

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 545 Department of Highway Safety and Motor Vehicles

SPONSOR(S): Payne

TIED BILLS: **IDEN./SIM. BILLS:** SB 784

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee		Johnson	Vickers
2) Transportation & Tourism Appropriations Subcommittee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

This is a comprehensive bill relating to the Department of Highway Safety and Motor Vehicles (DHSMV). In summary, the bill:

- Updates various commercial motor vehicle (CMV) regulations to address compatibility concerns with federal law.
- Adds texting and using a handheld mobile device while driving a CMV as a serious disqualifying offense for purposes of a commercial driver license.
- Requires interstate charter buses to register as apportionable vehicles.
- Requires apportionable license plates to be replaced every five years instead of every year.
- Provides for enforcement of provisions related to the use of the transporter license plate.
- Provides for the reimbursement to DHSMV of tuition and other expenses for a member of the Florida Highway Patrol who does not stay with the agency for a minimum of three years.
- Revises reporting requirements relating to driver license suspensions for persons who do not meet school attendance requirements.
- Authorizes tax collectors to retain fees from subsequent driver license examinations administered by the tax collectors.
- Authorizes the free replacement of a stolen identification card as is currently authorized for stolen driver licenses.
- Removes an obsolete provision regarding specialty driver licenses.
- Revises the allocation of driver license reinstatement fees if the reinstatement is processed by the tax collector.
- Provides for the expedited shipping of a renewal or duplicate driver license.

DHSMV is expected to see a reduction in revenues and the tax collectors are expected to see an increase in revenues associated with the reallocation of certain fees for driver license transactions that the tax collectors are processing. The Revenue Estimating Conference has yet to meet to estimate the impact of this bill. See fiscal section for additional detail.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The bill is a comprehensive bill relating to the Department of Highway Safety and Motor Vehicles (DHSMV), for ease of understanding this analysis is arranged by topic.

Federal Motor Carrier Safety Administration (FMCSA) Compatibility (Section 1)

Current Situation

The Federal Motor Carrier Safety Administration (FMCSA) is established within the United States Department of Transportation. Its primary mission is to prevent commercial motor vehicle-related fatalities and injuries.¹

In 2007, FMCSA delivered to Florida a Motor Carrier Safety Assistance Program (MSCAP) review, which concluded that Florida Statutes have multiple compatibility concerns with federal commercial motor vehicle (CMV) safety regulations.²

Florida law defines “commercial motor vehicle” as any self-propelled or towed vehicle used on the 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,³ as amended.⁴

Section 316.302(1)(a), F.S., provides that all owners and drivers of CMVs operating on the state’s public highways while engaged in **interstate** commerce are subject to the following parts of 49 C.F.R.:

Part	Heading
382	Controlled Substance and Alcohol Use Testing
385	Safety Fitness Procedures
390	Federal Motor Carrier Safety Regulations; General
391	Qualifications of Drivers and Longer Combination Vehicle Driver Instructors
392	Driving of Commercial Motor Vehicles
393	Parts and Accessories Necessary for Safe Operation
395	Hours of Service for Drivers
396	Inspection, Repair, and Maintenance
397	Transportation of Hazardous Materials; Driving and Parking Rules

Section 320.302(1)(b), F.S., provides that except as otherwise provided in s. 316.302, F.S., all owners or drivers of CMVs engaged in **intrastate** commerce are subject to the following parts of 49 C.F.R. except as it relates to the definition of bus, as those rules and regulations existed on December 31, 2012:

Part	Heading
382	Controlled Substance and Alcohol Use Testing
383	Commercial Driver’s License Standards; Requirements and Testing
385	Safety Fitness Procedures
390	Federal Motor Carrier Safety Regulations; General

¹ <https://www.fmcsa.dot.gov/mission/about-us> (Last visited October 20, 2016).

² 2007 Florida State MSCAP Review (Copy on File with Transportation & Infrastructure Subcommittee).

³ 49 U.S.C. ss. 1801 et seq.

⁴ Section 316.003(12), F.S.

391	Qualifications of Drivers and Longer Combination Vehicle Driver Instructors
392	Driving of Commercial Motor Vehicles
393	Parts and Accessories Necessary for Safe Operation
395	Hours of Service for Drivers
396	Inspection, Repair, and Maintenance
397	Transportation of Hazardous Materials; Driving and Parking Rules

Federal regulations define “bus” as “any motor vehicle designed, constructed, and/or used for the transportation of passengers, including taxicabs.”⁵ In its 2007 review, FMCSA found that Florida law exempting taxicabs from the definition of a bus, as it applies to interstate commerce, was not compatible with federal regulations which includes taxicabs in the definition of “bus.”⁶

Section 316.302(1)(d), F.S., provides that except as provided in an exemption from certain lighting requirements for front-end loading collection vehicles under specified circumstances⁷ and except as provided in provisions relating to lamps and flags on projected loads for rear overhang lighting and flagging requirements for intrastate operations,⁸ the requirements of s. 316.302, F.S., supersede all other safety requirements in Florida’s Uniform Traffic Control Law⁹ for CMVs.

