

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCS for CS/HB 1085 Department of Highway Safety and Motor Vehicles

**SPONSOR(S):** Infrastructure Strategies Committee

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Infrastructure Strategies Committee		Lewis	Harrington

### SUMMARY ANALYSIS

The bill address matters related to the Department of Highway Safety and Motor Vehicles (DHSMV). The bill:

- Authorizes agents of DHSMV to issue International Fuel Tax Agreement licenses and fuel tax decals.
- Requires all Florida law enforcement agencies to electronically submit uniform crash reports to DHSMV.
- Clarifies that when a lessee of a motor vehicle is purchasing the leased motor vehicle, the motor vehicle dealer is not required to observe and certify air pollution equipment if the dealer is not in possession of the motor vehicle at the time of sale.
- Adopts Federal Motor Carrier Safety Administration (FMCSA) regulations for commercial motor vehicles (CMV) as such regulations existed on December 31, 2022; updates federal references; and removes an expired exemption for CMV operators.
- Requires that the stamp on the certificate of title for a “flood vehicle” must identify the type of water as “salt water,” “fresh water,” or “other or unknown water type.”
- Revises the application and affidavit requirements for the transfer of ownership of a motor vehicle or mobile home if the previous owner died testate.
- Provides that no additional fee can be charged by 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 for electric, hybrid, or plug-in hybrid motor vehicles.
- 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.
- Allows permanent motor vehicle registration for rental trucks that weigh under 15,000 pounds.
- Authorizes trailers to be issued a license plate with reduced dimensions.
- Updates the distribution and use of fees for the Protect the Springs Specialty License Plate.
- Revises wording on the American Eagle Specialty License Plate.
- Provides that certain disabled veterans can apply to be issued a military license plate or specialty license plate instead of the standard “DV” license plate.
- Requires motor vehicle licenses or identification cards issued or reissued by DHSMV to sexual offenders or sexual predators have all information on the front of the license or identification card printed in red.
- Permits DHSMV to provide driver license images and signatures of the licensees to any criminal justice agency, for use in carrying out the criminal justice agency’s functions, and any other state, for the purpose of validating the identity of an applicant for a driver license or identification card.
- Removes a requirement that certain insurance coverage be noncancelable for six months after reinstatement of a driver license.
- The bill makes the statutory changes necessary for DHSMV to enforce and administer the federally-mandated Drug and Alcohol Clearinghouse relating to commercial driver licenses.

The bill has an insignificant fiscal impact on state government and an indeterminate but likely insignificant fiscal impact on local governments. See fiscal analysis for details.

The bill has an effective date of July 1, 2023, except as otherwise provided in the bill.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **International Fuel Tax Agreement (IFTA) Registration**

##### Current Situation

The International Fuel Tax Agreement (IFTA) is a reciprocal tax collection agreement for the uniform administration of motor fuels use taxation laws in the lower 48 states and the 10 Canadian provinces. Licensed IFTA commercial vehicles report and pay all motor fuel taxes to the jurisdiction where they are based, which in turn handles the distribution to the other member jurisdictions in which the licensee travelled and incurred motor fuel use tax liability.<sup>1</sup>

IFTA licenses and decals must be renewed annually, either by mail or in person. Currently, the only office available for in-person transactions is the Department of Highway Safety and Motor Vehicles (DHSMV) office in Tallahassee.<sup>2</sup> Truckers that fall under IFTA also have to renew their International Registration Plan (IRP) annually. Currently, this renewal can be done through authorized agents of DHSMV in Highlands, Palm Beach, Pinellas, and Polk Counties.<sup>3</sup>

##### Effect of the Bill

The bill authorizes *agents* of DHSMV to issue IFTA licenses and fuel tax decals.

#### **Electronic Crash Reporting**

##### Current Situation

Florida law requires written reports of motor vehicle crashes, which must contain the following information:

- The date, time, and location of the crash.
- A description of the vehicles involved.
- The names and addresses of the parties involved, including all drivers and passengers, and the identification of the vehicle in which each was a driver or a passenger.
- The names and addresses of witnesses.
- The name, badge number, and law enforcement agency of the officer investigating the crash.
- The names of the insurance companies for the respective parties involved in the crash.<sup>4</sup>

An investigating law enforcement officer must submit a crash report to DHSMV within 10 days after completing the investigation of a traffic crash that:

- Results in death or personal injury to any of the parties or passengers involved;
- Involves a violation of leaving the scene or driving under the influence;
- Renders a vehicle inoperable to a degree that a wrecker must remove it from the scene; or
- Involves a commercial motor vehicle.<sup>5</sup>

Currently, Florida Statutes does not include language mandating that crash data be submitted to DHSMV in an electronic format. Between January 1, 2022, and June 30, 2022, approximately 1.35% (or 4,802) of crash reports were submitted on paper, and 98.65% of crash reports were submitted electronically. Law enforcement agencies that submit the report on paper must mail their paper crash

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<sup>1</sup> FLHSMV, *Commercial Motor Vehicle Drivers International Fuel Tax Agreement*, <https://www.flhsmv.gov/driver-licenses-id-cards/commercial-motor-vehicle-drivers/international-fuel-tax-agreement/> (last visited Mar. 20, 2023).

<sup>2</sup> Department of Highway Safety and Motor Vehicles Agency Analysis, Senate Bill 1252, pg. 2 (Mar. 14, 2023).

<sup>3</sup> FLHSMV, *International Registration Plan, Obtaining IRP Services*, <https://www.flhsmv.gov/driver-licenses-id-cards/commercial-motor-vehicle-drivers/international-registration-plan/obtaining-irp-services/#:~:text=Also%2C%20when%20the%20need%20arises,day%20they%20request%20a%20service> (last visited Mar. 20, 2023).

<sup>4</sup> Ss. 316.066(1)(b) and (c), F.S.

<sup>5</sup> S. 316.066(1)(a), F.S.

reports<sup>6</sup>, which are converted by a third party, PRIDE Enterprises, into an electronic format before being validated and accepted into DHSMV's traffic records system.<sup>7</sup>

#### Effect of the Bill

The bill provides legislative findings and intent related to requiring electronic submission of crash reports to DHSMV by all law enforcement entities.

Effective July 1, 2025, the bill requires all Florida law enforcement agencies to electronically submit uniform crash reports to DHSMV. The electronic crash reports must be consistent with the state traffic crash manual rules and the procedures established by DHSMV, including being appropriately numbered and inventoried. The report must be completed and electronically submitted within 10 days after an investigation is completed by a law enforcement officer.

