

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 Fiscal Policy

BILL: CS/CS/SB 1252

INTRODUCER: Fiscal Policy Committee; Transportation Committee; and Senator DiCeglie

SUBJECT: Department of Highway Safety and Motor Vehicles

DATE: April 21, 2023

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|--------------|----------------|------------|------------------|
| 1. | <u>Jones</u> | <u>Vickers</u> | <u>TR</u> | <u>Fav/CS</u> |
| 2. | <u>Wells</u> | <u>Jerrett</u> | <u>ATD</u> | <u>Favorable</u> |
| 3. | <u>Jones</u> | <u>Yeatman</u> | <u>FP</u> | <u>Fav/CS</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1252 makes numerous changes relating to the Department of Highway Safety and Motor Vehicles (DHSMV). Specifically, the bill:

- Allows “authorized agents” of the DHSMV to conduct International Fuel Tax Agreement transactions;
- Requires all law enforcement agencies to submit crash reports in a nonproprietary, interchangeable format to the DHSMV solely by electronic means as of July 1, 2025;
- Exempts motor vehicle dealers from air pollution control equipment certification requirements if the motor vehicle purchaser is the current lessee of the motor vehicle that is not in the possession of the dealer at the time of sale;
- Updates the date of adoption of federal regulations and rules for commercial motor vehicles (CMVs) from December 31, 2020, to December 31, 2022, updates federal references, and removes an expired exemption for CMV operators;
- Expressly states that the DHSMV is charged with the administration and enforcement of specified federal laws relating to CMVs;
- Requires the DHSMV to brand certificates of title of flood vehicles with words indicating the type of water that flooded the vehicle;
- Revises a requirement for a rightful heir to transfer ownership of a motor vehicle or mobile home if the previous owner died testate;
- Clarifies that no additional fee can be charged by the DHSMV or a tax collector for the reissuance of a certificate of title that is lost in transit and is not delivered;

- Defines “major component parts” of electric, hybrid, and plug-in hybrid motor vehicles for the purpose of verifying the sources of these parts during the rebuilt inspection process;
- Adds damaged or dismantled “vessel” to the salvage statute and provides procedures for the release and application for titling by an independent entity in possession of the vessel;
- Allows owners of rental trucks that have a gross vehicle weight up to 15,000 pounds to elect to have a permanent registration period for such vehicle, provided appropriate license taxes and fees are paid;
- Authorizes DHSMV to issue reduced dimension license plates for trailers;
- Authorizes, effective January 1, 2024, acceptance of electronic motor vehicle registrations as proof of registration when operating a motor vehicle;
- Exempts Florida collegiate specialty license plates from the provision requiring DHSMV to discontinue the specialty license plate with the fewest plates in circulation each year;
- Makes changes to four existing specialty license plates, and authorizes creation of a Florida Association of Realtors specialty license plate;
- Provides that a disabled veteran who qualifies for a free “DV” license plate may choose a military or specialty license plate he or she qualifies for in lieu of the “DV” license plate;
- Requires, as of January 1, 2024, that the designation on a driver license or identification card indicating an individual is a sexual predator or sexual offender be in a distinctive format and printed in the color red;
- Removes requirements that certain insurance coverage be noncancelable following reinstatement of a driver license; and
- Makes numerous clarifying, technical, and conforming changes.

The bill also creates a new section of statute and amends various sections of law to adopt requirements related to the federal Drug and Alcohol Clearinghouse program. States must be compliant with this program by November 18, 2024, or risk losing federal grant funding.

The bill may have an indeterminate fiscal impact on state and local government and the private sector. See Section V. Fiscal Impact Statement.

Except as otherwise provided, the bill takes effect July 1, 2023.

II. Present Situation:

Due to the disparate issues in the bill, for ease of organization and readability, the *Present Situation* for each issue is discussed below in conjunction with the *Effect of Proposed Changes*.

III. Effect of Proposed Changes:

International Fuel Tax Agreement (IFTA) Registration (Section 1)

Present Situation

The IFTA is a reciprocal tax collection agreement by and among the 48 contiguous states and the ten Canadian provinces bordering the United States. IFTA qualified commercial motor vehicles (CMVs) registered in Florida report and pay all motor fuel taxes to the state (its base

jurisdiction), which distributes such taxes to other member jurisdictions in which the vehicle travelled and incurred motor fuel use tax liability.¹

CMVs are IFTA qualified if they are used, designed, or maintained for the interstate transportation of persons or property and:

- Have two axles and a gross vehicle weight (GVW) or registered GVW exceeding 26,000 pounds;
- Have three or more axles, regardless of weight; or
- Are used in combination with a trailer, for a combined GVW or registered GVW in excess of 26,000 pounds.

CMVs that fall under IFTA must obtain an IFTA license and a set of two IFTA decals per qualified vehicle annually. The IFTA license and decals are valid from January 1 through December 31.² According to the DHSMV, a licensee can only obtain a new IFTA license and accompanying decals by mail from the DHSMV or in person at the Neil Kirkman Building in Tallahassee.³

Current law allows county tax collectors, as authorized agents of the DHSMV, to provide motor vehicle and driver license services, including the issuance of registration certificates, license plates, and validation stickers.⁴ However, Florida law does not expressly allow “authorized agents” of the DHSMV to conduct IFTA transactions.

Effect of Proposed Changes

The bill amends s. 207.004, F.S., to specify that the DHSMV or its authorized agent shall issue licenses and fuel tax decals for CMVs requiring IFTA registration.

This change may provide CMV operators more options for conducting IFTA registration transactions and may reduce in-person traffic and wait times at the Neil Kirkman Building in Tallahassee for IFTA transactions.

Electronic Crash Reporting (Sections 2 and 3)

Present Situation

The DHSMV is the official custodian of Florida’s crash data. The DHSMV is responsible for preparing and supplying Florida’s crash report forms to law enforcement agencies in the state,⁵ and crash reports prepared by law enforcement agencies must be submitted to the DHSMV.⁶ The DHSMV aggregates this data submitted by law enforcement agencies, and uses such data to develop reports and distribute data to safety stakeholders and other interested parties.⁷

¹ Chapter 207, F.S. and DHSMV, *International Fuel Tax Agreement*, <https://www.flhsmv.gov/driver-licenses-id-cards/commercial-motor-vehicle-drivers/international-fuel-tax-agreement/> (last visited March 6, 2023).

² *Id.*

³ DHSMV, *2023 Agency Legislative Bill Analysis - SB 1252* (March 1, 2023) at 2.

⁴ See ss. 320.02(1) and 320.03, F.S.

⁵ Section 316.068, F.S.

⁶ Section 316.066(1)(f), F.S.

⁷ Section 316.069, F.S., and DHSMV, *supra* note 3.

Florida law does not mandate how crash report forms are to be submitted to the DHSMV. DHSMV receives approximately 750,000 crash report forms annually. Currently, less than two percent of crash reports received by the DHSMV are paper crash reports.⁸ Paper crash reports are received by the DHSMV via regular postal services and are then delivered to a third-party, PRIDE Enterprises, to be manually key punched and submitted electronically to the DHSMV database where the data is validated prior to acceptance.⁹

Effect of Proposed Changes

The bill amends s. 316.066, F.S., effective July 1, 2025, to require all Florida law enforcement agencies to submit crash reports to the DHSMV solely by electronic means instead of mailing paper crash reports. The bill requires entities submit such crash reports to the DHSMV using a nonproprietary, interchangeable electronic form and reporting method. For purposes of this provision, “nonproprietary” means commonly used and commercially available report formats and reporting methods.

The bill contains a legislative finding that the requirement that entities submit crash reports electronically to DHSMV fulfills an important state interest by expediting the availability of crash reports and crash data as well as the availability of information derived from such reports to improve highway safety.

Air Pollution Certificate Exemption for Leased Vehicles (Section 4)

Present Situation

Section 316.2935, F.S., prohibits a person or motor vehicle dealer from offering for sale or lease, selling or leasing, or transferring title to, a motor vehicle in Florida that has had its air pollution control equipment tampered with.¹⁰ The motor vehicle seller, lessor, or transferor must certify in writing that the air pollution control equipment has not been tampered with by the certifier or with his or her permission, or by the certifier’s agent, employee, or other representative.

Additionally, a licensed motor vehicle dealer also must certify that he, she, or persons under his or her supervision visually observed the air pollution control equipment of the motor vehicle and determined such equipment is in place and appears properly connected and undamaged.¹¹

The following transactions are exempt from this requirement:¹²

- Motor vehicles from the manufacturer or distributor provided to a franchise motor vehicle dealer;

⁸ DHSMV, *supra* note 3.

⁹ DHSMV, *supra* note 3.

¹⁰ Section 316.2935(1)(a), F.S., defines “tampering” as “the dismantling, removal, or rendering ineffective of any air pollution control device or system which has been installed on a motor vehicle by the vehicle manufacturer except to replace such device or system with a device or system equivalent in design and function to the part that was originally installed on the motor vehicle.”

¹¹ Rule 62-243.500, F.A.C., specifies the “air pollution equipment” to be visually observed includes the catalytic converter, fuel inlet instructor, unvented fuel cap, exhaust gas recirculation system, air pump and/or air injection system, and fuel evaporative system, if applicable based on vehicle age.