In its 2007 review, FMCSA found that the statutory provision exempting trucks transporting solid waste and recyclable materials with specified mechanisms operating at speeds of less than 20 miles per hour from certain lighting provisions is incompatible with federal regulations,¹⁰ which does not contain a similar exemption and that federal regulations expressly prohibit lamps and reflectors from being obscured.¹¹

Federal regulations provide that with some exceptions, CMV drivers are required to be at least 21 years of age.¹² Federal regulations also provide maximum drive time requirements for property carrying vehicles.¹³ Section 316.302(2)(a), F.S., provides that a person operating a CMV solely in intrastate commerce and not transporting any hazardous material in amounts that require placarding¹⁴ are not required to comply with the above-referenced federal regulations.

Federal regulations provide hours of service rules for CMV drivers.¹⁵ Section 316.302(2)(b), F.S., provides that except as provided in federal regulations, a person operating a CMV solely in intrastate commerce and not transporting any hazardous material may not drive:

- More than 12 hours following 10 consecutive hours off duty; or
- For any period after the end of the 16th hour after coming on duty following 10 consecutive hours off duty.

The above provisions do not apply to drivers of utility service vehicles.¹⁶

⁵ 49 C.F.R. 390.5

⁶ 2007 Florida State MSCAP Review finding FL/FI-1.

⁷ These requirements are provided in s. 316.215(5), F.S.

⁸ These requirements are provided in s. 316.228, F.S.

⁹ Chapter 316, F.S.

¹⁰ 49 C.F.R. 393 Subpart B,

¹¹ 2007 Florida State MSCAP Review finding FL/FI-7.

¹² 49 C.F.R. s. 391.11(b)(1)

¹³ 49 C.F.R. s. 395.3(a) and (B)

¹⁴ Placarding is required pursuant to 49 C.F.R. part 172. In this analysis, everywhere where there is a discussion regarding the transportation of hazardous materials, it is assumed to be in amounts that require placarding.

¹⁵ 49 C.F.R. s. 395

¹⁶ 49 C.F.R. s. 395.2 defines “utility service vehicle” as any commercial motor vehicle:

(1) Used in the furtherance of repairing, maintaining, or operating any structures or any other physical facilities necessary for the delivery of public utility services, including the furnishing of electric, gas, water, sanitary sewer, telephone, and television cable or community antenna service;

(2) While engaged in any activity necessarily related to the ultimate delivery of such public utility services to consumers, including travel or movement to, from, upon, or between activity sites (including occasional travel or movement outside the service area necessitated by any utility emergency as determined by the utility provider); and

Section 316.302(2)(c), F.S., provides that except as provided in the federal hours of service rules¹⁷ a person operating a CMV solely in intrastate commerce not transporting any hazardous material may not drive after having been on duty more than 70 hours in any period of seven consecutive days or more than 80 hours in any period of eight consecutive days if the motor carrier operates every day of the week. Upon request of DHSMV, motor carriers are required to furnish time records or other written verification so that DHSMV can determine compliance with the hours of service requirements. Falsification of time records is subject to a civil penalty not to exceed \$100.

Section 316.302(2)(d), F.S., provides that a person operating a CMV solely in intrastate commerce not transporting any hazardous material within a 150 air-mile radius are not required to comply with federal provisions regarding a driver's record of duty status¹⁸ if the requirements of certain federal rules regarding short-haul operations¹⁹ are met. If a driver is not released from duty within 12 hours after the driver arrives for duty, the motor carrier must maintain documentation of the driver's driving times throughout the duty period.

Section 316.302(2)(f), F.S., provides that a person who is operating a CMV having a declared gross vehicle weight of less than 26,001 pounds operating solely in intrastate commerce and who is not transporting hazardous materials or who is transporting petroleum products²⁰ is exempt from s. 316.302(1), F.S. However, such person must comply with 49 C.F.R. parts 382, 392, and 393, and with 49 C.F.R. ss. 396.3(a)(1) and 396.9.

In its 2007 findings, FMCSA determined that s. 316.302(2)(f), F.S. is not compatible with federal regulations since it exempts vehicles transporting petroleum products and the state definition of petroleum products includes liquids that could require placarding, while federal regulations do not allow drivers of vehicles requiring placarding to be exempt from applicable requirements.²¹

Proposed Changes

The bill amends various provisions of s. 316.302(1) and (2), F.S., addressing issues related to Florida's CMV regulations and their incompatibility with federal law.

The bill provides that s. 316.302(1), F.S., applies to CMVs except as provided in s. 316.302(3), F.S., relating to covered farm vehicles.²²

The bill amends s. 316.302(1)(b), F.S., removing the exception for the federal definition of a bus and to update the date of adoption to December 31, 2016, to update the state law referencing the applicable federal rules that intrastate CMV vehicles are required to comply with.

(3) Except for any occasional emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the vehicle is owned, leased, or rented by the utility.

¹⁷ 49 C.F.R. s. 395.1

¹⁸ 49 C.F.R. 395.8

¹⁹ 49 C.F.R. s. 395.1(e)(1)(iii) and (v) are various rules relating to short-haul operations.

²⁰ Section 316.301(33), F.S., defines "petroleum product" as "any liquid fuel commodity made from petroleum, including, but not limited to, all forms of fuel known or sold as diesel fuel, kerosene, all forms of fuel known or sold as gasoline, and fuels containing a mixture of gasoline and other products, excluding liquefied petroleum gas and American Society for Testing and Materials (ASTM) grades no. 5 and no. 6 residual oils, bunker C residual oils, intermediate fuel oils (IFO) used for marine bunkering with a viscosity of 30 and higher, asphalt oils, and petrochemical feedstocks."

