

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 Transportation

BILL: SB 86

INTRODUCER: Senator Gaetz

SUBJECT: Commercial Motor Vehicles Operated by Unauthorized Aliens

DATE: January 26, 2026

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Shutes	Vickers	TR	Pre-meeting
2. _____	_____	CJ	_____
3. _____	_____	FP	_____

I. Summary:

SB 86 requires law enforcement officers to take unauthorized aliens operating commercial motor vehicles (CMVs) into custody and facilitate the transfer of such persons into the custody of a federal immigration agency. The bill requires the impoundment of a commercial motor vehicle under certain circumstances. The bill also requires the owner of an impounded commercial motor vehicle to pay a fine and satisfy all costs and fees associated with the impoundment.

The bill provides that a motor carrier that owns, leases or otherwise operates a commercial motor vehicle operated by an unauthorized alien who is taken into custody may not operate in this state.

The bill will have an indeterminate fiscal impact on the private and governmental sectors. See Section V. Fiscal Impact Statement for details.

The bill takes effect July 1, 2026.

II. Present Situation:

Florida law defines the term "Unauthorized alien" as a person who is unlawfully present in the United States according to the terms of the federal Immigration and Nationality Act, 8 U.S.C. ss. 1101 et seq. The term shall be interpreted consistently with any applicable federal statutes, rules, or regulations.¹

¹ Section 908.111(1)(d), F.S.

Federal Law Relating to Commercial Driver Licenses

The Motor Carrier Safety Act of 1984 required the Secretary of Transportation to prescribe regulations on commercial motor vehicle safety. The regulations must prescribe minimum safety standards for commercial motor vehicles. At a minimum, the regulations must ensure that:

- Commercial motor vehicles are maintained, equipped, loaded, and operated safely;
- The responsibilities imposed on certain operators of commercial motor vehicles do not impair their ability to operate the vehicle safely;
- The physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely; and
- The operation of commercial motor vehicles does not have a deleterious effect on the physical condition of the operators. (*See*, 49 U.S.C. 31136(a))²

The Commercial Motor Vehicle Safety Act of 1986 prohibits any person who does not hold a valid commercial driver's license (CDL) or a commercial learner's permit (CLP) issued by his or her state of domicile from operating a CMV that requires a driver with a CDL. In addition, the act required the Secretary of Transportation, after consultation with the states, to prescribe regulations on minimum uniform standards for the issuance of CDLs by the states and for the information to be contained on each license (*See*, 49 U.S.C. 31305, 31308).

49 C.F.R. §384.214 provides that a state must allow any person to operate a CMV in the State who is not disqualified from operating a CMV and who holds a CLP or CDL that is:

- Issued to him or her by his/her State or jurisdiction of domicile in accordance with part 383 of this subchapter;
- Not disqualified; and
- Valid under the terms of part 383, subpart F, of this subchapter, for the type of vehicle being driven.

49 C.F.R. §395.13 defines the term "out-of-service order" to be a declaration by an authorized officer of a Federal, State, Canadian, Mexican, or local jurisdiction that a driver, a commercial motor vehicle, or motor carrier operation, is out-of-service pursuant to §§386.72, 392.5, 395.13, 396.9, or comparable laws or the North American Out-Of-Service Criteria.³

² 76 C.F.R. 26855 (May 9, 2011).

³ 49 C.F.R. 386.72(4) relates to Imminent hazard[s]" and provides for placing a CMV driver or motor carrier "out-of-service" pursuant to 49 U.S.C. 31502 or federal regulations issued by the U.S. Secretary of Transportation. 49 C.F.R. §392.5 addresses prohibited uses of alcohol a driver of a CMV. 49 CFR §395.13 addresses drivers ordered out-of-service, including provisions which provide that no motor carrier shall require or permit a driver ordered out-of-service to operate a CMV or require a driver ordered out-of-service for failure to prepare a record of duty status to operate a CMV until that driver has been off-duty for the appropriate number of hours. 49 C.F.R. §396.9 deals with the inspection of CMVs, and requires the marking of CMVs placed out-of-service, and prohibits a motor carrier requiring any person to operate a CMV declared out-of-service until the appropriate repairs have been made or to remove the out-of-state vehicle sticker from any motor vehicle prior to completion of repairs.