### **Leased Vehicle Air Pollution Device Inspections**

#### Current Situation

Under Florida law, when a motor vehicle is sold, leased, or transferred, the seller, lessor, or transferor must certify in writing to the receiver that the air pollution control equipment of the motor vehicle has not been tampered<sup>8</sup> with by the current holder or their agents, employees, or other representatives. A licensed motor vehicle dealer must also visually inspect the air pollution control devices to certify that they are in place and appear properly connected and undamaged.<sup>9</sup> The air pollution control devices required for such certification include the catalytic converter, fuel inlet restrictor, unvented fuel cap, exhaust gas recirculation system (EGR), air pump and/or air injector system (AIS), and fuel evaporative emissions system (EVP).<sup>10</sup>

#### Effect of the Bill

The bill clarifies that motor vehicle dealers are not required to observe and certify air pollution equipment when the purchaser of the motor vehicle is a lessee purchasing the leased motor vehicle and the dealers are not in possession of the motor vehicle at the time of sale.

### **Federal Commercial Vehicle Regulations**

#### Current Situation

Florida law provides that all owners and drivers of commercial motor vehicles<sup>11</sup> (CMVs) operating on Florida's public highways, while engaged in *interstate* commerce, are subject to the following Florida Motor Carrier Safety Administration (FMCSA)<sup>12</sup> regulations:<sup>13</sup>

<b>49 C.F.R. Part</b>	<b>Title/Subject</b>
382	Controlled Substance and Alcohol Use Testing

<sup>6</sup> Currently, 20 law enforcement agencies submit paper crash reports. *Supra* note 2 at page 7.

<sup>7</sup> *Supra* note 2 at page 2.

<sup>8</sup> S. 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 for replacement with an equivalent device or system.

<sup>9</sup> S. 316.2935(1)(b), F.S.

<sup>10</sup> S. 316.2935(7), F.S.

<sup>11</sup> S. 316.003(14), F.S., 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, as amended (49 U.S.C. §§ 1801 et seq.)

<sup>12</sup> The Federal Motor Carrier Safety Administration's primary mission is to prevent commercial motor vehicle-related fatalities and injuries. The Administration ensures safety in motor carrier operations through strong enforcement of safety regulations; targeting high-risk carriers and commercial motor vehicle drivers; improving safety information systems and commercial motor vehicle technologies; strengthening commercial motor vehicle equipment and operating standards; and increasing safety awareness. See FMCSA, *About Us*, <https://www.fmcsa.dot.gov/mission/about-us> (last visited Mar. 20, 2023).

<sup>13</sup> S. 316.302(1)(a), F.S.

49 C.F.R. Part	Title/Subject
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 Driver Instructors
392	Driving of Commercial Motor Vehicles
393	Parts and Accessories Necessary for Safe Operation
395	Hours of Service of Drivers
396	Inspection, Repair, and Maintenance
397	Transportation of Hazardous Materials; Driving and Parking Rules

Florida law distinguishes that all owners and drivers of CMVs engaged in *intrastate* commerce are only subject to the FMCSA regulations as they existed on December 31, 2020.<sup>14</sup>

When the FMCSA adopts rule changes, states have three years to adopt them in order to continue receiving federal highway grant funding. Since the last adoption, FMCSA has adopted or amended 17 rules, six of which impact DHSMV.<sup>15</sup> During the most recent Annual Program Review of DHSMV's compliance with FMCSA's regulations, the FMCSA also noted instances where DHSMV lacks statutory authority for certain required regulations.<sup>16</sup>

#### Effect of the Bill

The bill provides that all owners and drivers of CMVs are subject to the federal rules and regulations contained in 49 C.F.R. parts 382, 383, 384, 385, 386, 390-397 as they existed on December 31, 2022. The addition of Part 384 reflects required state compliance with changes to the Commercial Driver's License Program by November 18, 2024.

The bill deletes an expired exemption for CMV operators related to the requirements of electronic logging devices and hours of service supporting documents.

The bill updates language to appropriately reference the applicable provisions of 49 C.F.R. § 395.1(e)(1) when a CMV not transporting hazardous materials is operating intrastate within a 150 air-mile radius of the location where the CMV is based.

#### **Branding of Motor Vehicle Titles as "Flood Vehicle"**

##### Current Situation

Under Florida law, in order for a person to knowingly offer for sale, sell, or exchange a rebuilt vehicle<sup>17</sup>, DHSMV must stamp, in a conspicuous place on the certificate of title, words stating the vehicle has been rebuilt or assembled from parts, or is a kit car, glider kit, replica, flood vehicle, custom vehicle, or street rod vehicle. DHSMV must also affix a rebuilt decal to the vehicle.<sup>18</sup> A person (including any officer, agent, or employee of a person) who knowingly sells, exchanges, or offers to sell or exchange a rebuilt vehicle contrary to the law specified above commits a misdemeanor of the second degree.<sup>19</sup> A person who removes a rebuilt decal with the intent to conceal the rebuilt status of the vehicle commits a felony of the third degree.<sup>20</sup>

Currently a "flood vehicle" is defined as a motor vehicle or mobile home that has been declared to be a total loss resulting from damage caused by water.<sup>21</sup> Following the widespread flooding of Hurricane Ian

<sup>14</sup> S. 316.302(1)(b), F.S.

<sup>15</sup> *Supra* note 2 at page 3.

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

<sup>17</sup> S. 319.14(1)(c)3., F.S., defines "Rebuilt Vehicle" as a motor vehicle or mobile home built from "salvage" or "junk," as defined in s. 319.30(1), F.S.

<sup>18</sup> S. 319.14(1)(b), F.S.

<sup>19</sup> S. 319.14(6), F.S.

<sup>20</sup> S. 319.14(7), F.S.

<sup>21</sup> S. 319.14(1)(c)8., F.S.

in 2022, DHSMV was made aware of the significant safety hazard that results from electric vehicle (EV) batteries being submerged and exposed to salt water and potentially catching fire due to a chemical reaction.<sup>22</sup> Unlike a combustion engine vehicle, EVs are powered by lithium-ion batteries that continue to reignite when they catch on fire. This is a separate risk associated with purchasing a rebuilt EV with salt water intrusion that does not arise from an EV with fresh water damage that should be distinguished for consumer protection.<sup>23</sup>

### Effect of the Bill

The bill requires that if a vehicle is identified as a flood vehicle, the stamp on the certificate of title must identify the type of water as “salt water,” “fresh water,” or “other or unknown water type,” as applicable.

The bill updates the definition of “flood vehicle” to reflect the total loss damage being caused by salt water, fresh water, or other or unknown type of water.

## **Certificate of Title Transfer or Ownership**

### Current Situation

Florida law states that in the case of transfer of ownership of a motor vehicle or mobile home, such as upon inheritance, DHSMV must receive satisfactory proof of ownership and right of possession to such motor vehicle or mobile home, and payment of required certificate of title application fee, before DHSMV can issue to the applicant a certificate of title.<sup>24</sup>

If the previous owner of a motor vehicle or mobile home died *intestate*,<sup>25</sup> the application for a certificate of title made by an heir does not have to contain an order of a probate court, if the applicant files with DHSMV an affidavit that the estate is not indebted and any surviving spouses and heirs have amicably agreed among themselves upon a division of the estate.<sup>26</sup>

If the previous owner died *testate*,<sup>27</sup> the application must be accompanied by a certified copy of the will, if probated, and an affidavit that the estate is solvent with sufficient assets. In this case, if the will is not being probated, the application must be accompanied by a sworn copy of the will and an affidavit that the estate is not indebted.<sup>28</sup>

### Effect of the Bill

The bill adds that if the previous owner died *testate* and the application for a certificate of title and the accompanying affidavit are made by and attested by, a Florida licensed attorney in good standing who is representing the previous owner’s estate, such affidavit constitutes satisfactory proof of ownership and right of possession to the motor vehicle or mobile home. The affidavit must set forth the rightful heir or heirs, and the attorney must attest to their lawful entitlement to the rights of ownership and possession of the motor vehicle or mobile home. In this case, the application for certificate of title does not have to be accompanied by a copy of the will or other testamentary instrument.