²¹ 20p7 Florida MCSAP finding FL/FI-3/

²² Section 316.003(14), F.S., defines "covered farm vehicles" as a straight truck, or an articulated vehicle, which is all of the following:

- Registered in a state with a license plate, or any other designation issued by that state, which allows law enforcement officers to identify it as a farm vehicle.
- Operated by the owner or operator of a farm or ranch or by an employee or a family member of an owner or operator of a farm or ranch in accordance with s. 316.302(3)
- Used to transport agricultural commodities, livestock, machinery, or supplies to or from a farm or ranch.
- Not used in for-hire motor carrier operations; however, for-hire motor carrier operations do not include the operation of a vehicle meeting the requirements of paragraphs (a)-(c) by a tenant pursuant to a crop-share farm lease agreement to transport the landlord's portion of the crops under that agreement.

The bill amends s. 316.302(1)(d), F.S., removing exceptions provided in s. 316.215(5), F.S., providing that certain provisions regarding headlamps and turn signals do not apply to waste collection vehicles under specified circumstances.

The bill amends s. 316.302(2)(a), F.S., to no longer require intrastate CMVs that are not carrying hazardous materials to comply with certain federal regulations providing maximum drive time requirements. Therefore, these vehicles will not be required to comply with any of 49 C.F.R. 395.3, documenting the maximum driving time for operators of property carrying vehicles.

The bill amends s. 316.302(2)(c), F.S., by removing the \$100 fine for falsifying hours of service records. This penalty is duplicative of s. 316.3025(3)(b)1., F.S., which also provides a \$100 penalty for falsifying hours of service records.²³

The bill amends s. 316.302(2)(d), F.S., adding a reference to 49 C.F.R. 395.1(e)(1)(ii) and removing the provision that a motor carrier is required to maintain documentation of the driver's driving times if a driver is not released from duty with 12 hours after arriving for duty.

The bill amends s. 316.302(2)(f), F.S. adding the terms "gross vehicle weight rating" or "gross combined vehicle weight rating" and removing the provision regarding transporting petroleum products, which conforms with federal law.

Serious Disqualifying CMV Offenses (Sections 2 and 12)

Current Situation

In 2013, the Legislature amended s. 316.3025, F.S., codifying into Florida law a federal prohibition on CMV drivers using handheld devices while operating a CMV.²⁴ However, at that time, s. 322.61, F.S., relating to offenses disqualifying someone from driving a CMV was not amended to list using a handheld device while operating a CMV as a serious disqualifying offense regarding a commercial driver license.

Section 316.3025(6)(a), F.S., provides the penalties associated with texting and using a handheld mobile telephone while driving a CMV. A driver who violates the federal prohibitions against texting²⁵ or using a handheld mobile telephone²⁶ while operating a CMV, may be assessed a civil penalty and commercial driver license disqualification²⁷ as follows:

- First violation: \$500.
- Second violation: \$1,000 and a 60-day commercial driver license disqualification.²⁸
- Third and subsequent violations: \$2,750 and a 120-day commercial driver license disqualification.

Section 322.61, F.S., provides a list of serious disqualifying offenses regarding the operation of a CMV. If while operating a CMV, a person is convicted of two or more of the following offenses within a three-year period a person is disqualified from operating a CMV for a period of 60 days:

- A violation of any state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with a crash resulting in death;
- Reckless driving;²⁹
- Unlawful speed of 15 miles per hour or more above the posted speed limit;
- Improper lane change;³⁰

²³ Section 316.3025, F.S., provides the penalties for various CMV violations.

²⁴ Chapter 2013-160, L.O.F.

²⁵ 49 C.F.R. 329.80

²⁶ 49 C.F.R. 392.82

²⁷ Section 320.01(15), F.S., defines "disqualification" as "a prohibition, other than an out-of-service order, that precludes a person from driving a commercial motor vehicle."

²⁸ Commercial driver license disqualification is pursuant to 49 C.F.R. part 383.

²⁹ Reckless driving is defined in s. 316.192, F.S.

³⁰ Improper lane change is defined in s. 316.085, F.S.

- Following too closely;³¹
- Driving a commercial vehicle without obtaining a commercial driver license;
- Driving a commercial vehicle without the proper class of commercial driver license or commercial learner's permit or without the proper endorsement; or
- Driving a commercial vehicle without a commercial driver license or commercial learner's permit in possession.³²

Proposed Changes

The bill removes from s. 316.3025(6)(a), F.S., the provisions for a commercial driver license disqualification for using a handheld mobile device while operating a CMV. The disqualification provisions are moved to s. 322.61, F.S., which lists the serious disqualifying offenses for operating a CMV. However, the bill in amending s. 322.61, F.S., references the Florida Ban on Texting while Driving Law,³³ instead of the appropriate reference to federal regulations.