Federal Emergency Rule on State Issuance of CDLs to Non-domiciled Persons

On September 25, 2025, the Federal Motor Carrier Safety Administration (FMCSA), pursuant to its authority, amended the federal regulations for State Driver's Licensing Agencies issuing commercial driving credentials to foreign-domiciled individuals. Through this interim final rule, FMCSA sought to restore the integrity of the CDL issuance processes by significantly limiting the authority for states to issue and renew non-domiciled CLPs and CDLs to individuals domiciled in a foreign jurisdiction. This change was designed to strengthen the security of the CDL issuance process and to enhance the safety of CMV operations.⁴

The emergency federal rules were motivated in part by the August 12, 2025, Florida crash that killed three people on the Florida Turnpike in St. Lucie County. FMCSA indicated that the driver had an unexpired employment authorization document and was therefore eligible for a non-domiciled CDL under the existing regulations but was improperly issued a standard (full-term) CDL in Washington in 2023. He was subsequently issued a proper non-domiciled CDL in California but would not have been eligible for a non-domiciled CDL under the revised regulations requiring a driver to provide a I-94 or I-94A indicating a specified employment-based nonimmigrant status.⁵

The FMCSA emergency rule included the following provisions:

- Revises the regulations that allow states to issue and renew non-domiciled CLPs and CDLs to individuals domiciled in foreign jurisdictions by restricting the issuance and renewal of non-domiciled CLPs and CDLs to individuals who maintain lawful immigration status in the following specific employment-based nonimmigrant categories: H-2A, H-28, and E-2 visa holders and provides that no other immigration categories will be eligible for a non-domiciled CLP or CDL.
- Mandates that CLP and CDL applicants present an unexpired foreign passport and Form I-94/I-94A at every issuance, transfer, renewal, and upgrade action and that an employment authorization document will no longer be sufficient to obtain a non-domiciled CLP or CDL.
- Requires that states must query the Systematic Alien Verification for Entitlements system to verify a CLP and CDL applicant's lawful immigration status in one of the three permitted categories.
- Requires that the expiration date of any non-domiciled CLP or CDL issued by a State Licensing Agency match the expiration date of the Form I-94/I-94A or be for one year, whichever is sooner.
- Requires CDL and CLP applicants be present in-person at each renewal as the current rule permitted online or mail-in renewals.
- Requires states must invalidate any non-domiciled CDLs when notified by the FMCSA or other federal agencies that the non-domiciled CDL does not comply with the new requirements.⁶

⁴ 90 *Federal Register* 18869 (September 25, 2025).

⁵ *Id.* at 3.

⁶ Federal Motor Carrier Safety Administration, "Protecting America's Roads - Restoring Integrity to Non-domiciled CDLs" (September 25, 2025).

Florida Driver Licenses

Florida Law requires a person who operates any motor vehicle on a highway in this state to have a valid driver license.⁷

The Florida Department of Highway Safety and Motor Vehicles (the Department) may not issue a CDL to any person who is not a resident of Florida.⁸ A resident of Florida who is required to possess a CDL may not operate a CMV in Florida unless they possess a valid CDL issued by this state.⁹ A person who is not a resident of Florida who drives a commercial vehicle must possess a CDL with property endorsements issued in compliance with applicable federal regulations.¹⁰

Florida only issues driver licenses and identification cards which meet all minimum-security requirements for the REAL ID Act of 2005 and ss. 322.05 and 322.08, F.S.¹¹

Florida law also provides that if a driver license is of a class of licenses issued by another state exclusively to unauthorized aliens or undocumented immigrants who are unable to prove lawful presence in the United States when the licenses are issued, the driver license, or other permit purporting to authorize the holder to operate a motor vehicle on public roadways is invalid in this state.¹² Such classes of licenses include licenses that are issued exclusively to unauthorized aliens or undocumented immigrants or licenses that are substantially the same as licenses issued to citizens, residents, or those lawfully present in the United States but have markings establishing that the license holder did not exercise the option of providing proof of lawful presence. Section 322.033, F.S., requires a law enforcement officer who stops a person driving with an invalid license to issue a citation to the driver for driving without a license in violation of s. 322.03, F.S.