## **Lost or Destroyed Certificate of Title**

### Current 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 DHSMV for a duplicate copy.<sup>29</sup> Upon receiving an

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<sup>22</sup> *Supra* note 2 at page 3.

<sup>23</sup> Jen Frost, *Florida’s electric vehicles are catching fire after Hurricane Ian*, Insurance Business America (Nov. 4, 2023), <https://www.insurancebusinessmag.com/us/news/auto-motor/floridas-electric-vehicles-are-catching-fire-after-hurricane-ian-426452.aspx> (last visited Mar. 21, 2023).

<sup>24</sup> S. 319.28(1)(a), F.S.

<sup>25</sup> “Intestate” means “[o]ne who has died without a valid will.” BLACK’S LAW DICTIONARY 840 (8th ed. 2004).

<sup>26</sup> S. 319.28(1)(b), F.S.

<sup>27</sup> “Testate” means “[h]aving left a will at death.” BLACK’S LAW DICTIONARY 1514 (8th ed. 2004).

<sup>28</sup> S. 319.28(1)(b), F.S.

<sup>29</sup> S. 319.29(1), F.S.

application signed and sworn to by the applicant, and accompanied by the required fee,<sup>30</sup> DHSMV must issue a duplicate copy of the certificate of title.<sup>31</sup>

If an original, duplicate, or corrected certificate of title issued by DHSMV is lost in transit and is not delivered to the addressee, the owner or holder has 180 days to apply to DHSMV for the reissuance of the certificate of title *without an additional fee*.<sup>32</sup> Florida law also authorizes tax collectors to process certificate of title applications and collect the associated fees.<sup>33</sup> However, current law is not clear that tax collectors must issue a title lost in transit without charging an additional fee.

#### Effect of the Bill

The bill clarifies that an additional fee may not be charged by DHSMV or the tax collector for the reissuance of a lost or not delivered certificate of title.

### **Electric and Plug-in Hybrid Motor Vehicles**

#### Current Situation

Under Florida law, when DHSMV conducts a rebuilt inspection for a salvage vehicle to receive a certificate of title, DHSMV must physically examine all major component parts that have been repaired or replaced.<sup>34</sup> Currently major component parts are defined for motor vehicles,<sup>35</sup> trucks,<sup>36</sup> motorcycles,<sup>37</sup> and mobile homes.<sup>38</sup> Florida statutes have not been updated to reflect the use of electric and plug-in hybrid motor vehicles and their component parts for salvage vehicles. During inspection DHSMV can only inspect major component parts as defined in law. DHSMV does not have the authority to inspect the records related to batteries in flood electric or hybrid salvage motor vehicles before they are returned to the roadway.<sup>39</sup>

#### Effect of the Bill

The bill defines major component parts for electric, hybrid, or plug-in hybrid motor vehicles as any fender, hood, bumper, cowl assembly, rear quarter panel, trunk lid, door, decklid, floor pan, engine, electric traction motor, frame, transmission or electronic transmission, charge port, DC power converter, onboard charger, power electronics controller, thermal system, traction battery pack, catalytic converter, or airbag.

### **Damaged or Dismantled Vessels**

#### Current Situation

Currently, independent entities can temporarily store damaged or dismantled motor vehicles upon an agreement with an insurance company and participate in the sale or resale of such motor vehicles.<sup>40</sup>

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 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.<sup>41</sup>

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<sup>30</sup> S. 319.32, F.S., states that the cost for each duplicate copy of a certificate of title is \$70 with a service charge of \$4.25.

<sup>31</sup> S. 319.29(1), F.S.

<sup>32</sup> S. 319.29(3), F.S.

<sup>33</sup> S. 319.32(2)(b), F.S.

<sup>34</sup> S. 319.14(1)(b), F.S.

<sup>35</sup> S. 319.30(1)(j)1., F.S., states for motor vehicles, any fender, hood, bumper, cowl assembly, rear quarter panel, trunk lid, door, decklid, floor pan, engine, frame, transmission, catalytic converter, or airbag.

<sup>36</sup> S. 319.30(1)(j)2., F.S., states for trucks, in addition to motor vehicle parts, any truck bed, including dump, wrecker, crane, mixer, cargo box, or any bed which mounts to a truck frame.,

<sup>37</sup> S. 319.30(1)(j)3., F.S., states for motorcycles, the body assembly, frame, fenders, gas tanks, engine, cylinder block, heads, engine case, crank case, transmission, drive train, front fork assembly, and wheels.

<sup>38</sup> S. 319.30(1)(j)4., F.S., states for mobile homes, the frame.

<sup>39</sup> *Supra* note 2 at page 4.

<sup>40</sup> S. 319.30(1)(g), F.S.

<sup>41</sup> S. 319.30(9)(a), F.S.

Upon receiving this form, the independent entity must notify the owner that the vehicle is available for pickup. If the vehicle is not claimed within 30 days, the independent entity may apply for a certificate of destruction or a certificate of title.<sup>42</sup> If DHSMV does not have the motor vehicle owner's address, the independent entity must utilize the National Motor Vehicle Title Information System and attempt to obtain the owner's address before releasing the vehicle to the owner, and before applying for a certificate of destruction or salvage certificate of title.<sup>43</sup> The independent entity must maintain all records related to the 30-day notice and searches in the National Motor Vehicle Title Information System for 3 years.<sup>44</sup> 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 National Motor Vehicle Title Information System, proof of all lien satisfactions or proof of a release of all liens on the motor vehicle, and applicable fees.<sup>45</sup>

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 the Bill

The bill expands the authority of independent entities to allow them to temporarily store damaged or dismantled vessels upon an agreement with an insurance company and participate in the sale or resale of such vessels. For this purpose, vessel means every description of watercraft, barge, and airboat used or capable of being used as a means of transportation on water, other than a seaplane or a documented vessel.

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

- On the form prescribed by 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. 318.045, F.S.
- The independent entity is not required to notify the National Motor Vehicle Title Information System before releasing the vessel to the owner or before applying for a certificate of title.