International Registration Plan (Section 3)

Current Situation

The International Registration Plan (IRP) is a cooperative registration agreement among all of the states in the continental United States, the District of Columbia and certain Canadian provinces. The IRP allows a carrier to register once for all the jurisdictions, rather than dealing with each jurisdiction separately. The IRP jurisdictions voted in favor of amending the definition of apportionable vehicle, which went into effect on January 1, 2016. The amendment removed the exemption from IRP registration for charter buses. All charter buses operating interstate are now required to obtain IRP registration or purchase trip permits.³⁴

According to DHSMV, Congress has incentivized states to participate in the IRP by requiring participation as a condition for being able to establish, maintain, or enforce their own CMV registration laws and regulations which limit, within their own state, the operation of CMVs registered in another state.³⁵

Section 320.01(24), F.S., defines “apportionable vehicle” as any vehicle, except recreational vehicles, vehicles displaying restricted plates, city pickup and delivery vehicles, buses used in transportation of chartered parties, and government-owned vehicles, which is used or intended for use in two or more member jurisdictions that allocate or proportionally register vehicles and which is used for the transportation of persons for hire or is designed, used, or maintained primarily for the transportation of property and:

- Is a power unit having a gross vehicle weight in excess of 26,000 pounds;
- Is a power unit having three or more axles, regardless of weight; or
- Is used in combination, when the weight of such combination exceeds 26,000 pounds gross vehicle weight.

Vehicles, or combination of vehicles, with a gross vehicle weight of 26,000 pounds or less and two-axle vehicles may be proportionally registered.

Proposed Changes

The bill amends s. 320.01(24), F.S., removing the exception for charter buses from the definition of “apportionable vehicle.” This change will require charter buses operating interstate to register as apportionable vehicles.

Issuance of Apportionable Motor Vehicle License Plates (Sections 4 and 5)

Current Situation

³¹ Following too closely is defined in s. 316.0895, F.S.

³² A license or learner permit is required to drive a commercial motor vehicle pursuant to s. 322.03, F.S.

³³ Section 316.305, F.S.

³⁴ DHSMV 2017 Legislative Concepts.

³⁵ Email from DHSMV, February 16, 2017. (Copy on file with Transportation & Infrastructure Subcommittee).

As stated above, Florida law requires all apportionable vehicles domiciled in Florida to be registered in accordance with IRP and to display license plates.³⁶

In general, s. 320.06, F.S., provides for motor vehicle registration certificates, license plates, and validation stickers. Upon receiving an initial application for registration and payment of the appropriate license tax³⁷ and other fees required by law, DHSMV assigns the motor vehicle a registration license number and issues to the owner or lessee a certificate of registration and one license plate, unless two plates are required³⁸ for each vehicle registered.³⁹

Most license plates are issued for a 10-year period. At the end of the 10-year period, upon renewal, the license plate is replaced. However, a vehicle with an apportioned⁴⁰ registration is issued an annual license plate and a cab card denoting the declared gross vehicle weight for each apportioned jurisdiction in which the vehicle is authorized to operate.⁴¹

Section 320.0607, F.S., provides for replacement license plates, validation decals, or mobile home stickers. Section 320.0607(5), F.S., requires that upon the issuance of an original license plate, the applicant pays a fee of \$28 to be deposited into the Highway Safety Operating Trust Fund.

Proposed Changes

The bill creates s. 320.06(1)(b)2., F.S., providing that beginning October 1, 2018, a vehicle registered in accordance with the IRP will be issued a license plate for a five-year period, an annual cab card denoting the declared gross vehicle weight, and an annual validation sticker showing the month and year of expiration. The license plate and validation sticker will be issued based on the applicant's appropriate renewal period. The registration period for an apportionable vehicle is for 12 months. The annual fee for an original and renewed cab card is \$28, which is deposited into the Highway Safety Operating Trust Fund. If the license plate is damaged or worn it may be replaced at no charge by applying to DHSMV and surrendering the current license plate.

The bill amends s. 320.0607(5), F.S., providing that that the \$28 fee for a replacement license plate does not apply to vehicles registered under the IRP and issued an apportionable license plate.

Transporter License Plates (Section 6)

Current Situation

Section 320.133, F.S., provides for the establishment of transporter license plates. DHSMV is authorized to issue a transporter license plate to any applicant who, incidental to conducting his or her business, engages in the transporting of motor vehicles which are not currently registered to any owner and which do not have license plates, upon payment of \$101.25⁴² for each transporter license plate and upon proof of liability insurance coverage in the amount of \$100,000 or more. Transporter license plates are valid for use on any motor vehicle in the transporter's possession while the motor vehicle is being transported in the course of business. Examples of businesses that may use transporter license plates are motor vehicle detail shops, and licensed repossessioners who contract with lending institutions to repossess vehicles.⁴³

A transporter license plate is required to be in a DHSMV approved distinctive color, with the word "transporter" on the face of the license plate in place of the county name. It is valid for 12 months beginning January 1 and ending December 31. A refund of the license tax is not provided for any unexpired portion of the license period.

³⁶ Section 320.0715(1), F.S.

³⁷ License taxes are provided for in s. 320.08, F.S.

³⁸ Section 320.0706, F.S., requires the display of license plates on the front and the rear of some trucks.

³⁹ Section 320.06(1)(a)

⁴⁰ Section 320.06(3)(a), F.S., requires apportioned license plate to have the word "apportioned" at the bottom of the license plate.