Generally, Florida driver licenses, including CDLs, are issued for a term of eight years expiring on the applicant's next birthday which next occurs on or after the anniversary of date of issuance to persons who have not attained the age of eighty (80) years.¹³

Driver licenses issued to a driver who establishes his or her identity using a valid unexpired permanent resident card (green card) must expire on the licensee's birthday that next occurs eight years after the month of expiration of the license being renewed.¹⁴ After the initial showing of documentation, the driver is exempted from having to renew or obtain a duplicate license in person.¹⁵

However, a Florida commercial driver license issued to a person who establishes his or her identity using an unexpired nonimmigrant classification provided by the Office of Homeland Security (OHS) for an original driver license must provide an unexpired foreign passport and an unexpired form I-94/94A issued by OHS indicating one of the following classifications:

⁷ Section 322.03, F.S.

⁸ Section 322.03(4)(a), F.S.

⁹ Section 322.03(4)(b), F.S.

¹⁰ Section 322.03(4)(b), F.S.

¹¹ Section 322.031(4), F.S.

¹² Section 322.033(I), F. S.

¹³ Section 322.18(2)(c) and (t), F.S.

¹⁴ Section 322.18(2)(c), F.S.

¹⁵ *Id.*

- H-2A Temporary Agricultural Workers,
- H-2B Temporary Non-Agricultural Workers, or
- Or E-2 Treaty Investors.¹⁶

In addition, the Department may require such applicants to produce OHS documents for the sole purpose of establishing the maintenance of, or efforts to maintain, continuous lawful presence.

Any driver license or temporary permit issued based on those documents can be valid only for a period not to exceed the expiration date of the document presented or 1 year, whichever first occurs. Furthermore, any person who used one of those documents to establish his or her identity may not renew their driver license except in person and upon submission of one of those documents. Any renewal license expires one year after the date of issuance or upon the expiration date cited on the OHS documents, whichever first occurs.¹⁷

Immigration Enforcement in Florida

Florida law establishes the importance of the state interest to cooperate and assist the federal government in the enforcement of federal immigration laws within the state.¹⁸

Florida prohibits a state entity, law enforcement agency, or local government entity from having a sanctuary policy.¹⁹ Section 908.102(6), F.S., defines "sanctuary policy" as a law, policy, practice, procedure, or custom adopted or allowed by a state entity or local government entity which prohibits or impedes a law enforcement agency from complying with 8 U.S.C. s. 1373 or which prohibits or impedes a law enforcement agency from communicating or cooperating with a federal immigration agency so as to limit such law enforcement agency in the performance of specified activities.

The State Board of Immigration Enforcement was created within the Department of Law Enforcement, and is composed of the Governor and Cabinet, as the chief immigration enforcement officer of the state and charges that board with coordinating law enforcement assistance with federal immigration laws, administering the Local Law Enforcement Immigration Grant Program established in s. 908.1033, F.S., and with reporting on law enforcement training and activity related to immigration enforcement support.²⁰ To assist the board, s. 908.1032, F.S., establishes the State Immigration Enforcement Council.

The State Immigration Enforcement Council encourages the cooperation of state and local law enforcement agencies, and those entities directing or supervising such agencies, in supporting the enforcement of federal immigration laws.²¹ Section 908.11, F.S., requires the sheriff or chief correctional officer operating a county detention facility to enter into a written agreement with the United States Immigration and Customs Enforcement to participate in the immigration

¹⁶ 49 CFR 383.5.

