into law.<sup>31</sup> Subsequently, the FMCSA issued a new rule to prohibit an individual from operating a CMV for life if that individual uses a CMV in committing a felony involving human trafficking. The new rule revises the list of offenses permanently disqualifying individuals from operating a CMV for which a commercial driver’s license or a commercial learner’s permit is required.<sup>32</sup> On July 23, 2019, the FMCSA announced the final rule, which went into effect on September 23, 2019, that permanently bans drivers convicted of human trafficking from operating a CMV for which a commercial driver’s license or a commercial learner’s permit is required.

The State of Florida does not have specific authority to take action against a commercial driver license when an individual has committed a felony involving human trafficking.

### ***Human Trafficking in Florida***

Florida ranks third in the nation for reported cases of human trafficking.<sup>33</sup> In 2019, the National Human Trafficking Hotline had 896 human trafficking cases reported in Florida.<sup>34</sup> Children are often those targeted in trafficking operations, with 12-14 being the average age that a trafficked victim is first used for commercial sex.<sup>35</sup>

In Florida, any person who knowingly, or in reckless disregard of the facts, engages in human trafficking, or attempts to engage in human trafficking, or benefits financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking commits the crime of human trafficking.<sup>36</sup> Such an offense is punishable as a first degree

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<sup>30</sup> Florida Department of Education, *Healthy Schools – Human Trafficking*, available at: <http://www.fldoe.org/schools/healthy-schools/human-trafficking.stml> (last visited February 12, 2021).

<sup>31</sup> Section 1532 - 115th Congress (2017-2018).

<sup>32</sup> Federal Motor Carrier Safety Administration, Press Release, <https://www.fmcsa.dot.gov/newsroom/us-department-transportation-permanently-bans-commercial-drivers-convicted-human> (last visited February 12, 2021).

<sup>33</sup> National Human Trafficking Hotline, *Hotline Statistics*, available at <https://humantraffickinghotline.org/states> (last visited February 12, 2021).

<sup>34</sup> National Human Trafficking Hotline, *Florida: Statistics*, available at <https://humantraffickinghotline.org/state/florida> (last visited February 12, 2021).

<sup>35</sup> Statewide Council on Human Trafficking, *Statewide Council on Human Trafficking Annual Reports*, available at <http://myfloridalegal.com/pages.nsf/Main/8AEA5858B1253D0D85257D34005AFA72> (last visited February 12, 2021).

<sup>36</sup> Section 787.06(3), F.S.

felony,<sup>37</sup> unless the person being sex trafficked is a child under the age of 18, mentally defective, or mentally incapacitated, then such an offense is punishable as a life felony.<sup>38</sup>

Human trafficking cases are often hidden operations that require law enforcement agencies to engage in intricate investigations. In November 2018, an investigation in Polk County led to the arrest of 103 people for charges including prostitution and human trafficking.<sup>39</sup> Similarly, in January 2019, a two month-long investigation led to the arrest of a 36-year-old male in Tallahassee on prostitution and sex trafficking charges involving a 14-year old girl. At the time of his arrest, the male was already facing charges for sex trafficking a child in 2014.<sup>40</sup>

### **Commercial Driver License**

Federal law 49 CFR 383.73(b)(9) requires that a commercial driver license (initial) cannot be valid for more than 8-years from the date of issuance. Currently, the DHSMV issues an original commercial driver license that expires 8-years from the commercial drivers next birthday.<sup>41</sup> This situation allows holders to have a license that is valid for more than 8-years from the issue date that is reflected on both the commercial driver license and driver record. This has been addressed as a deficiency in a recent FMCSA compliance audit.<sup>42</sup>

Florida law requires every applicant for an original driver license to pass an examination. However, the 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.<sup>43</sup>

Under Florida law, the examination for a commercial driver license 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 the applicant is seeking, including his or her ability to perform a vehicle inspection.<sup>44</sup>

Under FMCSA rules, states may waive knowledge and skill test requirements for commercial driver licenses for current and former military service members who have experience driving a CMV 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.<sup>45</sup>

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<sup>37</sup> A first degree felony is punishable by a state prison term not exceeding 30 years, a fine not exceeding \$10,000, or both. Sections 775.082 and 775.083, F.S.

<sup>38</sup> Section 787.06(3)(a)-(g), F.S. A life felony is punishable by a state prison term for life, by a term of imprisonment not exceeding 40 years, a fine not exceeding \$15,000, or both. Sections 775.082 and 775.083, F.S.

<sup>39</sup> Daniel Dahm and Brianna Volz, *Orlando-area doctor among 103 arrested in Polk County sex sting, sheriff says*, ClickOrlando.com, (December 3, 2018) available at <https://www.clickorlando.com/news/103-arrested-in-polk-county-sex-sting> (last visited February 12, 2021).