¹² Section 316.2935(1), F.S. and Rule 62-243.500(2), F.A.C.

- First time lease or sale of new motor vehicles subject to certification under s. 207, Clean Air Act, 42 U.S.C. s. 7541;
- Motor vehicles provided to a licensed motor vehicle dealer who elects to not receive the certification form;
- Motor vehicles transferred between licensed motor vehicle dealers;
- Lease agreements for 30 days or less; and
- Sales of motor vehicles for salvage purposes only.

Any person or motor vehicle dealer who knowingly and willingly violates this requirement:¹³

- For a first violation, a person is guilty of second degree misdemeanor and a motor vehicle dealer is guilty of a first degree misdemeanor.
- For a second or subsequent violation, any violator is guilty of a first degree misdemeanor, and the DHSMV may temporarily or permanently revoke or suspend the motor vehicle dealer license of the violator.

All other violators shall be charged with a noncriminal traffic infraction, punishable as a moving violation. However, the penalty may be reduced if the violation is corrected.¹⁴

Effect of Proposed Changes

The bill amends s. 316.2935, F.S., to exempt licensed motor vehicle dealers from being required to visually inspect and certify that a vehicle's air pollution control equipment has not been tampered with by the dealer or his or her agents when the vehicle is being purchased by the current lessee and is not in the possession of the dealer at the time of sale.

Federal CMV Regulations (Sections 5, 17, and 18)

Present Situation

The primary mission of the Federal Motor Carrier Safety Administration (FMCSA), an agency within the U.S. Department of Transportation, is to prevent CMV-related fatalities and injuries.¹⁵

Section 316.003(14), 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 Act,¹⁶ as amended.

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 rules and regulations contained in the following parts of the Federal Motor Carrier Safety Regulations¹⁷:

¹³ Section 316.2935(5), F.S.

¹⁴ Sections 316.2935(6) and 316.6105, F.S.

¹⁵ FMCSA, *About Us*, available at <https://www.fmcsa.dot.gov/mission/about-us> (last visited March 6, 2023).

¹⁶ 49 U.S.C. ss. 1801 et seq.

¹⁷ 49 C.F.R. ch III, subchapter B.

| Part | Heading |
|-------------|---|
| 382 | Controlled Substances and Alcohol Use and Testing |
| 383 | Commercial Driver's License Standards; Requirements and Penalties |
| 385 | Safety Fitness Procedures |
| 386 | Rules of Practice for FMCSA Proceedings |
| 390 | Federal Motor Carrier Safety Regulations; General |
| 391 | Qualifications of Drivers and Longer Combination Vehicle (LCV) Driver Instructors |
| 392 | Driving of Commercial Motor Vehicles |
| 393 | Parts and Accessories Necessary for Safe Operation |
| 395 | Hours of Service Drivers |
| 396 | Inspection, Repair, and Maintenance |
| 397 | Transportation of Hazardous Materials; Driving and Parking Rules |

Section 316.302(1)(b), F.S., provides that owners or drivers of CMVs engaged in *intrastate* commerce are subject to the same federal regulations, unless otherwise provided in s. 316.302, F.S., as such regulations existed on December 31, 2020.

States generally have three years to adopt such rules to remain compatible with federal regulations. States that remain incompatible after the compliance date risk losing federal grant funding.

During the most recent Annual Program Review of the DHSMV's compliance with these regulations, the FMCSA noted that Florida law does not expressly subject the DHSMV to comply with the provisions of 49 CFR part 384.¹⁸

Effect of Proposed Changes

The bill amends s. 316.302, F.S., to provide that all owners and drivers of CMVs engaged in *intrastate* commerce be subject to CMV rules and regulations, unless otherwise specified, as they existed on December 31, 2022. According to the DHSMV, the FMCSA has adopted or amended six rules between December 31, 2020, and December 31, 2022, which impact the DHSMV.

This update results in the following changes:

- Removes a duplicative requirement that drivers prepare and submit a list of traffic violations annually to their employer;¹⁹
- Increases the area on the interior of a CMV windshield where vehicle safety technology devices may be mounted;²⁰
- Expands the definition of “vehicle safety technology” to include, “systems and items of equipment to promote driver, occupant, and roadway safety,” including “systems and devices that contain cameras, lidar, radar, and/or video”;²¹
- Permits individuals who do not satisfy certain vision standards to be physically qualified by an ophthalmologist or optometrist annually to operate a CMV;²²

¹⁸ DHSMV, *supra* note 3, at 3.

¹⁹ 87 FR 13192 (March 9, 2022).

²⁰ 49 C.F.R. s. 393.60(e)(1).

²¹ 49 C.F.R. s. 393.5.

²² 49 C.F.R. s. 391.44.

- Requires rear impact guards be examined as part of the required CMV annual inspection and updates certification and labeling requirements for rear impact protection guards;²³ and
- Requires compliance with regulations related to the Drug and Alcohol Clearinghouse (this issue is described in detail in this analysis under the “Commercial Driver Licenses and the Drug and Alcohol Clearinghouse” subheading).

The bill also makes changes in the following sections related to CMVs:

- Amends s. 316.302(1)(a) and (b), F.S., to include that all owners and drivers of CMVs are subject to the rules and regulations contained in 49 C.F.R. part 384, which requires state compliance with the federal CDL program.
- Removes s. 316.302(1)(c), F.S., which is now obsolete. The paragraph allowed a delay in compliance with the requirements of electronic logging devices and hours of service supporting documents until December 31, 2019.
- Amends s. 316.302(2)(d), F.S., to update to the appropriate federal references.
- Amends s. 322.02, F.S., to provide that the DHSMV is charged with the enforcement and administration of 49 C.F.R. parts 382-386 and 390-397.
- Clarifies in s. 322.05(4), F.S., that the DHSMV is prohibited from issuing a commercial license to any person who is ineligible to operate a CMV pursuant to 49 C.F.R. part 383.

Branding of a Certificate of Title as a “Flood Vehicle” (Section 6)

Present Situation

Florida law prohibits a person knowingly offering for sale, selling, or exchanging a flood vehicle until the DHSMV has stamped in a conspicuous place on the certificate of title that the vehicle is a flood vehicle.²⁴ A “flood vehicle” is defined as a motor vehicle or mobile home declared as a total loss²⁵ resulting from damage caused by water.²⁶

Current law does not differentiate between the types of water that impacted a flood vehicle. In September 2022, Hurricane Ian made landfall in Florida and numerous electric vehicles caught fire from what is believed to be exposure to or submersion in salt water.²⁷ Lithium-ion batteries power most electric vehicles. Damage to such batteries by salt water, heat, or force can cause a chemical reaction called thermal runaway, which causes batteries to heat up uncontrollably and be prone to fires and off-gassing, which can lead to explosions.²⁸

²³ 86 FR 62105 (November 9, 2021).

²⁴ Section 319.14(1)(b), F.S.

²⁵ Pursuant to 319.30(3)(a), F.S., which defines “total loss” as when an insurance company pays to replace the damaged vehicle or mobile home, or when an uninsured motor vehicle or mobile home is damaged and the cost to repair or rebuild the vehicle is 80 percent or more of the replacement cost.

²⁶ Section 319.14 (1)(c)8., F.S.

²⁷ DHSMV, *supra* note 3, at 3-4.

²⁸ Verzoni, Angelo, *Experts Warn of Electric Fires After Hurricane Ian Damages Lithium-Ion Batteries*, National Fire Protection Association (October 9, 2022), <https://www.nfpa.org/News-and-Research/Publications-and-media/Blogs-Landing-Page/NFPA-Today/Blog-Posts/2022/10/19/Experts-Warn-of-Electric-Vehicle-Fires-After-Hurricane-Ian-Damages-Lithium-Ion-Batteries> (last visited February 21, 2023).

According to the National Highway Traffic Safety Administration (NHTSA):

Lithium-ion vehicle battery fires have been observed both rapidly igniting and igniting several weeks after battery damage occurred. The timing of the fire initiation is specific to the battery design, chemistry, and damage to the battery pack. Test results specific to saltwater submersion show that salt bridges can form within the battery pack and provide a path for short circuit and self-heating. This can lead to fire ignition. As with other forms of battery degradation, the time period for this transition from self-heating to fire ignition can vary greatly.²⁹

Even for electric vehicles that did not combust in fire following submersion in salt water during Hurricane Ian, a concern may exist that the vehicles' batteries may be considered a hazardous material.

Effect of Proposed Changes

The bill amends s. 319.14, F.S., to require the DHSMV to brand the certificate of title of a flood vehicle with reference to the water type that flooded the vehicle. The certificate of title of a flood vehicle will be branded as either:

- “Flood Vehicle - Salt Water”;
- “Flood Vehicle - Fresh Water”; or
- “Flood Vehicle - Other or Unknown Water Type.”

Including this additional information may provide increased consumer protections. By knowing what type of water a flood vehicle has been exposed to, vehicle purchasers and owners may be more aware of any potential risks associated with fire and hazardous materials.