## **Permanent Decals for Small Rental Trucks**

### Current Situation

For purposes of motor vehicle licensing, a "for-hire vehicle" is defined as any motor vehicle, when used for transporting persons or goods for compensation; let or rented to another for consideration; offered for rent or hire as a means of transportation for compensation; advertised in a newspaper or generally held out as being for rent or hire; used in connection with a travel bureau; or offered or used to provide transportation for persons solicited through personal contact or advertised on a "share-expense" basis.<sup>46</sup>

Florida law provides that registration license plates must be issued for a 10-year period. At the end of the 10-year period, upon renewal, the plate must be replaced. With the issuance of a license plate, a validation sticker is issued with 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.<sup>47</sup>

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<sup>42</sup> S. 319.30(9)(b), F.S.

<sup>43</sup> S. 319.30(9)(c) and (e), F.S.

<sup>44</sup> S. 319.30(9)(d), F.S.

<sup>45</sup> S. 319.30(9)(f), F.S.

<sup>46</sup> S. 320.01(15)(a), F.S.

<sup>47</sup> S. 320.06(1)(b)1., F.S.

License plates with validation stickers subject to the registration period are valid for not more than 12 months and expire at midnight on the last day of the registration period. A license plate with a validation sticker subject to the extended registration period is valid for not more than 24 months and expires at midnight on the last day of the extended registration period.<sup>48</sup>

Currently rental cars have the ability to permanently register vehicles, provided they pay the appropriate annual license taxes and fees.<sup>49</sup>

### Effect of the Bill

The bill allows rental trucks, under 15,000 pounds, the ability to permanently register trucks in the same manner as rental cars. Such rental trucks will be required to pay the appropriate annual license taxes and fees.

## **Registration License Plates**

### Current Situation

Under current law, DHSMV, upon receipt of an application and payment of the appropriate fees, must issue to a vehicle owner or lessee a certificate of registration and a license plate.<sup>50</sup> License plates are issued for a ten-year period and must be replaced upon renewal at the end of the ten-year period. The replacement fee is \$28, \$2.80 of which is paid each year in the ten years leading up to the replacement, and such fees must be deposited into the Highway Safety Operating Trust Fund.<sup>51</sup>

Florida law provides that registration license plates must be at least 6 inches wide and not less than 12 inches in length. However, license plates with reduced dimensions can be issued by DHSMV to accommodate motorcycles, mopeds, or similar smaller vehicles.<sup>52</sup> 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.<sup>53</sup>

### Effect of the Bill

The bill adds that a trailer can qualify for a license plate with reduced dimensions.

## **Specialty License Plates**

### Current Situation

As of February 2023, there are 109 specialty license plates available for sale and an additional 35 in presale.<sup>54</sup> Specialty license plates are available to the owner or lessee of any motor vehicle who is willing to pay an annual use fee, in addition to the required license tax and fees.<sup>55</sup> The annual use fees range from \$15-\$25<sup>56</sup>, and are distributed directly to the sponsoring organization or other entity as designated in statute.<sup>57</sup>

In order to establish a specialty license plate, an organization must first receive approval by law. Once this approval has been granted, the organization has 60 days to submit the proposed art design for the specialty license plate to DHSMV.<sup>58</sup> Within 120 days of the specialty license plate becoming law, DHSMV must establish a method to issue presale vouchers for the specialty license plate. The

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<sup>48</sup> S. 320.06(1)(c), F.S.

<sup>49</sup> S. 320.06(1)(b), F.S.

<sup>50</sup> S. 319.06(1)(a), F.S.

<sup>51</sup> S. 319.06(1)(b), F.S.

<sup>52</sup> S. 320.06(3)(a), F.S.

<sup>53</sup> S. 320.06(3)(a), F.S.

<sup>54</sup> Department of Highway Safety and Motor Vehicle Agency Analysis, House Bill 675, pg. 2 (Mar. 13, 2023).

<sup>55</sup> S. 320.08056(2)(a), F.S.

<sup>56</sup> S. 320.08056(3)(d), F.S. states that the annual use fee for any specialty license plate is \$25, except if specifically specified in s. 320.08056(4), F.S.

<sup>57</sup> S. 320.08058, F.S.

<sup>58</sup> S. 320.08053(1), F.S.



applicant for a specialty license plate pays a \$5 processing fee<sup>59</sup>, a \$2.50 service charge, a \$.50 branch fee<sup>60</sup>, and the annual use fee.<sup>61</sup> All other applicable fees are paid at the time of issuance of the specialty license plate.<sup>62</sup>

After the presale vouchers are established, the organization has 24 months to obtain a minimum of 3,000 voucher sales before manufacturing of the plate can begin.<sup>63</sup> If the minimum sales requirement has not been met by the end of the 24-month presale period, the specialty license plate is deauthorized and DHSMV shall discontinue the development of the plate and issuance of the presale vouchers. Upon deauthorization of the license plate or if the plate has met the presale requirement but has not been issued, a purchaser of the license plate voucher may use the annual use fee paid as a credit towards any other specialty license plate or may apply for a refund.<sup>64</sup>

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 they have met all statutory requirements, including the presale requirement. If the next listed specialty license plate has not met the presale requirement, 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. DHSMV must cycle through the list in statutory order.<sup>65</sup>

The number of specialty license plates issued cannot exceed 135. If the Legislature approves more than 135 specialty license plates, DHSMV cannot issue any new specialty license plates until a sufficient number of plates are discontinued in order to not exceed the limit.<sup>66</sup>

#### *Use of Specialty License Plate Fees*

The annual use fees collected by an organization and any 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.<sup>67</sup> Further, 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 an 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.<sup>68</sup>

Annual use fees collected by an organization and any interest earned from those fees may be expended only in Florida, unless the annual use fees are derived from the sale of United States Armed Forces or veterans-related specialty license plates.<sup>69</sup> Additionally, organizations receiving annual use fees must submit an annual audit or attestation document to DHSMV that proceeds were used in compliance with the applicable specialty license plate statutes.<sup>70</sup>

#### *Protect Florida Springs License Plate*

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<sup>59</sup> The processing fee is prescribed in s. 320.08056, F.S.

<sup>60</sup> The service charge and branch fee are prescribed in s. 320.04, F.S.

<sup>61</sup> The annual use fee is prescribed in s. 320.08056, F.S.

<sup>62</sup> S. 320.08053(2)(a), F.S.

<sup>63</sup> 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.

<sup>64</sup> S. 320.08053(2)(b), F.S.

<sup>65</sup> S. 320.08053(3)(a), F.S.

<sup>66</sup> S. 320.08053(3)(b), F.S.

<sup>67</sup> S. 320.08056(10)(a), F.S.

<sup>68</sup> S. 320.08056(11), F.S.

<sup>69</sup> S. 320.08056(10)(a), F.S.

<sup>70</sup> S. 320.08062, F.S. Annual use fees may be used to pay for the cost of this required audit or report. See

s. 320.08056(10)(a), F.S.