⁴¹ Section 320.06(1)(b)1., F.S.

⁴² The license tax for a transporter license plate is imposed by s. 320.08(15), F.S.

⁴³ Email from DHSMV, February 16, 2017. (Copy of file with Transportation & Infrastructure Subcommittee)

According to DHSMV, current law does not authorize it or law enforcement to conduct inspections on the use of transporter license plates and does not require the applicant to prove that it is a transporter plate eligible business.⁴⁴

Proposed Changes

The bill amends s. 320.133, F.S., relating to transporter license plates. The bill defines the following terms:

- *Transporter license plate eligible business* – a business engaged in the limited operation of an unregistered motor vehicle that is not eligible for registration by any means for various business purposes.
- *Unregistered motor vehicle* – a motor vehicle that is not required to be registered to the current legal owner.

The bill provides that a person is not eligible to purchase or renew a transporter license plate unless he or she provides satisfactory proof to DHSMV that his or her business is a transporter license plate eligible business.

The bill requires that the application for qualification as a transporter license plate eligible business and contain the legal name of the person or persons applying for the license plate, the name of the business, and the principal or principals of the business. The application must describe the exact physical location of the place of business within the state. This location must be available at all reasonable hours for transporter license plate inspection by DHSMV or any law enforcement agency. The application must contain proof of a garage liability insurance policy or a business automobile policy of at least \$100,000 and the certificate of insurance is required to indicate the number of transporter license plates reported to the insurance company. Upon seeking initial qualification, the applicant must provide documentation proving that the business is registered with the Department of State. The business must indicate how it meets the qualification as a transporter license plate eligible business by describing the business processes that require the use of a transporter license plate.

DHSMV may issue a transporter license plate to an applicant who is not a licensed dealer⁴⁵ and is qualified as a transporter license plate eligible business upon payment of the license tax⁴⁶ for each transporter license plate and upon proof of the required insurance. A transporter license plate is only valid for use on an unregistered motor vehicle in the transporter's possession while the motor vehicle is being transported in the course of the transporter's business. A person who sells or unlawfully possesses, distributes, or brokers a transporter license plate to be attached to any vehicle commits a misdemeanor of the second degree, punishable by up to 60 days imprisonment⁴⁷ or a fine of up to \$500.⁴⁸ Any and all transporter license plates issued are subject to cancellation by DHSMV.

A person who knowingly or willingly sells or unlawfully possesses, distributes, or brokers a transporter license plate to avoid registering a vehicle requiring registration commits a misdemeanor of the first degree, punishable by up to one-year imprisonment⁴⁹ or a fine of up to \$1,000,⁵⁰ and is disqualified from transporter license plate usage. All transporter license plates issued to the person's business will be canceled and returned to DHSMV immediately upon disqualification. The transporter license plate is subject to removal, and any and all transporter plates issued are subject to cancellation by DHSMV.

A transporter license plate eligible business issued a transporter license plate is required to maintain for two years, at its location, records of each use for each transporter license plate and evidence that the

⁴⁴ DHSMV Legislative Concepts document.

⁴⁵ Motor vehicle dealers are licensed pursuant to s. 320.27, F.S.

⁴⁶ Section 320.08(15), F.S., provides for the license tax for a transporter license plate.

⁴⁷ Section 775.082, F.S.

⁴⁸ Section 775.083, F.S.

⁴⁹ Section 775.082, F.S.

⁵⁰ Section 775.083, F.S.

plate was used as required by Ch. 320, F.S. Such records must be open to inspection by DHSMV or its agents or any law enforcement officer during reasonable business hours. A person who fails to maintain records of any transporter license plate usage or comply with this subsection commits a misdemeanor of the second degree, may be subject to cancellation of any and all transporter license plate issued, and is automatically disqualified from future transporter license plate issuance.

When attached to a motor vehicle, a transporter license plate is required to be accompanied by the registration issued for the license plate and proof of insurance. A person operating a motor vehicle with a transporter license plate attached who fails to provide the required documentation commits a misdemeanor of the second degree, and the license plate is subject to removal. This does not apply to a person who contracts with dealers and auctions to transport motor vehicles.

A transporter license plate attached to a motor vehicle in violation s. 320.133, F.S., must be immediately removed from the motor vehicle by law enforcement and surrendered to DHSMV by the law enforcement agency for cancellation.

Law Enforcement Training Reimbursement (Section 7)

Current Situation

Section 321.25, F.S., authorizes DHSMV to provide for the training of law enforcement officials and individuals in matters relating to the duties, functions, and powers of the Florida Highway Patrol (FHP) in schools established by DHSMV. DHSMV is authorized to charge a fee for providing the training, which is based on the DHSMV's costs for providing the training. These costs may include, but are not limited to, tuition, lodging, and meals. While DHSMV is authorized to charge a fee for training, it currently does not charge a fee for FHP recruits.

Section 943.16, F.S., authorizes an employing agency⁵¹ to pay the tuition of a trainee attending an approved basic recruit training program.⁵² A trainee attending an approved training program at an employing agency's expense is required to remain employed by the employing agency for a period of not less than two years after graduation. If employee is terminated on the trainee's own initiative within two years, he or she is required to reimburse the employing agency for the full cost of his or her tuition and other course expenses.^{53 54}

Proposed Changes

The bill amends s. 321.25, F.S., providing that notwithstanding s. 943.16, F.S., a person who attends DHSMV's training academy at DHSMV's expense is required to remain employed by DHSMV for at least three years. Once employed, if the person fails to remain employed by FHP for at least three years from the first date of employment he or she is required to repay the cost of tuition and other course expenses to DHSMV.