Certificate of Title Transfer of Ownership (Section 8)

Present Situation

Florida law states that in the case of transfer of ownership of a motor vehicle or mobile home by operation of law, such as inheritance, the DHSMV must receive satisfactory proof of ownership and right of possession to such motor vehicle or mobile home, and payment of the required certificate of title application fee, before the DHSMV can issue the applicant a certificate of title.³⁰

If the previous owner died testate, the application must be accompanied by:³¹

- A certified copy of the will, if probated, and an affidavit that the estate is solvent with sufficient assets to pay all just claims; or
- A sworn copy of the will, if the will is not being probated, and an affidavit that the estate is not indebted.

²⁹ Letter to Florida Chief Financial Officer Jimmy Patronis from NHTSA (October 14, 2022) on p. 2.

³⁰ Section 319.28(1)(a), F.S.

³¹ Section 319.28(1)(b), F.S.

Effect of Proposed Changes

The bill amends s. 319.28, F.S., to provide, if the previous owner died testate, an application for the certificate of title may be made by and accompanied with an affidavit attested by a Florida-licensed attorney in good standing with the Florida Bar who represents the previous owner's estate, that such heir or heirs are lawfully entitled to the rights of ownership and possession of the motor vehicle or mobile home. Such affidavit constitutes satisfactory proof of ownership and right of possession, and is not required to be accompanied by a copy of the will or other testamentary instrument.

Lost Certificates of Title (Section 9)

Present Situation

Under current law, if a certificate of title is lost or destroyed, the owner of the motor vehicle or mobile home, or the holder of a lien, must apply to the DHSMV for a duplicate copy.³² Upon receiving an application signed and sworn to by the applicant, and accompanied by the required fee,³³ the DHSMV must issue a duplicate copy of the certificate of title.³⁴

If an original, duplicate, or corrected certificate of title issued by the DHSMV is lost in transit and is not delivered to the addressee, the owner or holder must, within 180 days of the date of issuance of the title, apply to the DHSMV for the reissuance of the certificate of title without an additional fee.³⁵ Florida law provides that tax collectors can handle certificate of title applications and collect the associated fees.³⁶

Effect of Proposed Changes

The bill amends s. 319.29, F.S., to clarify that the DHSMV *or a tax collector* may reissue a certificate of title without an additional fee when the certificate of title is lost in transit and not delivered. The bill requires the applicant to apply for such reissuance within 180 days *after* the date of issuance of the certificate of title.

Electric, Hybrid, and Plug-in Hybrid Vehicle Component Parts (Section 10)

Present Situation

Salvage motor vehicle dealers who purchase a major component part of a vehicle must record the date of purchase and the name, address, and personal identification card number of the seller, as well as the vehicle identification number, if available.³⁷ Before a salvage motor vehicle dealer can resell a salvage motor vehicle or its parts, the motor vehicle's title must indicate it is rebuilt, which requires a rebuilt inspection to assure the identity of the vehicle and all major component parts repaired or replaced.³⁸

³² Section 319.29(1), F.S.

³³ The fee for a duplicate title is generally \$75.25. See Section 319.32(1) and (2), F.S., and DHSMV, *Fees - Motor Vehicle Title Fees*, <https://www.flhsmv.gov/fees/> (last visited March 26, 2023).

³⁴ Section 319.29(1), F.S.

³⁵ Section 319.29(3), F.S.

³⁶ Section 319.32(2)(b), F.S.

³⁷ Section 319.30(6)(a), F.S.

³⁸ Sections 319.141 and 319.14, F.S.

The definition of “major component parts” provided in s. 319.30(1)(j), F.S., is specific to combustion engines and does not include parts of electric, hybrid, and plug-in hybrid motor vehicles that may be considered major component parts of the vehicle.

Effect of Proposed Changes

The bill amends s. 319.30(1)(j), F.S., to define “major component parts” of electric, hybrid, and plug-in hybrid vehicles as all the major component parts of a combustible engine vehicle as well as the following parts: electronic transmission, charge port, DC power converter, onboard charger, power electronics controller, thermal system, and traction battery pack.

Independent Entities Possessing Damaged or Dismantled Vehicles or Vessels (Section 10)

Present Situation

Currently, independent entities can temporarily store damaged or dismantled motor vehicles pursuant to an agreement with an insurance company and participate in the sale or resale of such motor vehicles.³⁹

When an independent entity is in possession of a damaged or dismantled motor vehicle, an insurance company can notify the independent entity, with a form prescribed by the DHSMV, authorizing the release of the vehicle to the owner. The form contains: the policy and claim number, the name and address of the insured, the vehicle identification number, and the signature of an authorized representative of the insurance company.⁴⁰

Upon receiving this form, the independent entity must notify the owner that the vehicle is available for pickup. The notification must be sent by certified mail or another commercially available delivery service that provides proof of delivery to the owner at the owner’s address contained in the DHSMV’s records. If the vehicle is not claimed within 30 days after delivery or attempted delivery of the notice, the independent entity may apply for a certificate of destruction or a certificate of title.⁴¹

If the DHSMV records do not contain the motor vehicle owner’s address, the independent entity must do the following:

- Send the required notification to the owner’s address that is provided by the insurance company in the release statement; and⁴²
- Identify the latest titling jurisdiction of the vehicle through the National Motor Vehicle Title Information System (NMVTIS) or an equivalent commercially available system in an attempt to obtain the owner’s address from that jurisdiction. If the jurisdiction provides an address that is different from the owner’s address provided by the insurance company, the independent entity must provide the required notice to both addresses.⁴³

³⁹ Section 319.30(1)(g), F.S., includes such “independent entity” does not include a wrecker operator, a towing company, or a repair facility.

⁴⁰ Section 319.30(9)(a), F.S.

⁴¹ Section 319.30(9)(b), F.S.

⁴² Section 319.30(9)(c)1., F.S.

⁴³ Section 319.30(9)(c)2., F.S.

The independent entity must maintain all records related to the 30-day notice and searches in the NMVTIS for 3 years.⁴⁴ Upon applying for a certificate of destruction or salvage certificate of title, the independent entity must provide a copy of the release statement from the insurance company, proof of the 30-day notice sent to the owner, proof of notification to the NMVTIS, proof of all lien satisfactions or proof of a release of all liens on the motor vehicle, and applicable fees.⁴⁵

This process does not currently include vessels. The need to include a process for returning to owners, or obtaining salvage certificates of title, for damaged or dismantled vessels in the possession of independent entities became evident following Hurricane Ian in 2022.

Effect of Proposed Changes

The bill amends s. 319.30, F.S., to expand the authority of independent entities to allow them to temporarily store damaged or dismantled vessels pursuant to an agreement with an insurance company and participate in the sale or resale of such vessels. For this purpose, vessel is defined as every description of a watercraft, barge, and airboat used or capable of being used as a means of transportation on water.⁴⁶

The bill treats vessels the same as motor vehicles in possession of an independent entity with the following exceptions:

- On the form prescribed by the DHSMV, the hull identification number for the vessel is reported instead of the vehicle identification number.
- If the vessel is hull-damaged, the independent entity must comply as applicable with the “Hull Damaged” title brand designation requirements outlined in s. 328.045, F.S.
- The independent entity is not required to notify the NMVTIS before releasing the vessel to the owner or before applying for a certificate of title.

Permanent Registration for Rental Trucks (Section 11)

Present Situation

Generally, registration license plates for vehicles are issued for a ten-year period. At the end of the ten-year period, upon renewal, the plate must be replaced. With each license plate, a validation sticker must be issued showing the owner’s birth month, license plate number, and the year of expiration or the appropriate renewal period if the owner is not a natural person. The license plate and validation sticker are issued based on the applicant’s appropriate renewal period. Registration periods are for 12 months, or 24 months for an extended registration period⁴⁷, and expire at midnight on the last day of the registration period.⁴⁸

⁴⁴ Section 319.30(9)(d), F.S.

⁴⁵ Section 319.30(9)(f), F.S.

⁴⁶ As provided in s. 713.78(1)(b), F.S., but which excludes a seaplane or a vessel for which a valid certificate of documentation is outstanding pursuant to 46 C.F.R. part 67.

⁴⁷ Section 320.01(19)(b), F.S., defines the term “extended registration period” as a period of 24 months during which a motor vehicle or mobile home registration is valid.

⁴⁸ Section 320.06(1)(c), F.S.

Validation stickers issued to for-hire vehicles holding less than nine passengers⁴⁹ for any company that owns 250 vehicles or more may be placed on any vehicle in its fleet so long as the vehicle receiving the validation sticker has the same owner's name and address as the vehicle to which the validation sticker was originally assigned.⁵⁰

As of July 1, 2021, Florida law allows rental vehicles taxed as for-hire vehicles that carry under nine passengers to voluntarily elect a permanent motor vehicle registration period, provided that the appropriate license taxes and fees are paid annually. Validation stickers are voided if the appropriate license taxes and fees are not paid annually.