¹⁷ Sections 322.08(2)(c) and 322.18(2)(d) and (4)(c), F.S.

¹⁸ Chapter 908, F.S.

¹⁹ Section 908.103, F.S.

²⁰ Section 908.1031, F.S.

²¹ Section 908.104, F.S.

program established under s. 287(g) of the Immigration and Nationality Act and must notify the State Board of Immigration Enforcement quarterly of the status of their agreement.

State and local law enforcement officials are authorized under section 287(g) of the Immigration and Nationality Act to enforce limited immigration authority with federal oversight during their routine police duties. The Florida Highway Patrol (FHP) is a participating member of this program. This program expands troopers power and authority to question any suspected alien or person believed to be an alien regarding their right to enter the United States. If the trooper is not able to establish the residence or temporary visitor status of a person, the trooper will contact federal partners. If the immigration status is not determined via a phone call, a federal partner may come to the scene if nearby or the trooper may transport the occupant to a determined location, such as a jail, for the person to be held for up to 72-hours for federal partners to establish the person's immigration status.²²

Whether or not an unauthorized alien is taken into custody is primarily a federal decision; troopers will defer to their federal partners. If there are criminal charges for the person as a result of the traffic stop or law enforcement interaction and their status has not been verified, the person will be transported to the jail and federal partners notified of their location. FHP is authorized to deliver detained illegal immigrants directly to federal authorities for further screening without unnecessary delays.²³

Issuance of Out-of-Service Orders for CMVs Under Florida Law

The Office of Commercial Vehicle Enforcement within the Department is authorized to issue out-of-service orders to motor carriers who, after proper notice, have failed to pay any penalty or fine assessed by the Department, or its agent, against any owner, or motor carrier for violations of state law, refused to submit to a compliance review and provided records pursuant to s. 316.302(6) or s. 316.70, F.S., or violated safety regulations pursuant to s. 316.302, F.S., or insurance requirements in s. 627.7415, F.S.²⁴ Such out-of-service orders have the effect of prohibiting the operation of any motor vehicles owned, leased, or otherwise operated by the motor carrier upon the roadways of Florida, until the violations have been corrected or the penalties paid.

All out-of-service orders must be approved by the director of the Florida Highway Patrol, or his or her designee.²⁵

Administrative hearings for affected motor carriers are authorized pursuant to s. 120.569, F.S. All owners and drivers of CMVs that are operated in *interstate* commerce are subject to the rules and regulations contained in 49 C.F.R. parts 382-386 and 390-397, and those that are operated in *intrastate* commerce are subject to the rules and regulations contained in 49 C.F.R. parts 382-386 and 390-397, as such regulations existed on December 31, 2023.

²² DHSMV, *2026 Legislative Bill Analysis: SB 86* (September 26, 2026) at p. 6 (on file with the Senate Committee on Transportation).

²³ *Id.*

²⁴ Section 316.3026, F.S.

²⁵ *Id.* at 22.

A CMV that is found to be operating in such an unsafe condition as to be declared out-of-service or a driver declared out-of-service or removed from driving status pursuant to the North American Standard Out-of-Service Criteria must be repaired or returned to driving status before being returned to service.²⁶ Operation of a CMV by any person who owns, operates, or causes or permits a commercial motor vehicle that has been declared out-of-service pursuant to the North American Standard Out-of-Service Criteria is subject to the penalties provided in 49 C.F.R. §383.53.²⁷

International Registration Plan and International Fuel Tax Agreement

The International Registration Plan (IRP) for commercial motor vehicles engaged in interstate commerce is a reciprocal agreement between the lower 48 states, the District of Columbia, and the 10 Canadian provinces. Once the vehicle is registered in the jurisdiction where the motor carrier is based, the registration is valid in all the other IRP member jurisdictions. The IRP registration is applied so that the fees paid to the base jurisdiction are divided among all the member jurisdictions in which the vehicle(s) operated.²⁸