The bill authorizes DHSMV to institute a civil action to collect the cost of tuition and other course expenses that are not reimbursed, provided that FHP provided written notification to the person of the three-year employment commitment during the employment screening process and the person returned a signed acknowledgement of receipt of such notification.

DHSMV may waive a person's requirement for reimbursement in part or in full when the person terminates employment due to hardship or extenuating circumstances.

Truancy Reporting (Section 8)

⁵¹ Section 943.10(4), F.S., defines "employing agency" as any agency or unit of government or any municipality or the state or any political subdivision thereof, or any agent thereof, which has constitutional or statutory authority to employ or appoint persons as officers. The term also includes any private entity which has contracted with the state or county for the operation and maintenance of a nonjuvenile detention facility.

⁵² Section 943.16(1)

⁵³ Section 943.16(5), F.S., provides that "other course expenses" includes the cost of meals.

⁵⁴ Section 943.16(2), F.S.

Current Situation

Section 322.091, F.S., provides school attendance requirements for minors to be eligible for driving privileges. A minor is not eligible for driving privileges unless he or she:

- Is enrolled in a public school, nonpublic school, or home education program and satisfies relevant attendance requirements;
- Has received a high school diploma, a high school equivalency diploma, a special diploma, or a certificate of high school completion;
- Is enrolled in a study course in preparation for the high school equivalency examination and satisfies relevant attendance requirements;
- Is enrolled in other educational activities approved by the district school board and satisfies relevant attendance requirements;
- Has been issued a certificate of exemption;⁵⁵ or
- Has received a hardship waiver.⁵⁶

DHSMV may not issue a driver license or learner's driver license to, and is required suspend the license of, any minor if DHSMV is notified of noncompliance with the school attendance requirements.⁵⁷

Section 322.091(5), F.S., requires DHSMV to report quarterly to each school district certain information regarding each student whose driving privileges have been suspended for not meeting the school attendance requirements. According to DHSMV, it has automated this function and any school needing this information can now access it on-line and in real time.⁵⁸

Proposed Changes

The bill amends s. 322.091(5), F.S., providing that instead of submitting printed quarterly reports to school districts, DHSMV will make available, upon request, a report providing information regarding students whose driving privilege has been suspended for not meeting school attendance requirements. The current on-line access to truancy information available to school districts remains unchanged.

Driver License Examination (Section 9)

Current Situation

In general, s. 322.12, F.S., relates to the examination of driver license applicants. Section 322.12(1), F.S., provides legislative intent that every applicant for an original driver license must pass an examination. However, DHSMV is authorized to waive the knowledge, endorsement, and skills tests for an applicant who is otherwise qualified and who surrenders a valid driver license from another state or a province of Canada, or a valid driver license issued by the United States Armed Forces, if the driver applies for a Florida license of an equal or lesser classification.

Any applicant who fails to pass the initial knowledge test incurs a \$10 fee for each subsequent test, and any applicant who fails to pass the initial skills test incurs a \$20 fee for each subsequent test. The fees for subsequent tests, regardless of whether the test is administered by DHSMV or a tax collector, are deposited into the Highway Safety Operating Trust Fund.

According to DHSMV, the county tax collectors have been performing the subsequent driver license knowledge and skills tests while the fees associated with these tests have been remitted to DHSMV.⁵⁹

Proposed Changes

The bill amends s. 322.12(1), F.S., providing that for a subsequent driver license knowledge test, when it is administered by the tax collector, the tax collector retains the \$10 fee. Additionally, for a

⁵⁵ This is in accordance with s. 1003.21(3), F.S., which authorizes a district school superintendent to authorize certificates of exemptions from school attendance requirements in certain situations.

⁵⁶ Hardship waivers are granted pursuant to s. 322.091(3), F.S.

⁵⁷ Section 322.091(1), F.S.

⁵⁸ DHSMV 2017 Legislative Concepts

⁵⁹ Email from DHSMV, February 16, 2017. (Copy on file with Transportation & Infrastructure Subcommittee).

subsequent driver license skills test, when it is administered by the tax collector, the tax collector retains the \$20 fee.

Stolen Identification Cards (Section 10)

Current Situation

Section 322.17(1)(b), F.S., provides that in the event that a learner permit or driver license is stolen, the person to whom the driver license or learner permit was issued may, at no charge, obtain a replacement upon furnishing proof satisfactory to DHSMV that the learner's permit or driver license was stolen and further furnishing the full name, date of birth, sex, residence and mailing address, proof of birth satisfactory to DHSMV, and proof of identity satisfactory to DHSMV.

There is no corresponding provision in statute providing for the free replacement of stolen identification cards.

Proposed Changes

The bill amends s. 322.17(1)(b), F.S., authorizing a person to receive a replacement for a stolen identification card at no charge, by providing proof that the identification card was stolen and furnishing the required information to DHSMV.