For rental cars issued a permanent registration, the license plate will continue to expire at the end of the 10-year period, but the validation sticker will not need to be replaced annually. License plates with a permanent registration have a validation sticker with "PM" printed on it (for "permanent") in place of the expiration date, and the paper registration displays "Permanent Decal Issued" printed on it.⁵¹

Effect of Proposed Changes

The bill amends s. 320.06, F.S., to authorize owners of rental trucks that are less than 15,000 pounds to elect a permanent registration period for such vehicles, provided appropriate license taxes and fees are paid.

Permanent registration may provide convenience for businesses operating rental trucks as the vehicle does not have to be physically tracked down to affix an annual decal.⁵²

License Plates with Reduced Dimensions (Section 11)

Present Situation

In lieu of a standard license plate, the DHSMV may deem a plate with reduced dimensions necessary to accommodate motorcycles, mopeds, or similar smaller vehicles.⁵³ All other requirements, including the type of metal, validation stickers, identification letters and numerals, and imprints for specific plates, are the same regardless of registration license plate size.⁵⁴

Effect of Proposed Changes

The bill amends s. 320.06, F.S., to clarify that the DHSMV may deem a reduced dimension license plate necessary for a trailer.

⁴⁹ These vehicles are taxed pursuant to s. 320.08(6)(a), F.S.

⁵⁰ Section 320.06(1)(c), F.S.

⁵¹ DHSMV, *Technical Advisory - 2020-2021 Legislative Release July 12, 2021* (July 7, 2021), RS/TL21-019, available at <https://www.flhsmv.gov/pdf/bulletins/2021/RSTL21-019.pdf> (last visited March 6, 2023).

⁵² DHSMV, *supra* note 3, at 8-9.

⁵³ Section 320.06(3)(a), F.S.

⁵⁴ *Id.*

Electronic Motor Vehicle Registration Certificate (Section 12)

Present Situation

Except as otherwise provided in ch. 320, F.S., every owner or person in charge of a motor vehicle operated or driven on the roads of Florida must register the vehicle in this state. The registration certificate or an official copy, a true copy or electronic copy of rental or lease documentation issued for a motor vehicle or issued for a replacement vehicle in the same registration period, a temporary receipt printed upon self-initiated electronic renewal of a registration via the Internet, or a cab card issued for a vehicle registered under the International Registration Plan must, at all times while the vehicle is being used or operated on the roads of this state, be in the possession of the operator of the vehicle or be carried in the vehicle for which it was issued.⁵⁵

Such documentation must be exhibited upon demand of any authorized law enforcement officer or agent of the DHSMV, except for a vehicle registered under s. 320.0657, F.S., as a fleet vehicle. This does not apply during the first 30 days after purchase of a replacement vehicle. A violation is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in ch. 318, F.S.

The law provides that presenting an electronic device displaying an electronic copy of rental or lease documentation does not constitute consent for the officer or agent to access any other information on the device, and the person who presents the device to the officer or agent assumes liability for any resulting damage to the device.⁵⁶

Section 322.032, F.S., required DHSMV to establish a secure and uniform system for issuing an optional digital proof of driver license or identification card, and authorized the DHSMV to contract with private entities to develop an electronic credentialing system. Based on this requirement, the DHSMV created the Florida Smart ID, which is functioning and available in the Apple App Store and Google Play Store. According to the DHSMV, as of October 31, 2022, 57,000 Floridians have downloaded and activated their Florida Smart ID.⁵⁷

In 2022, a Florida law was adopted requiring the DHSMV's electronic credentialing system also display driver vehicle registration and insurance information by July 1, 2023.⁵⁸

Effect of Proposed Changes

The bill amends s. 320.0605, F.S., to authorize a law enforcement officer or agent of the DHSMV to accept an electronic certificate of motor vehicle registration as required documentation that must be in the possession of the vehicle's operator or carried in the vehicle at all times while the vehicle is being operated on the roads of this state. The electronic registration certificate must be in a uniform format prescribed by the DHSMV.

⁵⁵ Section 320.0605(1)(a), F.S.

⁵⁶ Section 320.0605(1)(b), F.S.

⁵⁷ Letter to the Chairs of the Joint Legislative Budget Commission from Terry L. Rhodes, Executive Director, DHSMV, (October 31, 2022).

⁵⁸ Chapter 2022-169, Laws of Fla., creating s. 324.252, F.S.

The bill also provides that displaying an electronic copy of the registration does not constitute consent for the officer or agent to access any other information on the device, and the person who presents the device assumes liability for any resulting damage to the device.

Specialty License Plates (Sections 13 and 14)

Present Situation

As of January 2023, there are 144 specialty license plates authorized by the Legislature. Of these plates, 109 are available for immediate purchase and 35 are in the presale process.⁵⁹ Specialty license plates are available to an owner or lessee of a motor vehicle who is willing to pay an annual use fee, ranging from \$15 to \$25, paid in addition to required license taxes and service fees.⁶⁰ The annual use fees are distributed to organizations in support of a particular cause or charity signified on the plate's design and designated in statute.⁶¹

In order to establish a specialty license plate and after the plate is approved by law, s. 320.08053, F.S., requires the following:

- Within 60 days, the organization must submit an art design for the plate, in a medium prescribed by the DHSMV;
- Within 120 days, the DHSMV must establish a method to issue presale vouchers for the specialty license plate; and
- Within 24 months after the presale vouchers are established, the organization must obtain a minimum of 3,000 voucher sales before manufacturing of the plate may begin.⁶²

If the minimum sales requirement has not been met by the end of the 24-month presale period, the DHSMV will discontinue the plate and issuance of presale vouchers. Upon discontinuation, a purchaser of a presale voucher may use the annual use fee as a credit towards any other specialty license plate or apply for a refund with the DHSMV.⁶³

New specialty license plates that have been approved by law but are awaiting issuance will be issued in the order they appear in s. 320.08058, F.S., provided that presale requirements have been met. If the next listed specialty license plate has not met the presale requirement, the DHSMV will proceed in the order provided in s. 320.08058, F.S., to identify the next qualified specialty license plate that has met the presale requirement.⁶⁴

⁵⁹ DHSMV Presentation to the Senate Transportation Committee, *Specialty License Plates* (January 24, 2023), slideshow available at https://www.flsenate.gov/Committees/Show/TR/MeetingPacket/5615/10046_MeetingPacket_5615_3.pdf (last visited March 27, 2023).

⁶⁰ Section 320.08056(3)(d), F.S., provides that except if specifically provided in s. 320.08056(4), F.S., the annual use fee for a specialty license plate is \$25.

⁶¹ Section 320.08058, F.S.

⁶² Chapter 2022-189, Laws of Fla., extended the presale requirement by an additional 24 months for an approved specialty license plate organization that, as of June 15, 2022, is in the presale period but had not recorded at least 3,000 voucher sales.

⁶³ Section 320.08053(2)(b), F.S.

⁶⁴ Section 320.08053(3)(a), F.S.

If the Legislature has approved 135 or more specialty license plates, the DHSMV may not make any new specialty license plates available for design or issuance until a sufficient number of plates are discontinued so that the number of plates being issued does not exceed 135.⁶⁵

Use of Specialty License Plate Fees

The annual use fees collected by an organization and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of specified United States Armed Forces and veterans-related specialty plates.⁶⁶ Additionally, organizations must adhere to certain accountability requirements, including an annual audit or attestation document affirming that funds received have been spent in accordance with applicable statutes.⁶⁷

The annual use fees collected by an organization and the interest earned from those fees may not be used for commercial or for-profit activities, or general or administrative expenses, unless authorized by s. 320.08058, F.S.⁶⁸ Additionally, the annual use fees and interest earned from those fees may not be used for the purpose of marketing to, or lobbying, entertaining, or rewarding, any employee of a governmental agency that is responsible for the sale and distribution of specialty license plates, or any elected member or employee of the Legislature.⁶⁹

Discontinuance of Specialty License Plates

The DHSMV must discontinue the issuance of an approved specialty license plate if the number of valid registrations falls below 1,000 plates for at least 12 consecutive months. A warning letter is mailed to the sponsoring organization following the first month in which the total number of valid specialty license plate registrations is below 1,000 plates. Collegiate plates for Florida universities are exempt from the minimum specialty license plate requirement.⁷⁰ In addition, the DHSMV is authorized to discontinue any specialty license plate if the organization no longer exists, stops providing services that are authorized to be funded from the annual use fee proceeds, or pursuant to an organizational recipient's request.⁷¹

However, effective July 1, 2023, the sales requirement increases so that the DHSMV must discontinue the issuance of an approved specialty license plate if the number of valid registrations falls below 3,000 or in the case of an out-of-state college or university license plate, 4,000, for at least 12 consecutive months. This does not apply to in-state collegiate license plates established under s. 320.08058(3), F.S., license plates of institutions in and entities of the State University System, specialty license plates that have statutory eligibility limitations for purchase, specialty license plates for which annual use fees are distributed by a foundation for student and teacher leadership programs and teacher recruitment and retention, or Florida professional sports team license plates established under s. 320.08058(9), F.S.⁷²

⁶⁵ Section 320.08053(3)(b), F.S.

⁶⁶ Section 320.08056(10)(a), F.S.

⁶⁷ Section 320.08062, F.S.; Such fees may be used to pay for the required audit or report. See s. 320.08056(10)(a), F.S.