<sup>40</sup> WTXL, *Human trafficking suspect accused of sex-trafficking child in Tallahassee*, (January 26, 2019) available at [http://www.wtxl.com/news/human-trafficking-suspect-accused-of-sex-trafficking-child-in-tallahassee/article\\_9748879c-21a4-11e9-b768-5bb68f906ecc.html](http://www.wtxl.com/news/human-trafficking-suspect-accused-of-sex-trafficking-child-in-tallahassee/article_9748879c-21a4-11e9-b768-5bb68f906ecc.html) (last visited February 12, 2021).

<sup>41</sup> Section 322.18(2)(a), F.S.

<sup>42</sup> *Supra* FN 27.

<sup>43</sup> Section 322.12(1), F.S.

<sup>44</sup> Section 322.12(4), F.S.

<sup>45</sup> 49 C.F.R. 383.77



Under the DHSMV's rules, applicants seeking a waiver of commercial driver's license skill testing due to military experience must pass all written knowledge exams for the appropriate license 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 their commanding officer.<sup>46</sup>

### **Serious Disqualifying Offense for a CMV Driver**

Section 316.3025, F.S., codifies a federal prohibition on CMV drivers using handheld devices while operating a CMV.<sup>47</sup> 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's license. Current law provides penalties associated with texting and using a handheld mobile telephone while driving a CMV. A driver violating the federal prohibitions against texting<sup>48</sup> or using a handheld mobile telephone<sup>49</sup> while operating a CMV, may be assessed a civil penalty and commercial driver's license disqualification as follows:

- First violation: \$500;
- Second violation: \$1,000 and a 60-day disqualification;<sup>50</sup>
- Third and subsequent violations: \$2,750 and a 120-day disqualification.

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:

- 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;<sup>51</sup>
- Unlawful speed of 15 miles per hour or more above the posted speed limit;
- Improper lane change;<sup>52</sup>
- Following too closely;<sup>53</sup>
- Driving a commercial vehicle without obtaining a commercial driver's license;
- Driving a commercial vehicle without the proper class of commercial driver's license or commercial learner's permit or without the proper endorsement; or
- Driving a commercial vehicle without a commercial driver's license or commercial learner's permit in possession.<sup>54</sup>

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<sup>46</sup> Rule 15A-7.018, F.A.C.

<sup>47</sup> Chapter 2013-160, L.O.F.

<sup>48</sup> 49 C.F.R. 329.80.

<sup>49</sup> 49 C.F.R. 392.82.

<sup>50</sup> Commercial driver license disqualification is pursuant to 49 C.F.R. part 383.

<sup>51</sup> Reckless driving is defined in s. 316.192, F.S.

<sup>52</sup> Improper lane change is defined in s. 316.085, F.S.

<sup>53</sup> Following too closely is defined in s. 316.0895, F.S.

<sup>54</sup> A license or learner permit is required to drive a commercial motor vehicle pursuant to s. 322.03, F.S.

### **III. Effect of Proposed Changes:**

#### **Federal Regulations (Section 1)**

Section 1 amends s. 316.302, F.S. to update federal regulations from 2018 to 2020. The change makes all owners and drivers of commercial motor vehicles engaged in interstate commerce subject to the most recent federal regulations and rules. This update continues to prevent CMV operators from driving for more than 8 consecutive hours without at least a 30-minute change in duty status, and provides the following changes:

- Increases the minimum annual percentage rate for random controlled substances testing, for owners and drivers of CMV's engaged in intrastate commerce requiring a commercial driver's license, from 25 percent to 50 percent;
- Extends the maximum duty period allowed under the short-haul exception from 12 to 14 hours and extending the distance limit within which the driver may operate from 100 to 150 air miles;
- Allows a driver to extend the maximum "driving window" by up to 2 hours during adverse driving conditions;
- Requires a 30-minute break after 8 hours of driving time (instead of on duty time) and allows on duty/not driving periods to qualify as breaks; and
- Modifies the sleeper berth exception to allow drivers to split their required 10 hours off duty into two periods: an 8/2 split, and a 7/3 split - with neither period counting against the driver's 14-hour driving window.

This section also increases the time a CMV carrier has to provide written notification of the repair of a documented defect to the DHSMV from 14 to 15 days.

#### **Seat Belt Usage (Section 2)**

Section 2 amends s. 316.614, F.S., to expand the definition of motor vehicle to include when the vehicle is stationary at a traffic control device. This is intended to ensure that current seat belt requirements are applicable when the vehicle is stationary at a traffic control device.