The “Protect Florida Springs” specialty license plate was created in 2007 and is administered by the non-profit Fish & Wildlife Foundation of Florida, Inc. The Foundation is dedicated to the conservation, management, and sustainable enjoyment of Florida’s outstanding lands, waters, and wildlife.<sup>71</sup>

Currently, at least 55 percent of the fees collected from the specialty plate shall be available for competitive grants for targeted community-based springs research and the remaining 20 percent shall be directed toward community outreach programs aimed at implementing such research findings.

### *American Eagle License Plate*

The American Eagle License Plate was created in 2020. The American Eagle Foundation is a not-for-profit organization whose mission is to protect the bald eagle and other birds of prey through education, re-population, conservation, and rehabilitation.<sup>72</sup> The specialty plate is currently in the pre-sale process.

### Effect of the Bill

The bill amends the Protect Florida Springs license plate by:

- Removing obsolete language related to costs incurred in the development and approval of the plate and redundant language related to the distribution of fees.
- Eliminating the 55 percent and 20 percent fee distribution distinctions and clarifies that at least 75 percent of the fees shall be available for the conservation of Florida’s freshwater springs, including scientific research, springs habitat restoration, springs protection, and public education on springs.
- Adding that the majority of these funds must be awarded via the existing competitive grant process.

The bill amends the American Eagle License plate by changing the words “In God We Trust” displayed at the bottom of the plate to “Protect the Eagle.”

## **License Plates for Disabled Veterans**

### Current Situation

Florida law requires DHSMV to issue one free license plate to veterans with a 100 percent service-connected disability upon application.<sup>73</sup> The license number on each plate issued to a disabled veteran must be identified by the letter designation “DV.”<sup>74</sup> The design of the special disabled veteran plate is red, white, and blue, and resembles the United States flag.<sup>75</sup>

Upon issuance of each new permanent “DV” license plate, an initial validation sticker<sup>76</sup> with an expiration not exceeding 27 months, is issued without cost to the applicant.<sup>77</sup> The applicant does have to pay the associated service charges for each initial application or renewal of registration.<sup>78</sup> 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.<sup>79</sup> Persons with a “DV” license plate with the international accessibility symbol are exempt from any fee or penalty for parking in any metered or timed parking space.<sup>80</sup>

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<sup>71</sup> Fish & Wildlife Foundation of Florida, *Protect Florida Springs Tag Grants*, [https://wildlifeflorida.org/pfs\\_grants/](https://wildlifeflorida.org/pfs_grants/) (last visited Apr. 12, 2023).

<sup>72</sup> American Eagle Foundation, <https://www.eagles.org/> (last visited Apr. 12, 2023).

<sup>73</sup> S. 320.084(1), F.S.

<sup>74</sup> S. 320.084 (3), F.S.

<sup>75</sup> FLHSMV, *Florida Military License Plate Brochure*, [https://www.flhsmv.gov/pdf/specialtyplates/military\\_brochure.pdf](https://www.flhsmv.gov/pdf/specialtyplates/military_brochure.pdf) (last visited Mar. 22, 2023).

<sup>76</sup> The validation sticker must reflect the applicant’s birth month and the year of expiration.

<sup>77</sup> S. 320.084(4)(a), F.S.

<sup>78</sup> S. 320.084(4)(b), F.S., refers to the fees in s. 320.04, F.S. For the original issuance of a license plate the service charge is \$2.50. For the issuance of each license plate validation sticker the service charge is \$1.00. An additional 50 cents is charged for each license plate and validation sticker so they can be treated with retroreflection material.

<sup>79</sup> S. 320.084(4)(c), F.S.

<sup>80</sup> S. 320.084(5), F.S.

Florida has over 100 specialty license plates, with a statutory cap of 135,<sup>81</sup> available to Florida drivers who are willing to pay the additional annual use fee for such plate.<sup>82</sup> Within the specialty license plates, Florida offers 33 Special Military License Plates.<sup>83</sup> Each of the military service specialty license plates have specific requirements that must be met upon application and require payment of the license tax for the vehicle, if applicable,<sup>84</sup> before the plate can be issued.<sup>85</sup>

In total, 103,114 Special Military; 44 Paralyzed Veterans of America; and 21,634 Disabled Veteran Wheelchair License Plates have been issued. However, out of all military license plates offered, the “DV” license plate ranks number one with 97,994 issued.<sup>86</sup>

#### Effect of the Bill

The bill provides that a disabled veteran who qualifies for the special “DV” license plate may be issued a military license plate for which he or she is eligible, or a specialty license plate, instead of the “DV” license plate upon application. 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.

### **Sexual Predator or Offender Licenses or Identification Cards**

#### Current Situation

Under current law, all licenses for the operation of motor vehicles or identification cards issued or reissued by DHSMV to a sexual predator under s. 775.21, F.S., must have the marking “SEXUAL PREDATOR” on the front.<sup>87</sup> 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.<sup>88</sup> These requirements also apply to persons subject to similar registration under the laws of another jurisdiction.<sup>89</sup>

#### Effect of the Bill

The bill requires all licenses for the operation of motor vehicles or identification cards issued or reissued by DHSMV to a sexual predator, sexual offender, or person subject to similar registration under the laws of another jurisdiction, to have all personal information on the front of the license or identification card printed in red. The appropriate markings “SEXUAL PREDATOR” or “943.0435, F.S.” must also be in red.

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<sup>81</sup> S. 320.08053(3)(b), F.S.

<sup>82</sup> S. 320.08056(2)(a), F.S.

<sup>83</sup> S. 320.089, F.S. The plates offered: Air Force Combat Action Medal, Air Force Cross, Combat Action Badge, Combat Action Ribbon, Combat Infantry Badge, Combat Medical Badge, Distinguished Flying Cross, Distinguished Service Cross, Ex-Prisoner of War, Gold Star Family, Korean War Veteran, Medal of Honor (Air Force), Medal of Honor (Army), Medal of Honor (Navy), National Guard, Navy Cross, Navy Submariner, Operation Desert Shield, Operation Desert Storm, Operation Enduring Freedom, Operation Iraqi Freedom, Pearl Harbor Survivor, Purple Heart, Silver Star, U.S. Reserve, Veteran of U.S. Armed Forces, Vietnam War Veteran, Woman Veteran, World War II Veteran, U.S. Paratrooper, Former Military Vehicle, Army of Occupation, and Bronze Star.

<sup>84</sup> See s. 320.089(1)(d) and (2)(a), F.S. An applicant for a Pearl Harbor Survivor license plate or a Purple Heart license plate who also qualifies for a DV license plate, or an applicant who was held as a prisoner of war, does not have to pay the motor vehicle license tax.

<sup>85</sup> S. 320.089, F.S.

<sup>86</sup> FLHSMV, *Florida Military License Plate Brochure*, [https://www.flhsmv.gov/pdf/specialtyplates/military\\_brochure.pdf](https://www.flhsmv.gov/pdf/specialtyplates/military_brochure.pdf) (last visited Mar. 22, 2023).

<sup>87</sup> S. 322.141(3)(a), F.S.

<sup>88</sup> S. 322.141(3)(b), F.S.