⁶⁸ Section 320.08056(10)(a), F.S.

⁶⁹ Section 320.08056(11), F.S.

⁷⁰ Section 320.08056(8)(a), F.S.

⁷¹ Section 320.08056(8)(b), F.S.

⁷² Chapter 2020-181, s. 7, Laws of Fla.

In 2022, ch. 2022-189, Laws of Florida, removed the requirement that out-of-state college or university plates obtain 4,000 plate sales, instead of 3,000, to be manufactured. However, such legislation failed to remove the requirement that the DHSMV discontinue an out-of-state college or university plate that falls below 4,000 active registrations for 12 consecutive months.⁷³

Additionally, the DHSMV must discontinue the specialty license plate with the fewest number of plates in circulation, including license plates exempt from a statutory sales requirement, on January 1 of each year.⁷⁴

Protect Florida Springs License Plates

The “Protect Florida Springs” specialty license plate was authorized in 2007, and provides funds to Fish & Wildlife Foundation of Florida, Inc.⁷⁵ The Foundation “is dedicated to the conservation, management, and sustainable enjoyment of Florida’s outstanding lands, waters, and wildlife.”⁷⁶

Currently, at least 55 percent of fees collected from the sale of the plate shall be available for competitive grants for targeted community based springs research not available for state funding, and 20 percent shall be directed toward community outreach programs aimed at implementing such research findings.⁷⁷

Divine Nine License Plates

In 2020, the DHSMV was authorized to create the Divine Nine specialty license plates.⁷⁸ The Divine Nine specialty license plates consist of plates authorized for the nine member organizations of the National Pan-Hellenic Council.⁷⁹ Each organization’s plate has a unique logo, graphic, or colors, as well as distribution specific to the individual organization.⁸⁰ However, plate sales are combined as one Divine Nine specialty license plate for the purpose of meeting the minimum license plate sales threshold and for determining the license plate limit.⁸¹

To be eligible for issuance of a Divine Nine specialty license plate, a person must be a Florida resident, the registered owner of a motor vehicle, and a member of the applicable organization.

⁷³ *Id.*

⁷⁴ Section 320.08056(8)(f), F.S.

⁷⁵ Chapter 2007-103, Laws of Fla., authorized creation of the plate with funds distributed to the Wildlife Foundation of Florida, Inc. The Foundation has since changed its name to the Fish & Wildlife Foundation of Florida, Inc. See Florida Department of State: Division of Corporations, *Fish & Wildlife Foundation of Florida, Inc.*, Sunbiz.org, Document number N94000005029 (January 29, 2015).

⁷⁶ Fish & Wildlife Foundation of Florida, *Protect Florida Springs Tag Grants - Overview*, https://wildlifeflorida.org/pfs_grants/ (last visited April 19, 2023).

⁷⁷ Section 320.08058(58)(b), F.S.

⁷⁸ Chapter 2020-181, Laws of Fla., creating s. 320.08058(101), F.S.

⁷⁹ The National Pan-Hellenic Council’s purpose is to foster cooperative actions of its members in dealing with matters of mutual concern and to promote the well-being of its fraternities and sororities. See National Pan-Hellenic Council, *About the NPHC*, <https://www.nphc.org/about> (last visited March 23, 2023).

⁸⁰ Section 320.08058(101)(a) and (b), F.S.

⁸¹ Section 320.08058(101), F.S.

American Eagle License Plate

The “American Eagle” specialty license plate was authorized in 2020, to provide funds to the American Eagle Foundation for public education programs, rescue and care programs, and other conservation efforts in Florida that benefit bald eagles.⁸² This specialty license plate is currently in the presale process and, as of April 3, 2023, has 102 presales.⁸³

Give Kids the World License Plate

The “Give Kids the World” specialty license plate was authorized in 2020, to provide funds to Give Kids the World, Inc., to support the organization’s mission of providing week-long, cost-free vacations to children with critical illnesses and their families.⁸⁴ This specialty license plate is currently in the presale process and, as of April 3, 2023, has 108 presales.⁸⁵

Homeownership for All, Inc.

Homeownership for All, Inc. is a Florida not-for-profit corporation registered with the Florida Department of State and the Florida Department of Agriculture and Consumer Services.⁸⁶ The organization has been raising funds since 2006, to help fund affordable housing programs across Florida.⁸⁷ The organization’s goal is to provide housing assistance to teachers, nurses, and others unable to afford a home.⁸⁸

Effect of Proposed Changes

Discontinuance of Specialty License Plates

The bill exempts Florida collegiate specialty license plates from the provision requiring the DHSMV to discontinue the specialty license plate with the fewest number of plates in circulation on January 1 every year. Furthermore, DHSMV may reauthorize any collegiate license plate that has been discontinued pursuant to this provision, if the university resubmits the collegiate license plate for authorization.

The bill amends ch. 2020-181, Laws of Florida, to remove a requirement, effective July 1, 2023, that DHSMV discontinue an out-of-state college or university specialty license plate that falls below 4,000 registrations, instead of 3,000 registrations, for 12 consecutive months. The

⁸² Chapter 2020-181, Laws of Fla., creating s. 320.08058(95), F.S.

⁸³ DHSMV, *Pre-Sale Data*, <https://www.flhsmv.gov/motor-vehicles-tags-titles/personalized-specialty-license-plates/specialty-license-plates/pre-sale-data/> (last visited April 19, 2023).

⁸⁴ Chapter 2020-181, Laws of Fla., creating s. 320.08058(107), F.S.

⁸⁵ DHSMV, *Pre-Sale Data*, <https://www.flhsmv.gov/motor-vehicles-tags-titles/personalized-specialty-license-plates/specialty-license-plates/pre-sale-data/> (last visited April 19, 2023).

⁸⁶ Florida Department of State: Division of Corporations, *Homeownership for All, Inc.*, Sunbiz.org, Document number N06000002753 (March 13, 2006); and Florida Department of Agriculture and Consumer Services, *Homeownership For All, Inc.*, Check-A-Charity, Registration number CH64167.

⁸⁷ Florida Realtors, *Homeownership License Plate* (November 18, 2022), <https://www.floridarealtors.org/about/homeownership-for-all-license-plate> (last visited April 19, 2023).

⁸⁸ *Id.*; The organization currently raises funds with the Homeownership for All specialty license plate authorized in s. 320.08058(56), F.S.

requirement that out-of-state college or university plates obtain 4,000 registrations to be produced was lowered to 3,000 registrations in 2022.⁸⁹

Protect Florida Springs License Plate

The bill amends s. 320.08058(58), F.S., to update the organization's name, remove obsolete language, and make changes to the authorized use of plate proceeds. The bill requires the Fish & Wildlife Foundation of Florida, Inc., make available at least 75 percent of the fees from sale of the plate for the conservation of Florida's freshwater springs, including scientific research, springs habitat restoration, springs protection, and public education on springs. The majority of such funds must be awarded via competitive grants administered and approved by the board of directors of the Fish & Wildlife Foundation of Florida, Inc., with input from the granting advisory committee.

Divine Nine License Plates

The bill amends s. 320.08058 (101), F.S., to expand eligibility for issuance of the Divine Nine specialty license plates. The bill provides eligibility for such plates to an organization member's immediate relative and to motor vehicle lessees. The bill defines "immediate relative" as a spouse, domestic partner, or child of a member.

American Eagle License Plate

The bill amends s. 320.08058(95), F.S., to change the motto on the bottom of the license plate from "In God We Trust" to "Protect the Eagle."

Give Kids the World License Plate

The bill amends s. 320.08058 (107), F.S., to change the name and motto of the "Give Kids the World" specialty license plate to "Universal Orlando Resort," but does not change the distribution or use of proceeds from the sale of the plate.

Florida Association of Realtors

The bill creates s. 320.08058(127), F.S., to authorize DHSMV to create a new specialty license plate for the Florida Association of Realtors. The annual use fee of the plate is \$25, which will be distributed to Homeownership For All, Inc. The organization may use up to ten percent of proceeds to promote and market the plate. The remainder of the fees must be used to fund programs that provide, promote, or otherwise support affordable housing in this state.

Disabled Veteran "DV" License Plates (Section 15)

Present Situation

Section 320.084, F.S., provides that a disabled veteran is eligible for one free "DV" license plate if he or she has been a resident of this state for the preceding five years or has established a domicile in this state, has been honorably discharged from the United States Armed Forces, and provides proof that he or she:

- Has a vehicle initially acquired through financial assistance by the United States Department of Veterans Affairs (VA) or its predecessor specifically for the purchase of an automobile;

⁸⁹ Chapter 2022-189, s. 1, Laws of Fla.

- Has been determined by the VA or its predecessor to have a service-related one hundred percent disability rating for compensation; or
- Has been determined to have a service connected disability rating of one hundred percent and receives disability retirement pay from any branch of the United States Armed Forces.