Similarly, the International Fuel Tax Agreement (IFTA) simplifies fuel tax reporting for interstate carriers with another apportionment system. Interstate carriers must register with both before they are able to operate in Florida. Before issuing IRP/IFTA credentials, the Department is required to verify whether a carrier has been placed out of service by Commercial Vehicle Enforcement. If the carrier is found to be out-of-service for any reason, credentials will not be issued.^{29, 30}

Impounding Vehicles by Law Enforcement

Florida law sets guidelines for placing holds on vehicles by an investigating agency which are towed, restricting the tow company from releasing the vehicle to the owner. If the hold is to last longer than five days, the law enforcement agency placing the hold may have the vehicle removed to a designated impound lot, in which event the vehicle will not be released until proof of payment of the towing and storage charges incurred by the wrecker operator is presented to the law enforcement agency. If the agency has the hold exceed five days, the law enforcement agency is responsible for the payment of storage charges incurred by the wrecker operator for the extended period, the owner of the vehicle is only responsible for the storage fees for the first five days. If there is a judicial finding that there was no probable cause for having continued the impoundment, the law enforcement agency is responsible for the accrued charges for towing and storage.³¹

²⁶ Section 316.3025(1), F.S.

²⁷ Section 316.3025(2), F.S.

²⁸ Department of Highway Safety and Motor Vehicles, <https://www.flhsmv.gov/driver-licenses-id-cards/commercial-motor-vehicle-drivers/international-registration-plan/> (last visited Jan. 23, 2026).

²⁹ Department of Highway Safety and Motor Vehicles, <https://www.flhsmv.gov/driver-licenses-id-cards/commercial-motor-vehicle-drivers/international-fuel-tax-agreement/> (last visited Jan. 23, 2026).

³⁰ DHSMV, *supra* note 22, at 6.

³¹ Section 323.001, F.S.

FHP policy on vehicle towing and impoundment provides that holds may be placed on a vehicle if there is probable cause to believe the vehicle may be seized and forfeited or if the vehicle is impounded or immobilized pursuant to Florida Statute. If the vehicle is held longer than five days, troopers are to arrange for the vehicle to be stored at a facility where storage fees will not accrue. Proof of payment of applicable wrecker bills still must be presented prior to the release of the vehicle. Typically, these vehicles are stored at Vehicle Impound Facilities, which are secure facilities maintained by the FHP to limit access and keep secure vehicles taken into possession as evidence or property related to a crime.³²

Liens for Recovering, Towing, or Storing of Vehicles and Vessels

Liens are claims against property that evidence a debt, obligation, or duty. Liens can be created by judgment, equity, agreement, or statute. The rights and duties of a lienholder depend on the type of lien created and are generally set out in the order, agreement, or statute creating the lien. Liens on a vehicle or vessel for towing and storage charges are created in statute.³³

A wrecker operator or other person engaged in the business of transporting vehicle or vessels who recovers, removes, or stores a vehicle or vessel possesses a lien on the vehicle or vessel for a reasonable towing fee, an administrative fee or charge imposed by a county or municipality, and a storage fee (for a vehicle or vessel stored for six hours or more) if the vehicle or vessel is removed upon instructions from:

- The owner of the vehicle or vessel;
- The owner, lessor, or authorized person acting on behalf of the owner or lessor of property on which the vehicle or vessel is wrongfully parked (as long as the removal is performed according to s. 715.07, F.S.);
- The landlord or authorized person acting on behalf of a landlord, when the vehicle or vessel remains on the property after the expiration of tenancy and the removal is performed in connection with a lien pursuant to s. 83.803, F.S., or for the removal of property left behind after a lease is vacated under s. 715.104, F.S., or
- Any law enforcement agency.³⁴

A wrecker operator who claims a lien is required to give notice, by certified mail, to the registered owner, the insurance company insuring the vehicle, and all persons claiming a lien as disclosed by the records in the DHSMV or as disclosed by the records of any corresponding agency in any other state in which the vehicle is identified through a records check.³⁵

A towing-storage operator must use a third-party service,³⁶ approved by the Department to transmit the notice (as well as any other notices required under s. 713.78, F.S.). If there is no approved service, the operator may mail the notice and provide evidence of compliance upon

³² DHSMV, *supra* note 23 at 8.