<sup>89</sup> S. 322.141(3), F.S.

## Access to Driver License Images

### Current Situation

Florida law provides that it is the policy of the state that all state, county, and municipal public records<sup>90</sup> are open for personal inspection and copying by any person, and that it is the responsibility of each agency<sup>91</sup> to provide access to public records.<sup>92</sup> Unless an exemption applies, every person has a right to inspect and copy any public record.<sup>93</sup>

The federal Driver's Privacy Protection Act (DPPA) prohibits state departments of motor vehicles from knowingly disclosing or making available any personal information<sup>94</sup> or highly restricted personal information,<sup>95</sup> including driver license photographs, with certain exceptions, including for "use by any governmental agency, including any court or law enforcement agency, in carrying out its functions."<sup>96</sup> Section 119.0712(2), F.S., contains the public record exemption for such information and confers confidential status to such information.

Florida law further clarifies these restrictions for driver license images and signatures of the licensees. While reproductions from the file or digital record of the license are exempt from public record requirements, reproductions may be made and issued only:

- For departmental administrative purposes;
- For the issuance of duplicate licenses;
- In response to law enforcement agency requests;
- To the Department of Business and Professional Regulation and the Department of Health pursuant to an interagency agreement for the purpose of accessing digital images for reproduction of licenses issued by the Department of Business and Professional Regulation or the Department of Health;
- To the Department of State pursuant to an interagency agreement to facilitate determinations of eligibility of voter registration applicants and registered voters;
- To the Department of Revenue pursuant to an interagency agreement for use in establishing paternity and establishing, modifying, or enforcing support obligations in Title IV-D cases;
- To the Department of Children and Families pursuant to an interagency agreement to conduct protective investigations under part III of chapter 39 and chapter 415, F.S.;
- To the Department of Children and Families pursuant to an interagency agreement specifying the number of employees in each of that department's regions to be granted access to the records for use as verification of identity to expedite the determination of eligibility for public assistance and for use in public assistance fraud investigations;
- To the Agency for Health Care Administration pursuant to an interagency agreement for the purpose of authorized agencies verifying photographs in the Care Provider Background Screening Clearinghouse;

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<sup>90</sup> S. 119.011(12), F.S., defines "public records" as all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

<sup>91</sup> S. 119.011(2), F.S., defines "agency" means any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

<sup>92</sup> S. 119.01, F.S.

<sup>93</sup> S. 119.07(1), F.S.

<sup>94</sup> 18 U.S.C. § 2725(3) defines "personal information" as any information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver's status.

<sup>95</sup> 18 U.S.C. § 2725(4) defines "highly restricted personal information" as an individual's photograph or image, social security number, medical or disability information.

<sup>96</sup> 18 U.S.C. § 2721(b).

- To the Department of Financial Services pursuant to an interagency agreement to facilitate the location of owners of unclaimed property, the validation of unclaimed property claims, the identification of fraudulent or false claims, and the investigation of allegations of violations of the insurance code by licensees and unlicensed persons;
- To the Department of Economic Opportunity pursuant to an interagency agreement to facilitate the validation of reemployment assistance claims and the identification of fraudulent or false reemployment assistance claims;
- To district medical examiners pursuant to an interagency agreement for the purpose of identifying a deceased individual, determining cause of death, and notifying next of kin of any investigations, including autopsies and other laboratory examinations;
- To a justice or judge of this state; an employee of the state courts system who works in a position that is designated in writing for access by the Chief Justice of the Supreme Court or a chief judge of a district or circuit court, or by his or her designee; or a government employee who performs functions on behalf of the state courts system in a position that is designated in writing for access by the Chief Justice or a chief judge, or by his or her designee; or
- To the Agency for Health Care Administration pursuant to an interagency agreement to prevent health care fraud.<sup>97</sup>

Although the law provides access to various governmental entities and criminal justice agencies that are expressly provided for in the list above<sup>98</sup>, local inspector general agencies, critical to the administration of criminal justice,<sup>99</sup> do not currently have access to DHSMV records that contain a driver's image or signature because they are not expressly provided for in the above list.

Beginning in 2023, DHSMV will be participating in the federal State-to-State Verification Service, a nationwide effort to ensure all persons are only issued one Real ID credential. In order to participate, DHSMV must be able to transmit driver license and identification card photographs to other state driver license agencies for the purpose of validating applicant identities and preventing identity theft.<sup>100</sup>

#### Effect of the Bill

The bill amends the list of entities that may receive driver license images to include:

- Any criminal justice agency, which includes local inspector general agencies, pursuant to an interagency agreement, for use in carrying out the criminal justice agency's functions.
- The driver licensing agency of another state for purposes of validating the identity of an applicant for a driver license or identification card.

### **Noncancelable Insurance**

#### Current Situation

In order to register a vehicle with at least four wheels in Florida, the owner or registrant must show proof of Personal Injury Protection<sup>101</sup> (PIP) and Property Damage Liability<sup>102</sup> (PDL) automobile insurance. Vehicles must have a minimum of \$10,000 in PIP and a minimum of \$10,000 in PDL. This

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<sup>97</sup> S. 322.142(4), F.S.

<sup>98</sup> S. 943.045(11), F.S., defines "Criminal justice agency" as: a court, the Department of Law Enforcement, the Department of Juvenile Justice, the protective investigations component of the Department of Children and Families, which investigates the crimes of abuse and neglect, any other governmental agency or subunit thereof that performs the administration of criminal justice pursuant to a statute or rule of court and that allocates a substantial part of its annual budget to the administration of criminal justice, or the investigations component of the Department of Financial Services which investigates the crimes of fraud and official misconduct in all public assistance given to residents of this state or provided to others by this state.

<sup>99</sup> S. 943.045(2), F.S., defines "administration of criminal justice" as performing functions of detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders by governmental agencies. The administration of criminal justice includes criminal identification activities and the collection, processing, storage, and dissemination of criminal justice information by governmental agencies.

<sup>100</sup> *Supra* note 2 at page 6.

<sup>101</sup> Personal Injury Protection covers a driver regardless of if they are at-fault in a crash, up to the limits of their policy.