The license number on each plate issued to a disabled veteran must be identified by the letter designation “DV.”⁹⁰ The design of the special disabled veteran plate is red, white, and blue, and resembles the United States flag.⁹¹ As of January 2023, there were 97,994 active Florida “DV” license plates, the most of any military license plate.⁹²

Upon issuance of each new permanent “DV” license plate, an initial validation sticker with an expiration not exceeding 27 months, is issued without cost to the applicant.⁹³ The applicant does have to pay the associated service charges for each initial application or renewal of registration.⁹⁴ Registration must be renewed annually or biennially, and at that time the applicant must submit a certified statement affirming their continued eligibility for the special “DV” license plate.⁹⁵

Any vehicle displaying a “DV” license plate that is transporting the person to whom the plate was issued is authorized to park in a designated accessible parking space.⁹⁶ A state agency, county, municipality, or any agency thereof, may not enact any fee for parking on the public streets or highways or in any metered parking space from the driver of a vehicle that displays the “DV” license plate when the vehicle is transporting the person who has the disability or who the plate was issued to.⁹⁷ Additionally, the governing body of a publicly owned or publicly operated airport must grant free parking to a vehicle displaying a “DV” license plate.⁹⁸ These rights are afforded by the state and are not necessarily universally accepted as parking permits and license plates designated with the International Symbol of Accessibility.⁹⁹

Special Military License Plates

Florida offers Special Military License Plates, which have specific eligibility requirements that must be met upon application and required payment of the license tax for the vehicle, if applicable, before the plate can be issued.¹⁰⁰ Section 320.089, F.S., authorizes the majority of these special military plates, which include several plates for veterans, plates for National Guard members and former Prisoners of War, and plates for military members who have been awarded

⁹⁰ Section 320.084(3), F.S.

⁹¹ See DHSMV, *Florida Military License Plates*, HSMV 80003, available at https://www.flhsmv.gov/pdf/specialtyplates/military_brochure.pdf at 2. (last visited March 26, 2023).

⁹² *Id.* at p. 6.

⁹³ Section 320.084(4)(a), F.S.

⁹⁴ Section 320.084(4)(b), F.S.

⁹⁵ Section 320.084(4)(c), F.S.

⁹⁶ Sections 553.5041(1) and 316.1955(1), F.S.

⁹⁷ Section 316.1964(1), F.S. However, a fee may be charged when such parking facility or lot is being used in connection with an event at a convention center, cruise-port terminal, sports stadium, sports arena, coliseum, or auditorium. See s. 316.1964(3), F.S.

⁹⁸ Section 316.1964(7), F.S.

⁹⁹ See U.S. Access Board, *Guide to the ADA Accessibility Standards: Guidance on the International Symbol of Accessibility* (March 27, 2017), <https://www.access-board.gov/ada/guides/guidance-on-the-isa/> (last visited March 27, 2023).

¹⁰⁰ See ss. 320.0845, 320.0846, 320.089, 320.0891, 320.0892, 320.0893, F.S. A full-listing of the military plates offered by DSHMV are available at https://www.flhsmv.gov/pdf/specialtyplates/military_brochure.pdf *supra*, note 91.

specific honors such as combat badges and medals. General revenue generated from the sale of military plates issued under s. 320.089, F.S., are distributed to Florida Department of Veterans' Affairs trust funds to be used as follows:

- The first \$100,000 are to be used for the common benefit of the residents of Florida Veterans' Nursing Homes.¹⁰¹
- Any additional revenue is to be used to support program operations that benefit veterans or the operation, maintenance, or construction of domiciliary and nursing homes for veterans.¹⁰²
- Except for the revenue from the "Woman Veteran" license plate, which is to be used solely for creating and implementing programs to benefit women veterans.¹⁰³

Effect of Proposed Changes

The bill amends s. 320.084, F.S., to allow a disabled veteran who qualifies for the "DV" license plate to select a special military license plate for which he or she is eligible or specialty license plate in lieu of the free "DV" license plate. The applicant must pay all of the applicable fees related to such plate, except for the initial license plate and registration fees waived for "DV" license plate applicants.

Additionally, the bill provides that an applicant who selects another plate in lieu of the "DV" plate will not be afforded the same protections and rights of the "DV" plate relating to disabled parking accessibility and free parking for vehicles displaying the "DV" plate.

Commercial Driver Licenses and the Drug and Alcohol Clearinghouse (Sections 16, 19, 22, and 23)

Present Situation

Owners and drivers of a CMV operating on the state's public highways are subject to rules and regulations contained in the Federal Motor Carrier Safety Regulations, which includes specific regulations on controlled substances and alcohol use, testing, and reporting.¹⁰⁴

Drug and Alcohol Clearinghouse

The Drug and Alcohol Clearinghouse is an online database that provides employers of CMV drivers, the Federal Motor Carrier Safety Administration (FMCSA), State Driver Licensing Agencies, and State law enforcement personnel real-time information about drug and alcohol program violations of CMV operators.¹⁰⁵ The Clearinghouse helps to identify CMV drivers who are prohibited from operating a CMV based on federal drug and alcohol program violations, and to ensure such drivers receive required drug or alcohol evaluation and treatment following a violation.¹⁰⁶

¹⁰¹ Section 320.089(1)(c), F.S.

¹⁰² *Id.*

¹⁰³ Section 320.089(1)(d), F.S.

¹⁰⁴ Section 316.302(1), F.S. and *see* 49 C.F.R. Part 382 - Controlled Substances and Alcohol Use Testing.

¹⁰⁵ FMCSA, *About the Clearinghouse - What is the FMCSA Commercial Driver's License Drug and Alcohol Clearinghouse?* <https://clearinghouse.fmcsa.dot.gov/About> (last visited March 3, 2023).

¹⁰⁶ *Id.*

Effective November 18, 2024, the FMCSA requires states use the Clearinghouse to check the status of a commercial driver license (CDL) or commercial learner permit (referred to in Florida as a commercial instructional permit, or CIP) before performing any licensing functions.¹⁰⁷ This federal regulation prohibits states from issuing, renewing, upgrading, or transferring a CDL or CIP if the individual is restricted from operating a CMV due to any drug and alcohol program violations.

Additionally, the FMCSA requires states to establish procedures for “downgrading” a CDL or CIP, which means removing the privilege to operate a CMV from the driver license.¹⁰⁸ If the state receives notification¹⁰⁹ that an individual is prohibited from operating a CMV due to federal alcohol or controlled substances rules, the state must downgrade the CDL or CIP and record such downgrade on the Commercial Driver’s License Information System (CDLIS) driver record.¹¹⁰

Federal regulations also provide information on reinstatement of the CDL or CIP following completion of return-to-duty requirements, or reinstatement of the CDL or CIP and expunction of the downgrade from the CDLIS driving record for Clearinghouse error corrections.¹¹¹

States are required to adopt compatible CMV driving prohibitions to remain eligible to receive Motor Carrier Assistance Program (MCSAP) grant funds.¹¹² According to the DHSMV, Florida’s current MCSAP federal grant share is \$19.8 million.¹¹³

DHSMV Informal Review Request

Florida law permits an individual to request an informal review when his or her driver license is suspended in certain instances.¹¹⁴ The informal review is conducted by a hearing officer designated by the DHSMV, and does not require the presence of a law enforcement officer or a witness. The review consists solely of an examination by the DHSMV of materials submitted by a law enforcement or correctional officer and the person whose license is suspended. Following the examination, a notice is sent to the individual providing the DHSMV’s decision to sustain, amend, or invalidate the license suspension.

Section 322.21(9)(a), F.S., provides that for such reviews, the applicant must pay a \$25 filing fee, which is deposited into the Highway Safety Operating Trust Fund.

¹⁰⁷ 49 C.F.R. s. 383.73.

¹⁰⁸ *Id.* and 49 CFR s. 383.5(4).

¹⁰⁹ Pursuant to 49 C.F.R. s. 382.501(a).

¹¹⁰ CDLIS is “a nationwide computer system that enables state driver licensing agencies...to ensure that each commercial driver has only one driver license and one complete driver record.” States use this system to transmit out-of-state convictions and withdrawals, transfer CDL driver records to another state, or to respond to requests for driver status and history. See AAMVA, *Commercial Driver’s License Information System (CDLIS)*, <https://www.aamva.org/technology/systems/driver-licensing-systems/cdlis> (last visited March 3, 2023).

¹¹¹ 49 C.F.R. s. 383.73.

¹¹² See 86 FR 55718, *Controlled Substances and Alcohol Testing: State Driver’s Licensing Agency Non-Issuance/Downgrade of Commercial Driver’s License* (October 7, 2021), available at <https://www.federalregister.gov/documents/2021/10/07/2021-21928/controlled-substances-and-alcohol-testing-state-drivers-licensing-agency-non-issuancedowngrade-of> (last visited March 5, 2023).

¹¹³ Email from Jennifer Langston, Chief of Staff, DHSMV, *RE: SB 1252 - Questions* (March 14, 2023) (on file with the Senate Committee on Transportation).

¹¹⁴ See ss. 322.2615(4) and (5), 322.2616(5) and (6), and 322.64(4) and (5), F.S.

Right of Review

Section 322.31, F.S., provides that the DHSMV's final orders and rulings wherein any person is denied a license, or where a license has been canceled, suspended, or revoked, shall be reviewable as provided by the Florida Rules of Appellate Procedure only by a writ of certiorari issued by the circuit court in the county where the person resides.