³³ Section 713.78, F.S.

³⁴ Section 713.78(2), F.S.

³⁵ *Id.*

³⁶ Section 713.78(16)(a), F.S.

application for a certificate of title.³⁷ The notice of lien must be sent by certified mail within seven business days after the date of storage of the vehicle or vessel.³⁸

A lienor or its agent may charge an administrative fee³⁹ to the registered owner or other person claiming a lien against the vehicle or vessel for a release from the lien, not to exceed \$250.⁴⁰

If a law enforcement agency authorized a towing-storage operator to remove a vehicle or vessel, or a towing-storage operator notifies a law enforcement agency of possession of a towed vehicle or vessel,⁴¹ the law enforcement agency where the vehicle or vessel is stored must contact the Department, or the appropriate agency in the state of registration, if known, within 24 hours and provide a full description of the vehicle or vessel.⁴² The Department, or appropriate state agency, must search its records to determine the identity of the owner, the company insuring the vehicle or vessel, or any lien holders and provide the information to the law enforcement agency within 72 hours.⁴³ The towing storage operator must obtain such information from the law enforcement agency within 5 days after the date of storage and provide the required notice.⁴⁴

If a towing-storage operator is unsuccessful in locating the name and address of the owner or other lienholder, the operator must, after seven business days after the initial tow or storage, notify the jurisdictional entity where the vehicle or vessel is stored, in writing by certified mail or acknowledged hand delivery, that the operator has been unable to locate the name and address. a physical search of the vehicle or vessel has revealed no ownership information, and a "good faith effort"⁴⁵ has been made, including a records check of the Department's database and of the National Motor Vehicle Title Information System.⁴⁶

Failure of the towing-storage operator to make a good faith effort to identify the owner or lien holder of the vehicle or vessel precludes the towing-storage operator from assessing any storage charges.⁴⁷

III. Effect of Proposed Changes:

The bill provides the following:

- A law enforcement officer who determines that a person operating a CMV is an unauthorized alien must take that person into custody and facilitate the transfer of that person to a federal immigration agency consistent with federal law.
- A CMV operated by the unauthorized alien must be impounded.

³⁷ Section 713.78(16)(b), F.S.

³⁸ Section 713.78(4)(a) and (c), F.S.

³⁹ Section 713.78(15)(a), F.S.

⁴⁰ *Id.*

⁴¹ Section 715.07(2)(a), F.S.

⁴² Section 713.78(4)(b), F.S.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ Section 713.78(5)(e), F.S.

⁴⁶ AAMVA, *National Motor Vehicle Information System (NMVTIS)* <https://www.aamva.org/technology/systems/vehicle-systems/nmvtis#>

⁴⁷ Section 713.78(9), F.S.

- The owner of the CMV is required to pay a \$50,000 fine to the Department and all costs and fees for the impoundment, including the cost of notification, before the CMV may be released to the owner.
- A motor carrier that owns, leases, or operates a CMV operated by a person who is taken into custody pursuant to the bill can no longer operate in this state.

The Department will likely need to clarify potential out-of-service conditions for motor carriers for purposes of IFTA and IRP member states.

The bill takes effect July 1, 2026.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Owners of CMVs found to be in violation of the provisions of the bill would be subject to a fine of \$50,000.

A motor carrier who owns, leases or otherwise operates a motor vehicle found to be operated by an unauthorized alien would be prohibited from operating in this state.

C. Government Sector Impact:

The Department would receive additional revenue as a result of the imposition of a \$50,000 fine on the owner of a CMV. However, the fiscal impact is indeterminate.

The bill provides for the payment of the fine to the Department but it doesn't specify which trust fund those revenues are to be deposited into or the eligible uses of such revenues

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 316.3021 of the Florida Statutes.

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

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

None.

B. Amendments:

None.