#### **Nonpublic Sector Buses (Section 3)**

Section 3 amends s. 316.70, F.S., to update the statute to reflect that the DHSMV, not the FDOT, has statutory authority to adopt rules for the safe operations of CMVs and conduct compliance reviews for the safe operations of nonpublic sector buses.

#### **Odometer Exemption (Section 4)**

Section 4 amends s. 319.225, F.S., to provide an exemption from odometer disclosure for a vehicle with a model year of 2011 or newer after 20 years.

### **Performance and Registration Information Systems Management (Section 5)**

Section 5 amends s. 320.0715, F.S., to provide that a motor carrier or vehicle owner whose registration has been suspended will be required to return the license plate to the DHSMV or surrender it to law enforcement.

In addition, the DHSMV must deny registration if:

- The applicant fails to disclose material information required on the application;
- The applicant has applied in an attempt to hide the disclosure of the real party in interest who has been issued a federal out-of-service order; or
- The applicant's business is operated, managed, or otherwise controlled by or affiliated with a person who is ineligible for registration, including the applicant entity, a relative, a family member, a corporate officer, or a shareholder.

### **Human Trafficking (Sections 6, 7, 9-11)**

Sections 6, 7, 9, 10, and 11 amend ss. 322.01, 322.05, 322.25, 322.28, and 322.61, F.S., respectively, to provide that:

- The definition for "human trafficking" has the same meaning as provided in s. 787.06(2)(d), F.S.;<sup>55</sup>
- The DHSMV may not license any person, as a CMV operator, who has been convicted of, or has entered a plea of guilty or nolo contendere to, regardless of whether adjudication was withheld, any felony involving human trafficking under state or federal law involving the use of a CMV;
- Each clerk of court must promptly report to the DHSMV each conviction, regardless of whether adjudication was withheld, for human trafficking which involves the use of a CMV;
- The court must permanently revoke the commercial driver's license of a person who is convicted of, or has entered a plea of guilty or nolo contendere to, regardless of whether adjudication is withheld, any felony involving human trafficking under state or federal law which involves the use of a CMV. If the court has not permanently revoked the driver license or driving privilege within 30 days after imposing a sentence, the DHSMV must permanently revoke the driver license or driving privilege; and
- Any person who uses a CMV in the commission of any felony involving human trafficking under state or federal law shall, upon conviction of, or plea of guilty or nolo contendere to, regardless of whether adjudication is withheld, such felony, be permanently disqualified from operating a CMV.

### **Commercial Driver License Expiration (Section 8)**

**Section 8** amends s. 322.18, F.S., to provide that the expiration date for an original issuance of a commercial driver license is at midnight 8 years after the licensee's last birthday.

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<sup>55</sup> Section 787.06(2)(d), F.S., provides "human trafficking" to mean transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person.

**Serious Disqualifying Offense for a CMV Driver (Section 11)**

Section 11 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, which may cause a person to be disqualified from operating a CMV, to align with federal regulations.

**Section 12** amends s. 322.34(2), F.S., to update a cross reference.

**Section 13** provides the bill takes effect on July 1, 2021.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Clarifying that current seat belt requirements are applicable when a vehicle is stationary at a traffic signal may result in an increase in the number of seat belt violations issued to drivers. However, the impact is indeterminate at this time.

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.

**C. Government Sector Impact:**

Making current seat belt requirements applicable when a vehicle is stationary at a traffic control device may result in an increase in the number of seat belt violations issued to drivers. This may result in an indeterminate, positive fiscal impact to local governments.

Programming will be required in the driver license components of the Online Registration Identity Operating Network (ORION) and the Driver and Vehicle Information Database. A new disposition code must be added, and programming will be required within the citation processing and disqualification processes to create the lifetime disqualification for the disposition of an individual who has had their commercial drive license permanently revoked due to a human trafficking conviction, or plea of guilty or nolo contendere to, any felony involving human trafficking involving the use of a commercial vehicle.<sup>56</sup> This may result in an insignificant workload impact that can be absorbed within existing DHSMV resources.

Programming will be required in the driver license components of the ORION to limit the lifecycle of a commercial driver license to 8 years.<sup>57</sup> This may result in an insignificant workload impact that can be absorbed within existing DHSMV resources.

Multiple components of the bill will require the DHSMV procedures to be modified, the DHSMV's website to be updated, and communications and outreach to be developed and disseminated, which may result in an insignificant workload impact that can be absorbed within existing DHSMV resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 316.302, 316.614, 316.70, 319.225, 320.0715, 322.01, 322.05, 322.18, 322.25, 322.28, 322.61, and 322.34.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

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

None.

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<sup>56</sup> *Supra* FN 27, p.9.

<sup>57</sup> *Id.*

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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