Reinstatement of Licenses

An applicant for reinstatement of his or her CDL following a disqualification to operate a CMV, must pay a \$75 reinstatement fee in addition to the cost of the license.¹¹⁵

Effect of Proposed Changes

The bill amends several sections of law and creates s. 322.591, F.S., to adopt requirements of the Drug and Alcohol Clearinghouse program. These requirements begin November 14, 2024.

The bill creates s. 322.591, F.S., which requires the DHSMV to check the Clearinghouse to ensure a driver is not prohibited from operating a motor vehicle any time a person applies for or seeks to renew, transfer, or make any other change to a CDL or CIP. Additionally, the DHSMV may not issue, renew, transfer, or revise the types of authorized vehicles that may be operated or the endorsements applicable to a CDL or CIP for any person for whom DHSMV receives notification pursuant to 49 C.F.R. s. 382.501 that the person is removed from the safety-sensitive function of operating a CMV because of conduct related to federal drug and alcohol prohibitions.

If the DHSMV receives such notification that a CDL or CIP holder is prohibited from operating a CMV, the DHSMV must downgrade the CDL or CIP. Section 322.01, F.S., defines "downgrade" as defined in 49 C.F.R. s. 383.5(4), which means the state removes the CDL or CIP privilege from the driver's license. The DHSMV must complete and record the downgrade in CDLIS within 60 days following receipt of the notification. If the downgraded driver is otherwise qualified to be issued a Class E (non-commercial) driver license, the DHSMV will issue the Class E license valid for the length of the driver's unexpired license period at no cost.

Immediately following receipt of notification that a driver is prohibited from operating a CMV, the DHSMV must:

- Immediately notify the driver that he or she is prohibited from operating a CMV;
- Provide in the notice to the driver that he or she may request an informal hearing within 20 days following receipt of the notice of the downgrade; and
- If a timely hearing request with the required filing fee (\$25) is not received, enter a final order directing the downgrade of the CDL or CIP; or
- If a hearing is requested with the required filing fee, schedule a hearing no later than 30 days after the request is received.

The bill provides that the informal hearing is exempt from the provisions of Chapter 120, F.S., and must be conducted before a DHSMV-designated hearing officer who may conduct such hearing from any location in the state by means of communications technology.

¹¹⁵ Section 322.21(8), F.S. An original or renewal commercial driver license is \$75, except the fee is \$48 (same as a Class E driver license) for an applicant who has completed training and is applying for employment or is currently employed in a school system that requires the commercial license. Section 322.21(1)(a) and (b), F.S.

The bill requires the federal notification indicating a driver is prohibited from operating a CMV be in the record for consideration by the hearing officer and in any proceeding pursuant to s. 322.31, F.S., relating to right of review. This notification is considered self-authenticating. The bill also provides that the basis for the federal notification received and the information in the Clearinghouse that resulted in such notification is not subject to challenge in the hearing or proceeding under s. 322.31, F.S.

If, prior to the entry of the final order to downgrade the CDL or CIP, the DHSMV receives notification that the driver is no longer prohibited from operating a CMV, the DHSMV must dismiss the action to downgrade the CDL or CIP.

If, after entry of a final order that results in the downgrade of a CDL or CIP and the recording in the driver's record that the driver is disqualified from operating a CMV, the DHSMV receives notification that the driver is no longer prohibited from operating a CMV, the DHSMV must reinstate the driver's CDL or CIP upon reinstatement application, which requires a \$75 reinstatement fee.

The bill exempts the DHSMV from liability for a downgrade resulting from the discharge of the DHSMV's duties related to newly created s. 322.591, F.S., which is the exclusive procedure for the downgrade of a CDL or CIP following notification that a driver is prohibited from operating a CMV.

The bill clarifies that the downgrade of a driver's CDL or CIP does not preclude the suspension of the driver license or disqualification from operating a CMV for driving under the influence and drug and alcohol testing refusal offenses under Florida law.

Sexual Offender/Predator Designation (Section 20)

Present Situation

Under current law, all licenses for the operation of motor vehicles or identification cards issued or reissued by the DHSMV to a sexual predator under s. 775.21, F.S., must have the marking "SEXUAL PREDATOR" on the front.¹¹⁶ All licenses or identification cards issued or reissued by DHSMV to a sexual offender under s. 943.0435, F.S., or s. 944.607, F.S., must have the marking "943.0435, F.S." on the front.¹¹⁷ These requirements also apply to persons subject to similar registration under the laws of another jurisdiction.¹¹⁸

Nine states have laws requiring sexual offenders or sexual predators to have a designation indicating such on his or her license or identification card.¹¹⁹ These designations range from Delaware's requirement of a "Y" to spelling out the words "sexual predator" or "sexual

¹¹⁶ Section 322.141(3)(a), F.S.

¹¹⁷ Section 322.141(3)(b), F.S.

¹¹⁸ Section 322.141(3)(a) and (b), F.S.

¹¹⁹ Funke, Daniel, *Fact check: Some states require special IDs for sex offenders* (Sept. 17, 2021), USA Today, <https://www.usatoday.com/story/news/factcheck/2021/09/17/fact-check-sex-offenders-some-states-must-have-special-ids/8334296002/> (last visited March 27, 2023).

offender” in a distinct color and bold format.¹²⁰ Courts have challenged some state laws requiring such designations. Most recently, the Supreme Court of Louisiana ruled that a Louisiana state statute requiring a convicted sexual offender to have a driver license or identification card with the words “SEXUAL OFFENDER” in a bold orange font was found to be unconstitutional as it violated the First Amendment of the U.S. Constitution by compelling speech.¹²¹ According to the Court:

While the state certainly has a compelling interest in protecting the public and enabling law enforcement to identify a person as a sex offender, Louisiana has not used the least restrictive means of advancing its otherwise compelled interest, the branded identification card requirement is unconstitutional.¹²²

In February 2019, Alabama’s requirement that convicted sex offenders bear the inscription “Criminal Sex Offender” in bold, red letters on their driver licenses or identification cards was also found unconstitutional under the First Amendment as it “unnecessarily compels speech, and it was not the least restrictive means of advancing a compelling state interest.”¹²³

Effect of Proposed Changes

The bill amends s. 322.141, F.S., effective January 1, 2024, to require the DHSMV to print the sexual offender or sexual predator designation of a driver license or identification card in a distinctive format and in the color red.

Transmission of Driver License Images (Section 21)

Present Situation

Section 322.142, F.S., authorizes the DHSMV to allow specified agencies access to digital driver license images. Federal law allows states to make such information available for a government agency to carry out its functions.¹²⁴ These images can be used to verify the identity of individuals and to prevent fraud.

Criminal Justice Agencies

Section 943.045(11), F.S., defines “criminal justice agency” as:

- A court;
- Florida Department of Law Enforcement;
- Florida Department of Juvenile Justice;
- The protective investigations component of the Florida Department of Children and Families;
- The investigation component of the Department of Financial Services; and
- Any other governmental agency or subunit that performs the administration of criminal justice pursuant to law or rule of court and that allocates a substantial part of its annual budget to criminal justice.

¹²⁰ *Id.*

¹²¹ *State of Louisiana vs. Tazin Ardell Hill*, No. 2020-KA-0323, 341 So.3d 539, La., (October 20, 2020).

¹²² *Id.* at 22.

¹²³ *Doe 1 v. Marshall*, 367 F.Supp.3d 1310 (M.D. Ala. Feb. 11, 2019).

¹²⁴ 18 U.S.C. s. 2721(b)(1).

Currently, Florida law authorizes the DHSMV to provide digital driver license images access in response to law enforcement agency requests and specified positions in the State Courts System, as well as to the Department of Financial Services and Department of Children and Families, pursuant to any interagency agreement, for specified use.¹²⁵ However, other criminal justice agencies may require access to such digital driver license images to more effectively carry out agency functions.

State-to-State Program

The federal REAL ID Act of 2005 provides minimum security requirements for the issuance and production of state and territory driver licenses and identification cards in order for federal agencies to accept these documents for official purposes¹²⁶, which include entering federal facilities and boarding commercial aircraft.¹²⁷ Additionally, the REAL ID Act mandates minimum standards states must adopt when issuing driver license and identification cards.

The federal State-to-State (S2S) Verification Service is a nationwide initiative to ensure persons are only issued one REAL ID compliant identifying credential.¹²⁸ To fully participate, driver licensing agencies must be able to transmit driver license and identification card photographs to other state driver licensing agencies to validate identity of applicants and detect potential identify theft. Current state law does not expressly authorize the DHSMV to issue such information to other state driver licensing agencies.

Effect of Proposed Changes

The bill amends s. 322.142(4), F.S., authorizing the DHSMV to issue access of digital driver license images to:

- Any criminal justice agency, as defined in s. 943.045(11), F.S., pursuant to interagency agreement for use in carrying out the agency's functions; and
- Other state driver licensing agencies for purposes of validating the identity of an applicant for a driver license or identification card.