<sup>102</sup> Property Damage Liability pays for the damage to other people's property.

insurance coverage must be maintained continuously throughout the registration period, regardless of the vehicle's location.<sup>103</sup>

After notice and an opportunity to be heard, DHSMV must suspend the registration and driver's license of any owner or registrant of a motor vehicle who fails to maintain a motor vehicle insurance policy that meets the minimum coverage requirements.<sup>104</sup> A suspended driver's license or registration may be reinstated upon reobtaining the minimum required motor vehicle insurance and paying DHSMV a nonrefundable reinstatement fee of \$150 for the first reinstatement, \$250 for the second reinstatement, and \$500 for each subsequent reinstatement during the three years following the first reinstatement. A person reinstating his or her insurance must secure noncancelable coverage as described in ss. 324.021(8), 324.023, and 627.7275(2), F.S., and present proof that the coverage is in force and maintain proof for two years.<sup>105</sup>

Every owner or operator of a motor vehicle in Florida, who regardless of adjudication of guilt, has been found guilty or pled nolo contendere to a charge of driving under the influence under s. 316.193, F.S., must establish and maintain a motor vehicle liability policy that provides bodily injury liability coverage of \$100,000 in the event of bodily injury to, or death of, one person in any one crash, \$300,000 in the event of bodily injury to, or death of, two or more persons in any one crash, and \$50,000 in PDL. In the alternative, drivers may furnish a certificate of deposit of \$350,000 or more. These higher levels of coverage must be carried for a minimum of three years.<sup>106</sup>

A person whose driving privileges have been suspended or revoked for driving under the influence must secure "noncancelable coverage" to have their 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's license and registration are not in effect. Once the underwriting is complete, the insurer must notify DHSMV that the policy is in full force and effect, and is noncancelable for the remainder of the policy period. The coverages for bodily injury, PIP, and PDL cannot be reduced below the required minimum limits once the noncancelable policy period becomes effective.<sup>107</sup>

#### Effect of the Bill

The bill removes the requirement that persons seeking to reinstate suspended or revoked driving privileges must obtain noncancelable coverage for at least six months.

### **Drug and Alcohol Clearinghouse**

#### Current Situation

The Drug and Alcohol Clearinghouse (Clearinghouse) is a secure online database that gives employers, the Federal Motor Carrier Safety Administration (FMCSA), State Driver Licensing Agencies (SDLAs), and State law enforcement personnel real-time information about violations of the U.S. Department of Transportation (DOT) drug and alcohol testing program by commercial driver's license (CDL) and commercial learner's permit (CLP) holders.<sup>108</sup>

The Clearinghouse contains records of violations of drug and alcohol prohibitions, including positive drug or alcohol test results and test refusals<sup>109</sup>, as reported by employers.<sup>110</sup> A driver found in violation

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<sup>103</sup> FLHSMV, *Florida Insurance Requirements*, <https://www.flhsmv.gov/insurance/> (last visited Mar. 22, 2023).

<sup>104</sup> S. 324.0221(2), F.S.

<sup>105</sup> S. 324.0221(3), F.S.

<sup>106</sup> S. 324.023, F.S.

<sup>107</sup> S. 627.7275, F.S.

<sup>108</sup> FMCSA, *Drug and Alcohol Clearinghouse*, <https://clearinghouse.fmcsa.dot.gov/FAQ/Topics/General> (last visited Mar. 22, 2023).

<sup>109</sup> 49 C.F.R. § 382.601(b)(12).

<sup>110</sup> 49 C.F.R. § 382.705 states that within two business days of determining or verifying a drug or alcohol test result, Medical Resource Officers for Employers (MROs) must report the information about a driver to the Clearinghouse. Employers have three days to report test results, violations, or refusals to the Clearinghouse.

of the program must complete a follow-up testing plan administered by a substance abuse professional and receive a negative return-to-duty test result before they are able to resume operating a commercial vehicle. This information is also recorded in the Clearinghouse.<sup>111</sup>

Employers are required to query the Clearinghouse for current and prospective employees' drug and alcohol violations before permitting those employees to operate a commercial motor vehicle (CMV) on public roads. They must also annually query the Clearinghouse for each driver they currently employ.<sup>112</sup>

On October 7, 2021, the FMCSA published a final rule establishing requirements for SDLA's access to and use of driver-specific drug and alcohol program violation information contained in the Clearinghouse.<sup>113</sup> The rule requires that:

- SDLAs must not issue, renew, upgrade, or transfer a CDL or CLP, as applicable, for any individual prohibited under FMCSA's regulations from performing safety-sensitive functions, including driving a CMV, due to one or more drug and alcohol program violations.
- SDLAs must, upon receipt of notification that a driver is prohibited from operating a CMV due to a drug and alcohol program violation, initiate established state procedures for downgrading to remove the CLP or CDL privilege from the driver's license within 60 days.
- Drivers completing the return-to-duty process before the downgrade process is completed would no longer be prohibited from operating a CMV and thus would no longer be subject to a downgrade.<sup>114</sup>

States have until November 18, 2024, to comply with these requirements.<sup>115</sup>

### Effect of the Bill

The bill makes the statutory changes necessary for DHSMV to enforce and administer the Clearinghouse provisions of the federal rule.

Related to driver licenses, the bill defines "downgrade" as when a state removes the CLP or CDL privilege from the driver's license, matching the federal definition of "CDL downgrade."<sup>116</sup> The bill clarifies that the "cancellation," "revocation," and "suspension," of a driver's license does not include a downgrade.

The bill states that a commercial vehicle operator cannot be licensed by DHSMV to operate a commercial vehicle if deemed ineligible by the Clearinghouse.

The bill states that DHSMV cannot issue a temporary commercial instruction permit (CIP) if DHSMV has been notified by the Clearinghouse that the applicant is prohibited from operating a commercial motor vehicle.

The bill provides that when a person applies for the reinstatement of a commercial driver license following a downgrade of the person's privilege to operate a commercial motor vehicle, they must pay the service fee of \$75 in addition to the fee for a license. This matches the current process for when a person applies for the reinstatement of a commercial driver license following a disqualification to

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<sup>111</sup> 49 C.F.R. § 382.701(d).

<sup>112</sup> FMCSA, *Commercial Driver's License Drug and Alcohol Clearinghouse*, <https://www.fmcsa.dot.gov/regulations/commercial-drivers-license-drug-and-alcohol-clearinghouse> (last visited Mar. 22, 2023).

<sup>113</sup> Controlled Substances and Alcohol Testing: State Driver's Licensing Agency Non-Issuance/Downgrade of Commercial Driver's License, 86 Fed. Reg. 55718 (Oct. 7, 2021) (amending 49 C.F.R. Parts 382, 383, 384, 390, and 392).

<sup>114</sup> FMCSA, *How will State Driver Licensing Agencies (SDLAs) use the Clearinghouse?*, <https://www.fmcsa.dot.gov/regulations/drug-alcohol-testing/how-will-state-driver-licensing-agencies-sdlas-use-clearinghouse-0> (last visited Mar. 22, 2023).

<sup>115</sup> Controlled Substances and Alcohol Testing: State Driver's Licensing Agency Non-Issuance/Downgrade of Commercial Driver's License, 86 Fed. Reg. 55718 (Oct. 7, 2021) (amending 49 CFR § 382, 383, 384, 390, and 392).

<sup>116</sup> 49 C.F.R. § 383.5(4).



operate a commercial motor vehicle.<sup>117</sup> If an applicant is requesting review of their downgrade status, they must pay the \$25 filing fee.

The bill creates a new section: Commercial driver license and commercial instruction permit; Commercial Driver's License Drug and Alcohol Clearinghouse; prohibition on issuance of commercial driver licenses; downgrades. This section puts the state in compliance with the federal rule and creates a state-established procedure for downgrading a CDL or CIP.