Replacement Driver Licenses (Section 11)

Current Situation

Section 322.21(1)(e), FS., provides that the fee for a replacement driver license is \$25.⁶⁰ From this amount \$7 is deposited into the Highway Safety Operating Trust Fund and \$18 is deposited into the General Revenue Fund. Beginning July 1, 2015, or upon the completion of the transition of driver license issuance services, if the tax collector issues the replacement driver license, the \$7 that is currently deposited into the Highway Safety Operating Trust Fund is retained by the tax collector.

Proposed Changes

The bill amends s. 322.21(1)(e), F.S., removing obsolete language regarding the transfer of driver license issuance services to the tax collector. The transfer of driver license services to tax collectors has been completed.

Specialty Driver Licenses (Section 11)

Current Situation

Section 322.1415, F.S., created the specialty driver license and identification card program. DHSMV was authorized to issue to any applicant qualified pursuant to s. 322.14, F.S.,⁶¹ a specialty driver license or identification card upon payment of the appropriate fee pursuant to s. 322.21, F.S.⁶² Any specialty driver license or identification card approved by DHSMV had to be available for state and independent universities domiciled in Florida, all Florida professional sports teams⁶³ and all branches of the United States Armed Forces. Section 322.1415, F.S., was repealed as of August 31, 2016. According to DHSMV, there was no interest on behalf of the various entities eligible for specialty driver licenses to move forward with the concept and no specialty driver licenses were ever issued.⁶⁴

Section 322.21(1)(i), F.S., provides for the fees related to a specialty driver license or identification card. The fee is \$25, which is distributed as follows:

- Fifty-percent is distributed as provided in the specialty license plate statute⁶⁵ to the appropriate state or independent university, professional sports team, or branch of the United States Armed Forces.

⁶⁰ Replacement driver licenses are issued pursuant to s. 322.17, F.S.

⁶¹ Section 322.14, F.S., relates to licenses issued to drivers.

⁶² Section 322.21, F.S., relates to driver license fees.

⁶³ Florida professional sports teams are designated pursuant to s. 320.08058(9)(a), F.S.

⁶⁴ Email from DHSMV, February 16, 2017. (Copy on file with Transportation & Infrastructure Subcommittee).

⁶⁵ Section 320.08058, F.S.,

- Fifty percent is distributed to DHSMV for costs directly related to the specialty driver license and identification card program and to defray the costs associated with production enhancements and distribution.

Proposed Change

The bill repeals s. 322.21(1)(i), F.S., providing for the fee and distribution associated with the repealed specialty driver license and identification card program.

Driver License Reinstatement (Section 11)

Current Situation

Section 322.21(8), F.S., provides that any person who applies for reinstatement following the suspension⁶⁶ or revocation⁶⁷ of the person's driver license must pay a service fee of \$45 following a suspension, and \$75 following a revocation, which is in addition to the fee for a license. Any person who applies for reinstatement of a commercial driver license following the disqualification⁶⁸ of the person's privilege to operate a commercial motor vehicle must pay a service fee of \$75, which is in addition to the fee for a license. DHSMV is required to collect all of these fees at the time of reinstatement. DHSMV must issue proper receipts for such fees and promptly transmit all funds received as follows:

- Of the \$45 fee received from a licensee for reinstatement following a suspension, DHSMV deposits \$15 in the General Revenue Fund and \$30 in the Highway Safety Operating Trust Fund.
- Of the \$75 fee received from a licensee for reinstatement following a revocation or disqualification, DHSMV deposits \$35 in the General Revenue Fund and \$40 in the Highway Safety Operating Trust Fund.

According to DHSMV, the county tax collectors process some driver license reinstatements; however, the tax collectors do not receive any of the fees associated with providing these services.

Proposed Changes

The bill amends s. 322.21(8)(a), F.S., providing that if the tax collector processes a driver license reinstatement following a suspension:

- \$15 is retained by the tax collector;
- \$15 is deposited into the Highway Safety Operating Trust Fund; and
- \$15 is deposited into the General Revenue Fund.

If the tax collector processes a driver license reinstatement following a revocation or disqualification:

- \$20 is retained by the tax collector;
- \$20 is deposited into the Highway Safety Operating Trust Fund; and
- \$35 is deposited into the General Revenue Fund.

Expedited Shipping Service (Section 11)

Current Situation

Section 319.303, F.S., authorizes a \$10 service fee for customers to receive a motor vehicle title in an expedited time frame.⁶⁹ However, current law does not authorize DHSMV to collect an expedited shipping fee related to driver licenses and identification cards.

⁶⁶ Section 322.01(40), F.S., defines "suspension" as "the temporary withdrawal of a licensee's privilege to drive a motor vehicle."

⁶⁷ Section 322.01(36), F.S., defines "revocation" as "the termination of a licensee's privilege to drive."

⁶⁸ Section 320.01(15), F.S., defines "disqualification" as "a prohibition, other than an out-of-service order, that precludes a person from driving a commercial motor vehicle."

⁶⁹ This is in addition to other fees associated with obtaining a motor vehicle title.

Section 322.21, F.S., relates to driver license fees and the procedures for handling and collecting these fees. Additionally, this section provides for the distribution of fees associated with various driver license services.