Noncancelable Insurance (Sections 26-30)

Present Situation

The DHSMV is required to suspend, after due notice and an opportunity to be heard, the registration and driver license of an owner or registrant of a motor vehicle who fails to maintain a motor vehicle insurance policy that meets the minimum coverage requirements.¹²⁹ A suspended driver license or registration may be reinstated upon reobtaining the minimum required motor vehicle insurance and paying the DHSMV a nonrefundable reinstatement fee of \$150 for the first reinstatement, \$250 for the second reinstatement, and \$500 for each subsequent reinstatement

¹²⁵ Section 322.142(4), F.S.

¹²⁶ 49 U.S.C. 30301 note; 6 U.S.C. 111, 1112.

¹²⁷ The deadline to be Real ID compliant is currently May 7, 2025. See Department of Homeland Security, *REAL ID*, <https://www.dhs.gov/real-id> (last visited January 17, 2023).

¹²⁸ American Association of Motor Vehicle Administrators (AAMVA), *S2S Frequently Asked Questions*, <https://www.aamva.org/technology/systems/driver-licensing-systems/s2s-frequently-asked-questions> (last visited February 16, 2023).

¹²⁹ Section 324.0221(2), F.S.

during the three years following the first reinstatement. A person reinstating his or her insurance must secure noncancelable coverage and present proof that the coverage is in force and maintain proof for two years.¹³⁰

A person whose driving privileges have been suspended or revoked for driving under the influence must secure noncancelable coverage to have his or her driving privileges reinstated. The noncancelable policy must be issued for at least six months and may not be canceled for any reason by the insured or insurer after the 60-day underwriting period. The premium is collected and the coverage is in effect during the 60-day underwriting period, even if the person's driver license and registration are not in effect. Once the underwriting is complete, the insurer must notify the DHSMV that the policy is in full force and effect, and is noncancelable for the remainder of the policy period. Insurance coverages cannot be reduced below the required minimum limits once the noncancelable policy period becomes effective.¹³¹

Noncancelable insurance policies may require the full policy to be purchased up front, which can be costly. Communication between the DHSMV and insurers now happens electronically, so the DHSMV will receive notification if a policy has lapsed.

Effect of Proposed Changes

The bill amends several sections of law to remove requirements that individuals obtain “noncancelable” insurance coverage. The bill also removes references to “noncancelable” insurance coverage.

Other Technical Changes and Conforming Cross-References (Sections 7, 24, and 25)

The bill amends s. 319.23, F.S., replacing the word “county” with “country” to address a scrivener’s error.

The bill amends ss. 322.34 and 322.61, F.S., to conform cross-references.

Effective Date (Section 31)

The bill takes effect July 1, 2023, except for the following sections of the bill:¹³²

- Changes to s. 316.066, F.S., relating to electronic crash reports, take effect July 1, 2025.
- Changes to s. 320.0605, F.S., relating to electronic proof of motor vehicle registration, take effect January 1, 2024.
- Changes to s. 322.141, F.S., relating to sexual predator and sexual offender driver license and identification card designations, take effect January 1, 2024

¹³⁰ Section 324.0221(3), F.S.

¹³¹ Section 627.7275, F.S.

¹³² While the section of law is effective July 1, 2023, requirements relating to use of the Drug and Alcohol Clearinghouse will begin November 18, 2024, which is the federal compliance date.

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

Article VII, s. 18(a) of the State Constitution provides that:

No county or municipality shall be bound by any general law requiring such county or municipality to spend funds...unless the legislature has determined that such law fulfills an important state interest and unless: ...the law requiring such expenditure is approved by two-thirds of the membership of each house of the legislature...

Law enforcement agencies that are not currently submitting crash reports to the DHSMV electronically or that are not using nonproprietary, interchangeable electronic forms and reporting methods will be required to do so by July 1, 2025, which may result in local governments incurring costs associated with such requirements. The bill contains a finding that this requirement fulfills an important state interest. Additionally, mandate requirements do not apply to laws having an insignificant fiscal impact. It is unlikely the fiscal impact associated with this provision will result in a significant fiscal impact to local governments overall.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Article VII, s. 19 of the Florida Constitution requires that a new state tax or fee, as well as an increased state tax or fee, be approved by two-thirds of the membership of each house of the Legislature and be contained in a separate bill that contains no other subject.

This bill subjects specified individuals to *existing* fees for the DHSMV's informal review process and reinstatement of CDL and CIP driving privileges following a required license downgrade.

E. Other Constitutional Issues:

Comparative statutes relating to the sexual offender and sexual predator designation on driver licenses and identification cards have been challenged in other states.

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

The bill requires an individual requesting an informal review of a CDL or CIP downgrade to pay the existing \$25 filing fee. Similarly, an individual requesting the reinstatement of his or her CDL or CIP following a downgrade must pay the existing \$75 fee for license reinstatement.

B. Private Sector Impact:

The bill may have an indeterminate, but likely positive, fiscal impact on the private sector. Several provisions of the bill make changes that will likely result in cost savings to the private sector by eliminating certain regulations or increasing convenience.¹³³

The changes made to specialty license plates may have a positive fiscal impact on the recipient organizations of annual use fees associated with sales of such plates.

C. Government Sector Impact:

The bill may have an indeterminate negative fiscal impact on law enforcement agencies currently submitting paper crash reports that will be required to submit crash reports to the DHSMV in a nonproprietary, interchangeable electronic format by July 1, 2025.

The bill may have an indeterminate negative fiscal impact on the DHSMV and local tax collectors for necessary programming, training, or administrative updates related to provisions of the bill.

The bill may have an indeterminate, but likely insignificant, fiscal impact on the Florida Department of Law Enforcement for changes to the sexual offender and sexual predator designation on driver license and identification cards, which may require updates to registration forms, guides, changes to the public registry, law enforcement training, and notifying criminal justice partners and registrants.

Additionally, the state may lose federal MCSAP grant funding if provisions of the bill related to federal CMV requirements are not adopted. This decrease can range from just under \$1 million annually for one year of incompatibility up to \$9.9 million annually if the state remained incompatible after four years of required compliance.¹³⁴

VI. Technical Deficiencies:

None.

¹³³ See Sections of the bill relating to: IFTA Registration; Air Pollution Certificate Exemption; Lost Certificates of Title; Independent Entities Possessing Damaged or Dismantled Vehicles or Vessels; Permanent Registration of Rental Trucks; as well as incorporating several federal law updates for CMV operators.

¹³⁴ Email from DHSMV, *supra* note 113.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 207.004, 316.066, 316.2935, 316.302, 319.14, 319.23, 319.28, 319.29, 319.30, 320.06, 320.0605, 320.08056, 320.08058, 320.084, 322.01, 322.02, 322.05, 322.07, 322.141, 322.142, 322.21, 322.34, 322.61, 324.0221, 324.131, 627.311, 627.351, and 627.7275.

This bill creates section 322.591 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.)

CS/CS by Fiscal Policy on April 20, 2023:

The CS removes a provision in the bill allowing an insurance company to receive a salvage certificate of title or certificate of destruction for a vehicle when unable to receive a release of all liens.

The CS adds the following issues to the bill:

- Requires agencies submit electronic crash reports to DHSMV using a nonproprietary, interchangeable electronic form and reporting method.
- Clarifies that crash reports held by an agency may be made immediately available to law enforcement agencies and their contracted service providers.
- Authorizes acceptance of electronic motor vehicle registrations as required proof of registration while operating a motor vehicle.
- Amends s. 7 of ch. 2020-181, Laws of Florida, which goes into effect July 1, 2023, to align with changes made to out-of-state college or university license plates in 2022.
- Exempts Florida collegiate license plates from the provision requiring DHSMV to discontinue the specialty license plate with the fewest plates in circulation each year, and clarifies that such collegiate plates are exempt from minimum sales requirements.
- Makes changes to the Protect Florida Springs license plate to reflect an organizational name change, remove obsolete language, and expand use of funding.
- Changes the motto of the American Eagle specialty license plate.
- Changes the name and motto of the Give Kids the World specialty license plate.
- Expands eligibility for Divine Nine specialty license plates to a member's immediate relative and motor vehicle lessees.
- Authorizes DHSMV to create a Florida Association of Realtors specialty plate.

CS by Transportation on March 27, 2023:

The CS adds the following issues to the bill:

- Revises a requirement for a rightful heir to transfer ownership of a motor vehicle or mobile home if the previous owner died testate.

- Clarifies that no additional fee can be charged by the DHSMV or a tax collector for the reissuance of a certificate of title that is lost in transit and is not delivered.
- Adds damaged or dismantled “vessel” to the salvage statute and provides procedures regarding the release and application for titling by the independent entity in possession of the vessel.
- Authorizes trailers to be issued reduced dimension license plates.
- Provides that a disabled veteran who qualifies for a free “DV” license plate may choose a military or specialty license plate he or she qualifies for in lieu of the “DV” license plate.
- Requires that the designations on a driver license or identification card indicating an individual is a sexual predator or sexual offender be in a distinctive format and printed in red.
- Removes requirements that certain insurance coverage be noncancelable following reinstatement of a driver license, and removes references to “noncancelable” coverage.

B. Amendments:

None.