Beginning November 18, 2024:

- When a person applies for or seeks to renew, transfer, or make any other change to a CDL or CIP, DHSMV must obtain the driver's record from the Clearinghouse. 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 from the Clearinghouse that the person is prohibited from operating a commercial vehicle.
- DHSMV must downgrade the CDL or CIP of any driver if DHSMV receives notification from the Clearinghouse that the driver is prohibited from operating a commercial motor vehicle. Any such downgrade must be completed and recorded by DHSMV within 60 days.
- Upon notification from the Clearinghouse that a driver is prohibited from operating a motor vehicle, DHSMV must immediately notify the driver who is the subject of such notification that he or she is prohibited from operating a commercial motor vehicle and, upon his or her request, must afford him or her an opportunity for an informal hearing.
- A driver for whom DHSMV receives notification from the Clearinghouse that a person is prohibited from operating a commercial motor vehicle may, if otherwise qualified, be issued a Class E driver license valid for the length of his or her unexpired license period, at no cost.

When a driver receives notice of the downgrade, he or she has 20 days to request an informal hearing and pay the \$25 filing fee. If the driver does not request the hearing and pay the fee in time, and DHSMV has not received notification from the Clearinghouse that the driver is no longer prohibited from operating a commercial motor vehicle, DHSMV must downgrade the CDL or CIP.

If a driver does request an informal hearing, it must be scheduled and held within 30 days of the request. The informal hearing is exempt from the provisions of the Administrative Procedures Act, must be conducted before a hearing officer designated by DHSMV, and may be conducted from any location in this state by means of communications technology. The notification received by DHSMV from the Clearinghouse must be in the record for consideration by the hearing officer and in any further proceedings and is not subject to challenge.

Following a final order that results in the downgrade of a driver's CDL or CIP, DHSMV must record immediately in the driver's record that the driver is disqualified from operating or driving a commercial motor vehicle. If after the final order DHSMV receives notification from the Clearinghouse that the driver is no longer prohibited from operating a commercial motor vehicle, DHSMV must reinstate the CDL or CIP.

The downgrade of a CDL or CIP does not preclude the driver from other suspensions, disqualifications, or penalties relating to unlawful operation of a commercial motor vehicle or driving under the influence.

## B. SECTION DIRECTORY:

**Section 1** Amends s. 207.004, F.S., relating to registration of motor carriers; identifying devices; fees; renewals; temporary fuel-use permits and driveway permits.

**Section 2** Provides legislative intent for requiring electronic submission of crash reports.

**Section 3** Amends s. 316.066, F.S., relating to written reports of crashes.



- Section 4** Amends s. 316.2935, F.S., relating to air pollution control equipment; tampering prohibited; penalty.
- Section 5** Amends s. 316.302, F.S., relating to commercial motor vehicles; safety regulations; transporters and shippers of hazardous materials; enforcement.
- Section 6** Amends s. 319.14, F.S., relating to sale of motor vehicles registered or used as taxicabs, police vehicles, lease vehicles, rebuilt vehicles, nonconforming vehicles, custom vehicles, or street rod vehicles; conversion of low-speed vehicles.
- Section 7** Amends s. 319.23, F.S., relating to application for, and issuance of, certificate of title.
- Section 8** Amends s. 319.28, F.S., relating to transfer of ownership by operation of law.
- Section 9** Amends s. 319.29, F.S., relating to lost or destroyed certificates.
- Section 10** Amends s. 319.30, F.S., relating to definitions; dismantling, destruction, change of identity of motor vehicle or mobile home; salvage.
- Section 11** Amends s. 320.06, F.S., relating to registration certificates, license plates, and validation stickers generally.
- Section 12** Amends s. 320.08058, F.S., relating to specialty license plates.
- Section 13** Amends s. 320.084, F.S., relating to free motor vehicle license plate to certain disabled veterans.
- Section 14** Amends s. 322.01, F.S., relating to definitions.
- Section 15** Amends s. 322.02, F.S., relating to legislative intent; administration.
- Section 16** Amends s. 322.05, F.S., relating to persons not to be licensed.
- Section 17** Amends s. 322.07, F.S., relating to instruction permits and temporary licenses.
- Section 18** Amends s. 322.141, F.S., relating to color or markings of certain licenses or identification cards.
- Section 19** Amends s. 322.142, F.S., relating to color photographic or digital imaged licenses.
- Section 20** Amends s. 322.21, F.S., relating to license fees; procedure for handling and collecting fees.
- Section 21** Creates s. 322.591, F.S., relating to Commercial driver license and commercial instruction permit; Commercial Driver's License Drug and Alcohol Clearinghouse; prohibition on issuance of commercial driver licenses; downgrades.
- Section 22** Amends s. 322.34, F.S., relating to driving while license suspended, revoked, canceled, or disqualified.
- Section 23** Amends s. 322.61, F.S., relating to disqualification from operating a commercial motor vehicle.
- Section 24** Amends s. 324.0221, F.S., relating to reports by insurers to the department; suspension of driver license and vehicle registrations; reinstatement.
- Section 25** Amends s. 324.131, F.S., relating to period of suspension.

- Section 26** Amends s. 627.311, F.S., relating to a joint underwriting plan.
- Section 27** Amends s. 627.351, F.S., relating to insurance risk apportionment plans.
- Section 28** Amends s. 627.7275, F.S., relating to motor vehicle liability.
- Section 29** Provides an effective date of July 1, 2023, except as otherwise provided in the bill.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The provision in the bill allowing free specialty plates for disabled veterans will have no fiscal impact on revenues since disabled veterans currently receive free license plates. However, the disabled veteran must pay all of the applicable fees related to the specialty plate, except for the initial license plate and registration fees waived for "DV" license plate applicants. Additionally, the provision of the bill authorizing permanent license plates for certain rental trucks will have no fiscal impact on revenues because the annual fee paid for the license plate will not change.

#### 2. Expenditures:

The DHSMV will incur some expenditures associated with programming the Florida Real-Time Information System regarding the permanent registration of rental trucks and creating a saltwater brand for electric vehicle titles. The department estimates these contracted costs at approximately \$15,165. This cost can be absorbed within existing DHSMV resources.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

Indeterminate. There could be a minimal cost impact to law enforcement agencies that are currently submitting crash reports in paper form because they will need hardware, assuming they do not already have such hardware, in order to electronically submit crash reports. However, DHSMV intends to assist any such law enforcement agency with obtaining a grant for the purchase of needed hardware.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. The bill will make it more convenient, and not require travel expenses for commercial truck operators to renew their IFTA license and decal due to the increase in locations offering that service. Motor vehicle dealers will be saved the expense of certifying air pollution equipment for certain leased vehicles. The expedited process for the issuance of a salvage title will allow insurance companies to dispose of vehicle declared a total loss more quickly.

### D. FISCAL COMMENTS:

None.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure 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:

Rulemaking may be necessary in order to conform to changes made by the bill.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.