Proposed Changes

The bill creates s. 322.21(10), F.S., providing that an applicant for a renewal or duplicate driver license or identification card submitted to DHSMV using a convenience service shall be provided with an option for expedited shipping where DHSMV at the applicant's request, issues the driver license or identification card within 5 working days after receiving the application and ship the driver license or identification card using an expedited mail. A fee will be charged for the expedited shipping option, not to exceed the cost of expedited mail service, which is in addition to the fees imposed by s. 322.051, F.S.,⁷⁰ or s. 322.21, F.S.,⁷¹ for the convenience service. Fees collected for the expedited shipping option will be deposited into the General Revenue Fund.

B. SECTION DIRECTORY:

Section 1 amends s. 320.302, F.S., relating to commercial motor vehicles.

Section 2 amends s. 316.3025, F.S., relating to commercial motor vehicle penalties.

Section 3 amends s. 320.01, F.S., revising the definition of "apportionable vehicle."

Section 4 amends s. 320.06, F.S., relating to registration certificates, license plates, and validation stickers.

Section 5 amends s. 320.0607, F.S., relating to replacement license plates, validation decals, or mobile home stickers.

Section 6 amends s. 320.133, F.S., relating to transporter license plates.

Section 7 amends s. 321.25, F.S., relating to training provided at patrol schools.

Section 8 amends s. 322.091, F.S., relating to attendance requirements.

Section 9 amends s. 322.12, F.S., relating to the examination of applicants.

Section 10 amends s. 322.17, F.S., relating to replacement licenses and permits.

Section 11 amends s. 322.21, F.S., relating to license fees and the procedures for handling and collecting license fees.

Section 12 amends s. 322.61, F.S., relating to the disqualification from operating a commercial motor vehicle.

Section 13 provides an effective date of October 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

There is a potential loss in federal highway funds for not having the state's CMV regulations in conformance with federal law. However, the potential loss in federal funds is not known at this time.

⁷⁰ Section 322.051, F.S., relates to identification cards.

⁷¹ Section 322.21, F.S., provides for license fees.

DHSMV projects that it will see a reduction in revenues associated with allocating the fees for subsequent driver license skills and knowledge tests to the tax collectors. The estimated reduction in revenues is approximately:

Fiscal Year	Amount
2017-2018	\$3.4 million
2018-2019	\$3.5 million
2019-2020	\$3.6 million
2020-2021	\$3.6 million
2021-2022	\$3.7 million

DHSMV projects that it will see a reduction in revenues associated with reallocating revenues to with the tax collectors for processing driver license reinstatements to be:

Fiscal Year	Amount
2017-2018	\$1.6 million
2018-2019	\$1.6 million
2019-2020	\$1.6 million
2020-2021	\$1.6 million
2021-2022	\$1.7 million

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

DMSMV projects that county tax collectors will see an increase in revenues associated with providing subsequent driver license knowledge and skills tests. The amount of additional revenue is estimated to be:

Fiscal Year	Amount
2017-2018	\$3.4 million
2018-2019	\$3.5 million
2019-2020	\$3.6 million
2020-2021	\$3.6 million
2021-2022	\$3.7 million

DMSMV projects that county tax collectors will see an increase in revenues associated with processing driver license reinstatements. The amount of additional revenues is estimated to be:

Fiscal Year	Amount
2017-2018	\$1.6 million
2018-2019	\$1.6 million
2019-2020	\$1.6 million
2020-2021	\$1.6 million
2021-2022	\$1.7 million

DHSMV may see a reduction in revenues associated with providing free replacements for stolen identification cards. The loss in revenue is indeterminate, but likely insignificant.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There is a potential impact to the CMV industry associated with changes to the CMV regulations contained in the bill; however, the impact is indeterminate at this time.

Owners of apportionable vehicles will incur lower costs associated with the requirement to replace license plates once every five years instead of annually.

Classifying charter buses as apportionable vehicles may change the registration fees for these vehicles; however, the actual change for any specific vehicle is based on motor vehicle details, jurisdictions where the vehicle travels, and the mileage percentages in each of the jurisdictions.⁷²

Individuals who do not stay employed with FHP for three years after graduating from the academy may be required to reimburse DHSMV for its training costs. The cost is approximately \$12,000.

Individuals whose identification cards are stolen will see a reduction in costs since they will be able to obtain a replacement card at no cost.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issue

Lines 214 through 222 provide for the distribution of proceeds for license plates. It is amended to conform with other provisions related to apportioned license plates. The other apportioned license plate provision goes into effect October 1, 2018, while this provision goes into effect on October 1, 2017.

Lines 445 through 456 repeals s. 322.21(1)(i), F.S., providing for the fee for a specialty driver license. While the statute creating specialty driver licenses, s. 322.1415, F.S., was repealed as of August 31, 2016, the statute is not addressed in the bill and would remain in law.

On line 543, the bill references s. 316.305, F.S., which is the Florida Ban on Texting While Driving Law, which applies to all drivers. The provision of statute being created specifies a serious disqualifying offense for a commercial driver license related to using a wireless communications device while driving,

⁷² Email from DHSMV. February 16, 2017. (Copy on file with Transportation & Infrastructure Subcommittee).

the provision only relates to commercial drivers. The bill may need to be amended to cite the appropriate provision in Federal regulations.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES