Tourism, Infrastructure & Energy Subcommittee

Monday, March 22, 2021
3:00 PM – 6:00 PM
Webster Hall (212 Knott)

Meeting Packet

Chris Sprowls
Speaker

Brad Drake
Chair

The Florida House of Representatives

Commerce Committee
Tourism, Infrastructure & Energy Subcommittee

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AGENDA

Monday, March 22, 2021
Webster Hall (212 Knott)
3:00 PM – 6:00 PM

I. Call to Order & Roll Call

II. Welcoming Remarks

III. Consideration of the following bills(s):

HB 605 by *Rep. Hunschofsky*
Bicycle and Pedestrian Safety

HB 1151 by *Rep. Brannan*
Department of Highway Safety and Motor Vehicles

HB 1201 by *Rep. Altman*
Space Florida Board of Directors

HB 1239 by *Rep. Tomkow*
Broadband Internet Infrastructure

HB 1313 by *Rep. LaMarca*
Digital Driver Licenses and Identification Cards

HB 1315 by *Rep. LaMarca*
Pub. Rec./Department of Highway Safety and Motor Vehicles

HB 1359 by *Rep. Brannan*
Pub. Rec./Department of Highway Safety and Motor Vehicles

303 House Office Building, 402 South Monroe Street, Tallahassee, Florida 32399-1300
(850) 717-4873 Fax: (850) 413-0419

IV. Consideration of the following proposed committee substitute(s):

PCS for HB 139 -- Motor Vehicle and Vessel Registration Data

PCS for HB 1329 -- Transportation Facility Designations Honoring Fallen Law Enforcement Officers

PCS for HB 1629 -- Transportation Facility Designations

V. Adjournment

HB 605

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 605 Bicycle and Pedestrian Safety
SPONSOR(S): Hunschofsky and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 950

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee		Johnson	Keating
2) Infrastructure & Tourism Appropriations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

The bill addresses issues relating to bicycle and pedestrian safety. In summary, the bill:

- Defines the terms “bicycle lane” and “separated bicycle lane.”
- Provides requirements for a vehicle overtaking a bicycle or other nonmotorized vehicle, an electric bicycle, or a pedestrian occupying the same travel lane.
- Requires the Department of Highway Safety and Motor Vehicles (DHSMV) to provide an awareness campaign regarding vehicles overtaking a bicycle, other nonmotorized vehicle, an electric bicycle, or a pedestrian.
- Provides that no-passing zones do not apply to drivers who safely and briefly drive to the left of center of the roadway to overtake a bicycle, other nonmotorized vehicle, an electric bicycle, or a pedestrian.
- Requires a vehicle making a right turn while overtaking and passing a bicycle proceeding in the same direction, to do so only if the bicycle is at least 20 feet from the intersection.
- Authorizes bicyclists riding in groups, after coming to a full stop, to go through an intersection in groups of 10 or fewer.
- Requires 20 percent of the questions on the driver license test to address bicycle and pedestrian safety.

The bill appears have a negative impact on state government expenditures, as it requires DHSMV to program changes to the driver license test and provide an awareness campaign.

The bill has an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Definitions

Current Situation
Florida law defines the term "bicycle" as every vehicle[1] propelled solely by human power, having two tandem wheels, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels. The term does not include a scooter or similar device.[2]

Florida law defines the term "electric bicycle" as a bicycle or tricycle equipped with fully operable pedals, a seat or saddle for the use of the rider, and an electric motor of less than 750 watts which meets the requirements of one of the following three classifications:

- "Class 1 electric bicycle" means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the electric bicycle reaches the speed of 20 miles per hour.
- "Class 2 electric bicycle" means an electric bicycle equipped with a motor that may be used exclusively to propel the electric bicycle and that ceases to provide assistance when the electric bicycle reaches the speed of 20 miles per hour.
- "Class 3 electric bicycle" means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the electric bicycle reaches the speed of 28 miles per hour.[3]

An electric bicycle is subject to the same rules and regulations applicable to a bicycle.[4]

Florida law does not define the terms "bicycle lane" or "separated bicycle lane."

Effect of the Bill
The bill defines the term "bicycle lane" as any portion of a roadway or highway which is designated by pavement markings and signs for preferential or exclusive use by bicycles.

The bill defines the term "separated bicycle lane" as a bicycle lane that is separated from motor vehicle traffic by a physical barrier.

Overtaking or Passing a Vehicle

Current Situation
Under Florida law, the driver of a vehicle overtaking another vehicle proceeding in the same direction must give an appropriate signal,[5] must pass to the left of the vehicle at a safe distance, and may not again drive to the right side of the roadway until he or she is safely clear of the overtaken vehicle. A driver overtaking a bicycle or other nonmotorized vehicle,[6] or an electric bicycle, must pass the bicycle, other nonmotorized vehicle, or electric bicycle at a safe distance of not less than three feet between the vehicle and the bicycle, other nonmotorized vehicle, or electric bicycle.[7] A violation is a noncriminal

[1] Section 316.003(103), F.S., defines the term "vehicle" as every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except personal delivery devices, mobile carriers, and devices used exclusively upon stationary rails or tracks.
[2] S. 316.003(4), F.S.
[3] S. 316.003(22), F.S.
[4] S. 316.20655(1), F.S.
[5] Signals are provided for in s. 316.156, F.S.
[6] The term "other nonmotorized vehicle" is not defined in ch. 316, F.S.
[7] S. 316.083(1), F.S.

traffic infraction, punishable as a moving violation as provided in Ch. 318, F.S.[8] The statutory base fine is $60,[9] but with additional fees and surcharges, the total fine is up to $158.[10]

Effect of the Bill

The bill provides that the driver of a vehicle overtaking a bicycle or other nonmotorized vehicle, electric bicycle, or pedestrian occupying the same travel lane must vacate the lane or, if such movement cannot be safely accomplished, must remain at a safe distance behind the bicycle, other nonmotorized vehicle, electric bicycle, or pedestrian until the driver can safely vacate the lane and may not reenter the lane until safely clear of the overtaken bicycle, other nonmotorized vehicle, electric bicycle, or pedestrian.

The provisions relating to overtaking bicycles, other nonmotorized vehicles, electric bicycles, do not apply when the bicycle, other nonmotorized vehicle, or electric bicycle occupies a separated bicycle lane. A violation is a noncriminal traffic infraction, punishable as a moving violation as provided in ch. 318, F.S. The statutory base fine is $60,[11] but with additional fees and surcharges, the total fine is up to $158.[12]

Pedestrian and Bicycle Safety Efforts

Current Situation

The Department of Highway Safety and Motor Vehicles (DSHMV) works to promote traffic safety and educate citizens on traffic laws and regulations that protect the safety of pedestrians and bicyclists. In addition to partnering with the Department of Transportation (DOT), Florida's Pedestrian and Bicycle Safety Coalition, and Alert Today Florida on education and outreach efforts, DSHMV incorporates safety messages into its driver education materials and its communications and outreach efforts.[13]

Each May, DHSMV leads the Share the Road campaign, which works to educate individuals on bicycle and pedestrian safety and educates motorists on the importance of sharing the road with all road users. The 2019 Share the Road campaign utilized billboards, online ads, and internet radio advertisements.[14]

Current law provides for the examination of applicants for various classes of driver licenses. For an applicant for a noncommercial driver license, the examination must include a test of the applicant's ability to read and understand highway signs regulating, warning, and directing traffic and his or her knowledge of the state's traffic laws, including laws related to driving under the influence of alcohol or controlled substances.[15] However, there is no requirement that the driver license test contain questions regarding bicycle and pedestrian safety.

Currently, the driver license exam consists of up to of 50 questions. There are 309 questions in DSHMV's test bank, with 18 questions specific to pedestrian and bicyclist safety. Whether or not an applicant will see a bicycle or pedestrian question on the test depends on the number of questions within that category, the number of questions pulled from a category, and how many questions a customer sees while taking the test.[16,17]

Effect of the Bill

[8] S. 316.083(3), F.S. Chapter 318, F.S., relates to the disposition of traffic infractions.
[9] S. 318.18(3)(a), F.S.
[10] Florida Clerk of Courts, *2020 Distribution Schedule,* p. 23, available at: https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/advisories/advisories_2021/21bull005_Attach_2_2020_Dist.pdf (last visited February 8, 2021).
[11] S, 318.18(3)(a), F.S.
[12] Florida Clerk of Courts, *2020 Distribution Schedule,* p. 23.
[13] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2020 House Bill 950, p. 3. March 9, 2021.
[14] Id.
[15] S. 322.12(3), F.S.
[16] The test has a quick pass/quick fail delivery; a customer passes after answering 40 questions correctly and fails after answering 11 questions incorrectly.
[17] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 950, p. 4. (March 9, 2021).

The bill requires DHSMV to provide an awareness campaign informing the motoring public about the safety precautions that must be taken when overtaking a bicycle, other nonmotorized vehicle, electric bicycle, or pedestrian, and to provide information about such precautions in all newly printed driver license education materials.

The bill requires 20 percent of the test questions (or 10 questions) for each noncommercial driver license applicant to address bicycle and pedestrian safety. This would likely lead to fewer questions devoted to an applicant's understanding of highway signs and knowledge of traffic laws.[18]

No Passing Zones

Current Situation
Section 316.0875, F.S., authorizes DOT and local authorities[19] to determine those portions of any highway under their respective jurisdiction where overtaking and passing or driving to the left of the center of the roadway would be especially hazardous and may, by appropriate signs or markings on the roadway, indicate the beginning and end of such zones. When such signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle must obey those directions.[20]

Where signs or markings define a no-passing zone, a driver may not drive on the left side of the roadway with the no-passing zone or on the left side of any pavement striping designed to mark such no-passing zone throughout its length.[21]

Section 316.0875, F.S., does not apply when an obstruction exists making it necessary to drive to the left of the center of the highway, nor to the driver of a vehicle turning left into or from an alley, private road, or driveway.[22]

Effect of the Bill
The bill provides that that s. 316.0875, F.S., does not apply to the driver of a vehicle overtaking or passing a bicycle, other nonmotorized vehicle, electric bicycle, or pedestrian occupying the same travel lane.

Required Method for Turning at Intersections

Current Situation
Current law provides that the driver of a vehicle intending to make a right turn must make both the approach for the right turn and the right turn as close as practicable to the right-hand curb or edge of the roadway.[23]

A violation of s. 316.151, F.S. is a noncriminal traffic infraction, punishable as a moving violation as provided in Ch. 318, F.S.[24] The statutory base fine is $60,[25] but with additional fees and surcharges, the total fine is up to $158.[26]

Effect of the Bill
The bill requires that the driver of a vehicle intending to turn right at an intersection, when overtaking or passing a bicycle proceeding in the same direction, must give an appropriate signal and make the right turn only if the bicycle is at least 20 feet from the intersection.

[18] *Id.*
[19] Section 316.003(36), F.S., defines the term "local authorities" as all officers and public officials of the several counties and municipalities of this state.
[20] S. 316.0875(1), F.S.
[21] S. 316.0875(2), F.S.
[22] S. 316.0875(3), F.S.
[23] S. 316.151(1)(a), F.S.
[24] S. 316.151(3), F.S.
[25] S, 318.18(3)(a), F.S.
[26] Florida Clerk of Courts, *2020 Distribution Schedule*, p. 23.

Bicycle Regulations

Current Situation

Chapter 316, F.S., is the Florida Uniform Traffic Control Law,[27] which is designed for the state to have uniform traffic laws throughout the state and its counties, and uniform traffic ordinances in all municipalities.[28]

Under Florida law, every person propelling a vehicle by human power has all of the rights and all of the duties applicable to the driver of any other vehicle under the law except as to special regulations in the Florida Uniform Traffic Control Law and except as to provisions of the law, which by their nature can have no application.[29] Additionally, an electric bicycle is subject to the same rules and regulations afforded a bicycle, including s. 316.2065, F.S., relating to bicycle regulation.[30]

Any person operating a bicycle upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing must ride in the lane marked for bicycle use or, if no lane is marked for bicycle use, as close as practicable to the right-hand curb or edge of the roadway except under any of the following situations:

- When overtaking and passing another bicycle or vehicle proceeding in the same direction.
- When preparing for a left turn at an intersection or into a private road or driveway.
- When reasonably necessary to avoid any condition or potential conflict, including, but not limited to, a fixed or moving object, parked or moving vehicle, bicycle, pedestrian, animal, surface hazard, turn lane, or substandard-width lane,[31] which makes it unsafe to continue along the right-hand curb or edge or within a bicycle lane.[32]

Any person operating a bicycle upon a one-way highway with two or more marked traffic lanes may ride as near the left-hand curb or edge of such roadway as practicable.[33]

Persons riding bicycles upon a roadway may not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. Persons riding two abreast may not impede traffic when traveling at less than the normal speed of traffic at the time and place and under the conditions then existing and must ride within a single lane.[34]

Except as otherwise provided in s. 316.2065, F.S., a violation of s. 316.2065, F.S., is a noncriminal traffic infraction, punishable as a pedestrian violation as provided in ch. 318, F.S.[35] The base fine is $15,[36] but with additional fees and surcharges, the total fine is up to $56.60.[37]

Effect of the Bill

The bill prohibits persons riding bicycles in a bike lane from riding more than two abreast.

The bill also provides that when stopping at a stop sign, persons riding bicycles in groups, after coming to a full stop and obeying all traffic laws, may proceed through the stop sign in a group of 10 or fewer at a time. Motor vehicle operators must allow each such group to travel through the intersection before moving forward. However, the bill does not specify how, such as single file, the groups of bicyclists may travel through an intersection.[38]

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[27] S. 316.001, F.S.
[28] S. 316.002, F.S.
[29] S. 316.2065(1), F.S.
[30] S. 316.20655(1), F.S.
[31] For the purposes of s. 316.2065(5), F.S., the term "substandard-width lane" means a lane that is too narrow for a bicycle and another vehicle to travel safely side by side within the lane.
[32] S. 316.2065(5)(a), F.S.
[33] S. 316.2065(5)(b), F.S.
[34] S. 316.2065(6), F.S.
[35] S. 316.2065(19), F.S.
[36] S. 318.18(1), F.S.
[37] Florida Clerk of Courts, 2020 Distribution Schedule, p. 21.
[38] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 Senate Bill 950. P. 4. (March 9, 2021).

A violation of this provision would be a noncriminal traffic infraction, punishable as a pedestrian violation. The base fine is $15,[39] but with additional fees and surcharges, the total fine is up to $56.50.[40]

Conforming Changes

The bill also amends ss. 212.05, 316.306, and 655.960, F.S., conforming to cross-references.

Effective Date

The bill has an effective date of July 1, 2021.

B. SECTION DIRECTORY:

Section 1 Amends s. 316.003, F.S., providing definitions.

Section 2 Amends s. 316.083, F.S., relating to overtaking and passing a vehicle, a bicycle, or other nonmotorized vehicle, an electric bicycle, or a pedestrian.

Section 3 Amends s. 316.0875, F.S., relating to no-passing zones.

Section 4 Amends s. 316.151, F.S., relating to required position and method of turning at intersections.

Section 5 Amends s. 316.2065, F.S., relating to bicycle regulations.

Section 6 Amends s. 322.12, F.S. relating to the examination of applicants.

Sections 7-9 Amend ss. 212.05, 316.306, and 655.960, F.S., conforming cross-references.

Section 10 Provides an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill appears to have a negative impact on state government expenditures.

   Each May, DHSMV conducts a “Share the Road” safety campaign focusing on motorcycle, bicycle, and commercial vehicle safety. If the awareness provisions of the bill can be added to that existing awareness campaign, DHSMV can absorb the costs within existing resources. However, if DHSMV is required to do a new, standalone awareness campaign DHSMV states that additional resources would be required to conduct an effective public awareness campaign.[41]

   DHSMV will incur expenditures associated with redesigning its driver license test to provide that at least 20 percent of the test questions address bicycle and pedestrian safety. This cost can be absorbed within existing resources.[42]

[39] S. 318.318(1), F.S.
[40] Florida Clerk of Courts, 2020 Distribution Schedule, p. 21.
[41] *Id.* at 5.
[42] *Id.*

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

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 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:

The bill does not provide a grant of rulemaking, nor does it require rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not include micro mobility devices[43] (such as e-scooters), whose riders have same rights and duties as bicyclists.[44] These devices, however, may be governed by local ordinances that specify where they can be used.[45] Electric bike use is also subject to such ordinances.[46] In addition, the bill does not address electric personal assistive mobility devices[47] that are permitted to be operated on any street or road where bicycles are permitted and on marked bicycle paths.[48,49]

The bill requires the driver of a vehicle to remain at a safe distance behind a pedestrian until the driver can safely vacate the lane. This language is appropriate for bicycles, other nonmotorized vehicles, and electric bicycles, which are required to travel in the same direction as vehicle traffic. However, Florida

[43] Section 316.003(39), F.S., defines the term "micromobility device" as any motorized transportation device made available for private use by reservation through an online application, website, or software for point-to-point trips and which is not capable of traveling at a speed greater than 20 miles per hour on level ground. This term includes motorized scooters and bicycles.
[44] *See*. s. 316.2128(1), F.S.
[45] S. 316.2128, F.S.
[46] S. 316.20655, F.S.
[47] Section 316.003(23), F.S., defines the term "electric personal assistive mobility device" as any self-balancing, two-nontandem-wheeled device, designed to transport only one person, with an electric propulsion system with average power of 750 watts (1 horsepower), the maximum speed of which, on a paved level surface when powered solely by such a propulsion system while being ridden by an operator who weighs 170 pounds, is less than 20 miles per hour.
[48] S. 316.2068, F.S.
[49] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 Senate Bill 950, p. 3. (March 9, 2021).

law requires pedestrians to walk facing traffic on the left side of the roadway, which would prevent the driver of a vehicle from remaining a safe distance behind a pedestrian as the bill requires.[50]

The bill allows a vehicle to make a right turn at an intersection and pass a bicyclist only if the bicyclist is at least 20 feet from the intersection. However, depending on the speed of the bicycle and the speed of the vehicle turning, this may or may not be an appropriate distance for the vehicle to complete its turn without affecting the bicyclist and potentially causing a crash.[51]

The bill provides that "when stopping at a stop sign, persons riding bicycles in groups, after coming to a full stop and obeying all traffic laws, may proceed through the stop sign in a group of 10 or fewer at a time. Motor vehicle operators must allow each such group to travel through the intersection before moving forward." Pursuant to s. 316.123(2)(b), F.S., "At a four-way stop intersection, the driver of the first vehicle to stop at the intersection shall be the first to proceed. If two or more vehicles reach the four-way stop intersection at the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right."[52] As the bill is drafted, it is unclear whether "each such group" refers to a single group of 10 bicyclists or more than one group of 10 bicyclists. In addition, DHSMV recommends language be added to the bill indicating that a group of bicyclists will not proceed from the stop sign unless oncoming traffic is of such a distance that all members of the group may safely proceed through the intersection.[53]

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

[50] *Id.* at 6.
[51] *Id.*
[52] *Id.* at 6-7.
[53] *Id.*

A bill to be entitled

An act relating to bicycle and pedestrian safety; amending s. 316.003, F.S.; defining the terms "bicycle lane" and "separated bicycle lane"; amending s. 316.083, F.S.; revising and providing requirements for the driver of a motor vehicle overtaking a bicycle or other nonmotorized vehicle, an electric bicycle, or a pedestrian; providing exceptions; providing a penalty; requiring the Department of Highway Safety and Motor Vehicles to provide an awareness campaign, and include information in certain educational materials, regarding certain safety precautions; amending s. 316.0875, F.S.; exempting a motor vehicle driver from certain provisions relating to no-passing zones when overtaking a bicycle or other nonmotorized vehicle, an electric bicycle, or a pedestrian; making a technical change; amending s. 316.151, F.S.; revising requirements for vehicles turning at intersections; providing turn signaling and distance requirements for a motor vehicle driver when overtaking and passing a bicycle; making a technical change; amending s. 316.2065, F.S.; prohibiting persons riding bicycles in a bicycle lane from riding more than two abreast; providing requirements for persons riding bicycles in groups when stopping at a stop sign; making a

technical change; amending s. 322.12, F.S.; requiring a specified portion of the examination for a Class E driver license to address bicycle and pedestrian safety; amending ss. 212.05, 316.306, and 655.960, F.S.; conforming cross-references; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Present subsections (5) through (76) and (77) through (105) of section 316.003, Florida Statutes, are redesignated as subsections (6) through (77) and (79) through (107), respectively, new subsections (5) and (78) are added to that section, and present subsection (62) of that section is amended, to read:

316.003 Definitions.—The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(5) BICYCLE LANE.—Any portion of a roadway or highway which is designated by pavement markings and signs for preferential or exclusive use by bicycles.

(63) ~~(62)~~ PRIVATE ROAD OR DRIVEWAY.—Except as otherwise provided in paragraph (86)(b) ~~(84)(b)~~, any privately owned way or place used for vehicular travel by the owner and those having

express or implied permission from the owner, but not by other persons.

(78) SEPARATED BICYCLE LANE.—A bicycle lane that is separated from motor vehicle traffic by a physical barrier.

Section 2. Section 316.083, Florida Statutes, is amended to read:

316.083 Overtaking and passing a vehicle, a bicycle or other nonmotorized vehicle, an electric bicycle, or a pedestrian.—The following rules shall govern the overtaking and passing of vehicles, bicycles and other nonmotorized vehicles, electric bicycles, and pedestrians ~~proceeding in the same direction~~, subject to those limitations, exceptions, and special rules hereinafter stated:

(1) The driver of a vehicle overtaking another vehicle proceeding in the same direction must ~~shall~~ give an appropriate signal as provided for in s. 316.156, must ~~shall~~ pass to the left thereof at a safe distance, and must ~~shall~~ not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(2) The driver of a vehicle overtaking a bicycle or other nonmotorized vehicle, an electric bicycle, or a pedestrian occupying the same travel lane must vacate the lane or, if such movement cannot be safely accomplished, must remain at a safe distance behind the bicycle or other nonmotorized vehicle, electric bicycle, or pedestrian until the driver can safely

vacate the lane and must not reenter the lane until safely clear of the overtaken bicycle or other nonmotorized vehicle, electric bicycle, or pedestrian.

(3) The driver of a vehicle overtaking a bicycle or other nonmotorized vehicle, or an electric bicycle, occupying a bicycle lane must pass the bicycle, other nonmotorized vehicle, or electric bicycle at a safe distance of not less than 3 feet between the vehicle and the bicycle, other nonmotorized vehicle, or electric bicycle.

(4) Subsections (2) and (3) do not apply when a bicycle or other nonmotorized vehicle, or an electric bicycle, occupies a separated bicycle lane.

(5) ~~(2)~~ Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle must ~~shall~~ give way to the right in favor of the overtaking vehicle, on audible signal or upon the visible blinking of the headlamps of the overtaking vehicle if such overtaking is being attempted at nighttime, and must ~~shall~~ not increase the speed of his or her vehicle until completely passed by the overtaking vehicle.

(6) ~~(3)~~ A person who violates ~~violation of~~ this section commits ~~is~~ a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

(7) The department must provide an awareness campaign informing the motoring public about the safety precautions to be taken pursuant to this section when overtaking a bicycle or

other nonmotorized vehicle, an electric bicycle, or a pedestrian and must provide information about such precautions in all newly printed driver license educational materials.

Section 3. Section 316.0875, Florida Statutes, is amended to read:

316.0875 No-passing zones.—

(1) The Department of Transportation and local authorities may ~~are authorized to~~ determine those portions of any highway under their respective jurisdictions ~~jurisdiction~~ where overtaking and passing or driving to the left of the roadway would be especially hazardous and may, by appropriate signs or markings on the roadway, indicate the beginning and end of such zones.~~, and~~ When such signs or markings are in place and clearly visible to an ordinarily observant person, a ~~every~~ driver of a vehicle must ~~shall~~ obey the directions thereof.

(2) Where signs or markings are in place to define a no-passing zone as set forth in subsection (1), a ~~no~~ driver may not, ~~shall~~ at any time, drive on the left side of the roadway within ~~with~~ such no-passing zone or on the left side of any pavement striping designed to mark such no-passing zone throughout its length.

(3) This section does not apply to a driver who safely and briefly drives to the left of the center of the roadway only to the extent necessary to:

(a) Avoid ~~when~~ an obstruction;

(b) Turn ~~exists making it necessary to drive to the left of the center of the highway, nor to the driver of a vehicle turning~~ left into or from an alley, a private road, or a driveway; or

(c) Overtake and pass a bicycle or other nonmotorized vehicle, an electric bicycle, or a pedestrian pursuant to s. 316.083(2) or (3).

(4) A person who violates ~~violation of~~ this section commits ~~is~~ a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 4. Section 316.151, Florida Statutes, is amended to read:

316.151 Required position and method of turning at intersections.—

(1)(a) Right turn.—The driver of a vehicle intending to turn right at an intersection onto a highway, public or private roadway, or driveway must ~~shall do so as follows~~:

1.~~(a)~~ Make ~~Right turn.—~~both the approach for a right turn and a right turn ~~shall be made~~ as close as practicable to the right-hand curb or edge of the roadway.

2. When overtaking and passing a bicycle proceeding in the same direction, give an appropriate signal as provided for in s. 316.156 and make the right turn only if the bicycle is at least 20 feet from the intersection.

(b) Left turn.—

1. The driver of a vehicle intending to turn left at an ~~any~~ intersection onto a highway, public or private roadway, or driveway must ~~shall~~ approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle~~,~~ and must make~~, after entering the intersection,~~ the left turn ~~shall be made~~ so as to leave the intersection in a lane lawfully available to traffic moving in such direction upon the roadway being entered.

2. A person riding a bicycle and intending to turn left in accordance with this section is entitled to the full use of the lane from which the turn may legally be made. The person must:

a. Whenever practicable, make the left turn ~~shall be made~~ in that portion of the intersection to the left of the center of the intersection; or~~.~~

~~(c) Left turn by bicycle.—In addition to the method of making a left turn described in paragraph (b), a person riding a bicycle and intending to turn left has the option of following the course described hereafter: The rider shall~~

b. Approach the turn as close as practicable to the right curb or edge of the roadway; after proceeding across the intersecting roadway, make the turn ~~shall be made~~ as close as practicable to the curb or edge of the roadway on the far side of the intersection; and, before proceeding, ~~the bicyclist shall~~ comply with any official traffic control device or police officer regulating traffic on the highway along which the person

~~bicyclist~~ intends to proceed.

(2) The state, county, and local authorities in their respective jurisdictions may cause official traffic control devices to be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection. When such devices are so placed, a ~~no~~ driver of a vehicle may not turn a vehicle at an intersection other than as directed and required by such devices.

(3) A person who violates ~~violation of~~ this section commits ~~is~~ a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

Section 5. Subsections (5), (6), and (19) of section 316.2065, Florida Statutes, are amended to read:

316.2065 Bicycle regulations.—

(5)(a) A ~~Any~~ person operating a bicycle upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing must ~~shall~~ ride in the bicycle lane ~~marked for bicycle use~~ or, if there is no bicycle lane on the roadway ~~is marked for bicycle use~~, as close as practicable to the right-hand curb or edge of the roadway except under any of the following situations:

1. When overtaking and passing another bicycle or vehicle proceeding in the same direction.

2. When preparing for a left turn at an intersection or

into a private road or driveway.

3. When reasonably necessary to avoid any condition or potential conflict, including, but not limited to, a fixed or moving object, parked or moving vehicle, bicycle, pedestrian, animal, surface hazard, turn lane, or substandard-width lane, which makes it unsafe to continue along the right-hand curb or edge or within a bicycle lane. For the purposes of this subsection, a "substandard-width lane" is a lane that is too narrow for a bicycle and another vehicle to travel safely side by side within the lane.

(b) A ~~Any~~ person operating a bicycle upon a one-way highway with two or more marked traffic lanes may ride as near the left-hand curb or edge of such roadway as practicable.

(6)(a) Persons riding bicycles upon a roadway or in a bicycle lane may not ride more than two abreast except on a bicycle path ~~paths or parts of roadways set aside for the exclusive use of bicycles~~. Persons riding two abreast may not impede traffic when traveling at less than the normal speed of traffic at the time and place and under the conditions then existing and must ~~shall~~ ride within a single lane.

(b) When stopping at a stop sign, persons riding bicycles in groups, after coming to a full stop and obeying all traffic laws, may proceed through the stop sign in a group of 10 or fewer at a time. Motor vehicle operators must allow each such group to travel through the intersection before moving forward.

(19) Except as otherwise provided in this section, a person who violates ~~violation of~~ this section commits ~~is~~ a noncriminal traffic infraction, punishable as a pedestrian violation as provided in chapter 318. A law enforcement officer may issue traffic citations for a violation of subsection (3) or subsection (15) only if the violation occurs on a bicycle path or road, as defined in s. 334.03. However, a law enforcement officer may not issue citations to persons on private property, except any part thereof which is open to the use of the public for purposes of vehicular traffic.

Section 6. Subsection (3) of section 322.12, Florida Statutes, is amended to read:

322.12 Examination of applicants.—

(3) For an applicant for a Class E driver license, such examination shall include all of the following:

(a) A test of the applicant's eyesight given by the driver license examiner designated by the department or by a licensed ophthalmologist, optometrist, or physician.

(b) ~~and~~ A test of the applicant's hearing given by a driver license examiner or a licensed physician.

(c) ~~The examination shall also include~~ A test of the applicant's ability to read and understand highway signs regulating, warning, and directing traffic; his or her knowledge of the traffic laws of this state, including laws regulating driving under the influence of alcohol or controlled substances,

driving with an unlawful blood-alcohol level, and driving while intoxicated; and his or her knowledge of the effects of alcohol and controlled substances upon persons and the dangers of driving a motor vehicle while under the influence of alcohol or controlled substances. Twenty percent of the test questions related to this paragraph must address bicycle and pedestrian safety.

(d) ~~and shall include~~ An actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle.

Section 7. Paragraph (c) of subsection (1) of section 212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and payable as follows:

(c) At the rate of 6 percent of the gross proceeds derived

from the lease or rental of tangible personal property, as defined herein; however, the following special provisions apply to the lease or rental of motor vehicles:

1. When a motor vehicle is leased or rented for a period of less than 12 months:

a. If the motor vehicle is rented in Florida, the entire amount of such rental is taxable, even if the vehicle is dropped off in another state.

b. If the motor vehicle is rented in another state and dropped off in Florida, the rental is exempt from Florida tax.

2. Except as provided in subparagraph 3., for the lease or rental of a motor vehicle for a period of not less than 12 months, sales tax is due on the lease or rental payments if the vehicle is registered in this state; provided, however, that no tax shall be due if the taxpayer documents use of the motor vehicle outside this state and tax is being paid on the lease or rental payments in another state.

3. The tax imposed by this chapter does not apply to the lease or rental of a commercial motor vehicle as defined in s. 316.003(14)(a) ~~s. 316.003(13)(a)~~ to one lessee or rentee for a period of not less than 12 months when tax was paid on the purchase price of such vehicle by the lessor. To the extent tax was paid with respect to the purchase of such vehicle in another state, territory of the United States, or the District of Columbia, the Florida tax payable shall be reduced in accordance

with the provisions of s. 212.06(7). This subparagraph shall only be available when the lease or rental of such property is an established business or part of an established business or the same is incidental or germane to such business.

Section 8. Paragraph (a) of subsection (3) of section 316.306, Florida Statutes, is amended to read:

316.306 School and work zones; prohibition on the use of a wireless communications device in a handheld manner.—

(3)(a)1. A person may not operate a motor vehicle while using a wireless communications device in a handheld manner in a designated school crossing, school zone, or work zone area as defined in s. 316.003(107) ~~s. 316.003(105)~~. This subparagraph shall only be applicable to work zone areas if construction personnel are present or are operating equipment on the road or immediately adjacent to the work zone area. For the purposes of this paragraph, a motor vehicle that is stationary is not being operated and is not subject to the prohibition in this paragraph.

2.a. During the period from October 1, 2019, through December 31, 2019, a law enforcement officer may stop motor vehicles to issue verbal or written warnings to persons who are in violation of subparagraph 1. for the purposes of informing and educating such persons of this section. This sub-subparagraph shall stand repealed on October 1, 2020.

b. Effective January 1, 2020, a law enforcement officer

may stop motor vehicles and issue citations to persons who are driving while using a wireless communications device in a handheld manner in violation of subparagraph 1.

Section 9. Subsection (1) of section 655.960, Florida Statutes, is amended to read:

655.960 Definitions; ss. 655.960-655.965.—As used in this section and ss. 655.961-655.965, unless the context otherwise requires:

(1) "Access area" means any paved walkway or sidewalk which is within 50 feet of any automated teller machine. The term does not include any street or highway open to the use of the public, as defined in s. 316.003(86)(a) or (b) ~~s. 316.003(84)(a) or (b)~~, including any adjacent sidewalk, as defined in s. 316.003.

Section 10. This act shall take effect July 1, 2021.

TOURISM, INFRASTRUCTURE & ENERGY SUBCOMMITTEE

HB 605 by Rep. Hunschofsky
BICYCLE and PEDESTRIAN SAFETY

AMENDMENT SUMMARY
MARCH 22, 2021

Amendment 1 by Rep. Hunschofsky (Line 72):

- Clarifies that when overtaking a bicycle, other motorized vehicle, electric bicycle, or pedestrian on the road, a vehicle must pass at a safe distance of not less than 3 feet from the bicycle, other motorized vehicle, electric bicycle, or pedestrian.
- Requires the Department of Highway Safety and Motor Vehicles to annually conduct a bicycle and pedestrian safety and awareness campaign.

Amendment 2 by Rep. Hunschofsky (Line 207):

- Requires bicyclists to ride single-file in substandard width lanes.
- Authorizes bicycles to ride two abreast in a bicycle lane, provided that there is enough room.
- Requires bicyclists to ride single-file in a bicycle lane if the bicycle lane is not wide enough to ride two abreast.
- Authorizes bicyclists to temporarily ride two abreast to avoid hazards or to overtake another bicyclist.
- Removes the requirement that 20 percent of the questions on the driver licence test be related to bicycle and pedestrian safety, and replaces it with a requirement that a minimum of 25 questions in the test bank be related to bicycle and pedestrian safety.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

Committee/Subcommittee hearing bill: Tourism, Infrastructure & Energy Subcommittee

Representative Hunschofsky offered the following:

Amendment (with title amendment)

Remove lines 72-103 and insert:

occupying the same travel lane must pass the bicycle or other nonmotorized vehicle, electric bicycle, or pedestrian at a safe distance of not less than 3 feet or, if such movement cannot be safely accomplished, must remain at a safe distance behind the bicycle or other nonmotorized vehicle, electric bicycle, or pedestrian until the driver can safely pass at a distance of not less than 3 feet and must safely clear the overtaken bicycle or other nonmotorized vehicle, electric bicycle, or pedestrian.

(3) The driver of a vehicle overtaking a bicycle or other nonmotorized vehicle, or an electric bicycle, occupying a

bicycle lane must pass the bicycle, other nonmotorized vehicle, or electric bicycle at a safe distance of not less than 3 feet between the vehicle and the bicycle, other nonmotorized vehicle, or electric bicycle.

(4) Subsections (2) and (3) do not apply when a bicycle or other nonmotorized vehicle, or an electric bicycle, occupies a separated bicycle lane.

(5) ~~(2)~~ Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle must ~~shall~~ give way to the right in favor of the overtaking vehicle, on audible signal or upon the visible blinking of the headlamps of the overtaking vehicle if such overtaking is being attempted at nighttime, and must ~~shall~~ not increase the speed of his or her vehicle until completely passed by the overtaking vehicle.

(6) ~~(3)~~ A person who violates ~~violation of~~ this section commits ~~is~~ a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

(7) The department must provide an annual awareness and safety campaign informing the public about the safety precautions to be taken when overtaking a bicycle or other nonmotorized vehicle, an electric bicycle, or a pedestrian.

T I T L E A M E N D M E N T

Remove lines 10-12 and insert:

Vehicles to provide an awareness and safety campaign regarding certain safety precautions; amending s.

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

Committee/Subcommittee hearing bill: Tourism, Infrastructure & Energy Subcommittee

Representative Hunschofsky offered the following:

Amendment (with title amendment)

Remove lines 207-257 and insert:

edge or within a bicycle lane. On roads that contain a substandard width lane, persons operating a bicycle must ride single file to maintain the minimum 3 feet of space for motor vehicles to pass persons operating a bicycle, as provided for in s. 316.083. For the purposes of this subsection, a "substandard-width lane" is a lane that is too narrow for a bicycle and another vehicle to travel safely side by side within the lane.

(b) A ~~Any~~ person operating a bicycle upon a one-way highway with two or more marked traffic lanes may ride as near the left-hand curb or edge of such roadway as practicable.

(6)(a) Persons riding bicycles upon a roadway or in a bicycle lane may not ride more than two abreast except on a bicycle path ~~paths or parts of roadways set aside for the exclusive use of bicycles~~. Persons riding two abreast may not impede traffic when traveling at less than the normal speed of traffic at the time and place and under the conditions then existing and must ~~shall~~ ride within a single lane. Where bicycle lanes exist, persons operating a bicycle may ride two abreast if both can stay within the bicycle lane. If the bicycle lane is too narrow to allow two persons operating a bicycle to ride two abreast, the persons operating a bicycle must ride single fine and within the bicycle lane. On roads that contain a substandard width lane as defined in subparagraph(5)(a)3., persons operating a bicycle may temporarily ride two abreast only to avoid hazards in the roadway or to overtake another person operating a bicycle.

(b) When stopping at a stop sign, persons riding bicycles in groups, after coming to a full stop and obeying all traffic laws, may proceed through the stop sign in a group of 10 or fewer at a time. Motor vehicle operators must allow each such group to travel through the intersection before moving forward.

(19) Except as otherwise provided in this section, a person who violates ~~violation of~~ this section commits ~~is~~ a noncriminal traffic infraction, punishable as a pedestrian violation as provided in chapter 318. A law enforcement officer

may issue traffic citations for a violation of subsection (3) or subsection (15) only if the violation occurs on a bicycle path or road, as defined in s. 334.03. However, a law enforcement officer may not issue citations to persons on private property, except any part thereof which is open to the use of the public for purposes of vehicular traffic.

Section 6. Subsection (3) of section 322.12, Florida Statutes, is amended to read:

322.12 Examination of applicants.—

(3) For an applicant for a Class E driver license, such examination shall include all of the following:

(a) A test of the applicant's eyesight given by the driver license examiner designated by the department or by a licensed ophthalmologist, optometrist, or physician.

(b) ~~and~~ A test of the applicant's hearing given by a driver license examiner or a licensed physician.

(c) ~~The examination shall also include~~ A test of the applicant's ability to read and understand highway signs regulating, warning, and directing traffic; his or her knowledge of the traffic laws of this state, including laws regulating driving under the influence of alcohol or controlled substances, driving with an unlawful blood-alcohol level, and driving while intoxicated; and his or her knowledge of the effects of alcohol and controlled substances upon persons and the dangers of driving a motor vehicle while under the influence of alcohol or

controlled substances. At least 25 questions within the bank of test questions must address bicycle and pedestrian safety.

T I T L E A M E N D M E N T

Remove lines 22-27 and insert:

316.2065, F.S.; providing requirements for persons riding bicycles on a substandard width lane; prohibiting persons riding bicycles in a bicycle lane from riding more than two abreast; providing requirements for riding in a bicycle lane; providing requirements for persons riding bicycles in groups when stopping at a stop sign; making a technical change; amending s. 322.12, F.S.; requiring a minimum number of questions in the test bank for a Class E

HB 1151

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1151 Department of Highway Safety and Motor Vehicles
SPONSOR(S): Brannan
TIED BILLS: **IDEN./SIM. BILLS:** SB 1134

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee		Johnson	Keating
2) Infrastructure & Tourism Appropriations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

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

- Adopts Federal Motor Carrier Safety Administration (FMCSA) regulations for commercial motor vehicles (CMV) as such regulations exist on December 31, 2020, and provides an additional day for CMV drivers to provide written notice that certain violations were corrected.
- Clarifies that safety belt usage requirements apply to a motor vehicle that is operated and stationary on the public highways of this state.
- Transfers the authority to conduct compliance reviews on non-public sector buses from the Department of Transportation (DOT) to DHSMV to conform to the previous transfer of CMV enforcement from DOT to DHSMV.
- Conforms Florida's odometer disclosure requirements to federal regulations.
- Requires motor carriers whose registration has been suspended to return their license plates.
- Requires DHSMV to deny registrations under the International Registration Plan for motor carriers meeting specified requirements.
- Permanently disqualifies anyone convicted of human trafficking through the use of a CMV from obtaining a commercial driver license.
- Adds texting while driving and using a hand-held mobile telephone while driving as serious disqualifying offenses on a commercial driver license.

The bill does not appear to impact state or local government revenues or expenditures. *See* Fiscal Comments.

The bill has an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Adoption of Federal Commercial Motor Vehicle Regulations

Current Situation

Florida law provides that all owners and drivers of commercial motor vehicles[1] (CMVs) operating on the public highways in interstate commerce are subject to the following Federal Motor Carrier Safety Administration (FMCSA)[2] regulations:[3]

49 CFR 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
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

However, Florida law provides that CMV drivers *or* owners engaged in *intrastate* commerce are only subject to FMCSA regulations as they existed in December 31, 2018.[4]

Since 2018, the FMCSA has adopted final rules on controlled substance testing and hours of service regulations.

Beginning January 1, 2020, the minimum rate for random controlled substance testing for drivers of CMVs requiring a commercial driver license (CDL) was increased from 25 percent to 50 percent per year. Since all owners and drivers of CMVs engaged in intrastate commerce are subject to the rules as they existed on December 31, 2018, the random controlled substances testing rate remains at 25 percent for intrastate drivers.[5]

Beginning September 29, 2020, FMCSA revised its hours-of-service regulations providing greater flexibility to CMV drivers subject to those rules, including revisions to the rules on required breaks/rest periods, additional exceptions during adverse conditions, and modifications to exceptions for short-haul trips.[6]

[1] Section 316.003(13), F.S., defines the term "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.

[2] The Federal Motor Carrier Safety Administration's (FMCSA) mission is to prevent commercial motor vehicle-related fatalities and injuries. Activities of FMCSA contribute to ensuring 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. https://www.federalregister.gov/agencies/federal-motor-carrier-safety-administration (last visited January 25, 2021).

[3] Ss. 316.302(1)(a) and (b), F.S..

[4] S. 316.302(1)(b), F.S.

[5] Department of Highway Safety and Motor Vehicles 2021 Agency Legislative Proposals, p.5.

[6] *Id*.

For the purpose of enforcing Florida law relating to commercial motor vehicles, any law enforcement officer of DSHMV or duly appointed agent who holds a current safety inspector certification from the Commercial Vehicle Safety Alliance[7] may require the driver of any CMV operated on the state's highways to stop and submit to an inspection of the vehicle or the driver's records. If the vehicle or driver is found to be operating in an unsafe condition, or if any required part or equipment is not present or is not in proper repair or adjustment, and the continued operation would present an unduly hazardous operating condition, the officer may require the vehicle or the driver to be removed from service[8] until corrected. However, if continuous operation would not present an unduly hazardous operating condition, the officer may give written notice requiring correction of the condition within 14 days.[9] The 14 day requirement is inconsistent with federal requirements requiring carriers to provide written notice within 15 days.[10]

Effect of the Bill

The bill provides that all CMV drivers *and* owners are subject to federal CMV rules contained in 49 C.F.R. parts 382, 383, 385, 386, 390-397 as they exist on December 31, 2020.

The bill increases the length of time for CMV operators to correct non-hazardous deficiencies from 14 days to 15 days, consistent with federal requirements.

Safety Belt Usage

Current Situation

Under the Florida Safety Belt Law, with some exceptions, it is unlawful for any person:

- To operate a motor vehicle or an autocycle[11] unless each passenger and the operator of the vehicle or autocycle under the age of 18 years are restrained by a safety belt or by a child restraint device; or
- To operate a motor vehicle or an autocycle unless the person is restrained by a safety belt.[12]

For the purpose of this law, the term "motor vehicle" means a motor vehicle as defined in s. 316.003, F.S.,[13] which is operated on the roadways, streets, and highways of this state. The term does not include a school bus, a bus used for the transportation of persons for compensation. a farm tractor or implement of husbandry, a truck having a gross vehicle weight rating of more than 26,000 pounds, a motorcycle, a moped, a bicycle, or an electric bicycle.[14]

Additionally, it is unlawful for any person 18 years of age or older to be a passenger in the front seat of a motor vehicle or an autocycle unless such person is restrained by a safety belt when the vehicle or

[7] The Commercial Vehicle Safety Alliance (CVSA) is a nonprofit association comprised of local, state, provincial, territorial and federal commercial motor vehicle safety officials and industry representatives. The Alliance aims to achieve uniformity, compatibility and reciprocity of commercial motor vehicle inspections and enforcement by certified inspectors dedicated to driver and vehicle safety. https://www.cvsa.org/about-cvsa/ (Last visited January 25, 2021).

[8] This is pursuant to the North American Standard Out-of-Service Criteria.

[9] S. 316.302(9), F.S.

[10] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 1151, p. 2.

[11] Section 316.003(2), F.S., defines the term "autocycle" as a three-wheeled motorcycle that has two wheels in the front and one wheel in the back; is equipped with a roll cage or roll hoops, a seat belt for each occupant, antilock brakes, a steering wheel, and seating that does not require the operator to straddle or sit astride it; and is manufactured in accordance with the applicable federal motorcycle safety standards in 49 C.F.R. part 571 by a manufacturer registered with the National Highway Traffic Safety Administration.

[12] S. 316.614(3), F.S.

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

[14] S. 316.641(3)(a), F.S.

autocycle is *in motion*.[15] The statutory base fine of a nonmoving violation is $30;[16] however, with various fees and surcharges, the total fine up to is $108.[17]

Court cases have interpreted the Florida Safety Belt Law to apply only when the vehicle is in motion.[18]

Effect of the Bill
The bill amends the definition of the term "motor vehicle" for purposes of the Florida Safety Belt Law to provide that it includes a motor vehicle which is operated and stationary on the public highways of this state, for example a motor vehicle stopped at a traffic signal.

Nonpublic Sector Buses

Current Situation
In 2011, DOT's Office of Motor Carrier Compliance was transferred to the Florida Highway Patrol (FHP) within DHSMV.[19] However, at that time, Florida law relating to nonpublic sector buses[20] was not amended to correspond to other statutory changes. Therefore, Florida law still requires DOT to revise standards for the safe operation of nonpublic sector buses. These standards must be directed toward ensuring that:

- Nonpublic sector buses are safely maintained, equipped, and operated.
- Nonpublic sector buses are carrying the insurance required by law and carrying liability insurance on the checked baggage of passengers.
- Florida license tags are purchased for nonpublic sector buses.
- The driving records of drivers of nonpublic sector buses are checked by their employers at least once each year to ascertain whether the driver has a suspended or revoked driver license.[21]

Effect of the Bill
The bill transfers from DOT to DHSMV the authority to conduct compliance reviews on nonpublic sector buses. This conforms the statute to the 2011 transfer of CMV enforcement from DOT to DHSMV.

Odometer Disclosure Requirements

Current Situation
Odometer fraud is a federal offense, and the National Highway Traffic Safety Administration (NHTSA) requires sellers to disclose and declare vehicle odometer readings at the time of sale. According to NHTSA, due to an increase in the current average vehicle age to almost 12 years from the previous average of eight years, an increasingly large number of vehicles are subject to a heightened risk of odometer fraud. In order to combat the increased number of motor vehicles subject to a risk of odometer fraud, NHTSA recently amended the federal rule regarding the exemption from odometer disclosure. The exemption, which previously applied to vehicles 10 years old or older, now applies to vehicles 20 years old or older, beginning with model year 2011 or newer in calendar year 2021.[22]

Florida law is inconsistent with the current federal rules and, with limited exceptions, only requires certain odometer disclosures for vehicles 10 years old or newer.

Effect of the Bill

[15] S. 316.614(5), F.S.
[16] S. 318.18(2), F.S.
[17] Florida Association Clerk of Courts, 2020 Distribution Schedule, p. 21. https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/advisories/advisories_2021/21bull005_Attach_2_2020_Dist.pdf (last visited January 22, 2021).
[18] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 1151, p. 3.
[19] Ch. 2011-66, L.O.F.
[20] Section 316.003(47), F.S., defines the term "nonpublic sector bus" as any bus which is used for the transportation of persons for compensation and which is not owned, leased, operated, or controlled by a municipal, county, or state government or a governmentally owned or managed nonprofit corporation.
[21] S. 316.70(1), F.S.
[22] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 1151, p. 3

The bill conforms Florida law to NHTSA's recently adopted odometer disclosure requirements by providing that a vehicle with a model year of 2011 or later is exempt from odometer disclosure after 20 years and a vehicle with a model year of 2010 or earlier is exempt after 10 years.

Performance and Registration Information Systems Management (PRISM)

Current Situation

Federal Regulations
FMSCA's Performance and Registration Information Systems Management (PRISM) program is a component of its mission to reduce the number of CMV crashes, injuries, and fatalities. PRISM provides a safety mechanism to identify and immobilize motor carriers[23] with serious safety deficiencies[24] and hold them accountable using registration and law enforcement sanctions. PRISM requires motor carriers to correct their safety deficiencies to continue operating or face progressively stringent sanctions.[25]

Full participation in PRISM is mandatory for all states as a requirement of the Motor Carrier Safety Assistance Program. Florida is at the full participation level of PRISM.[26]

FMCSA defines "enhanced participation" in regard to PRISM as when a state has the authority to deny vehicle registration to a motor carrier and its vehicles when the motor carrier is attempting to avoid FMCSA enforcement sanctions by "reincarnating" with a new United States Department of Transportation (USDOT) number and company name while maintaining the same officers and directors, business address, telephone number, and email of the out-of-service carrier. Currently, DHSMV does not have this authority.[27]

While FMCSA has the ability to sanction motor carriers for safety deficiencies, vehicle registrations are solely within state jurisdiction. The enhanced participation level of PRISM requires states to suspend, revoke, or deny vehicle registration of a motor carrier's vehicles when the motor carrier is prohibited from operating by FMCSA. Companies that operate commercial vehicles transporting passengers or hauling cargo in interstate commerce must be registered with FMCSA, have a USDOT number, and comply with federal safety regulations in order to have their vehicles registered under the International Registration Plan.[28] When a company fails to meet FMCSA safety requirements, it may be placed out-of-service.[29]

In Florida, attempts to register as a reincarnated carrier occur on a regular basis. Because DSHMV does not have the authority to deny registration, there is currently no way to track how many Florida-based carriers who reincarnate are circumventing FMCSA sanctions.[30]

An effectiveness evaluation report released in February 2016 by FMCSA's Strategic Planning and Program Evaluation Division determined that, between 2008 and 2013, states that fully participated in PRISM compared to non-fully participating states have

[23] The term "motor carrier" means a for-hire motor carrier or a private motor carrier. The term includes a motor carrier's agents, officers and representatives as well as employees responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment and/or accessories. 49 C.F.R. s. 390.5.
[24] FMCSA defines the term "motor carrier with serious safety deficiencies" as a motor carrier that is prohibited from operating by FMCSA through the issuance of a federal out-of-service ("OOS") order.
[25] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 1151 p. 3 (March 10, 2021).
[26] *Id.*
[27] *Id.*
[28] The International Registration Plan (Plan) is a reciprocity agreement among states of the US, the District of Columbia and provinces of Canada which recognizes the registration of commercial motor vehicles registered by other jurisdictions. It provides for payment of apportioned licensing fees based on the total distance operated in all member jurisdictions. https://www.irponline.org/ (last visited March 18, 2021).
[29] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 1151 p. 4 (March 10, 2021).
[30] *Id.* at 4.

- A 20.4 percent observable reduction in all CMV crashes,
- A 9.8 percent observable reduction in fatalities involving all CMV crashes, and
- A 6.9 percent reduction in state registered CMVs being placed out-of-service roadside for operating while under a federal out-of-service order.[31]

Effect of the Bill
The bill requires motor carriers or vehicle owners to return suspended plates to DHSMV or surrender them to law enforcement.

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

Human Trafficking

Current Situation
Florida's criminal laws define the term "human trafficking" as transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person. [32]

Federal law defines the term "severe forms of trafficking in persons" as:
- Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.[33]

On January 8, 2019, the federal "No Human Trafficking on Our Roads Act" was signed into law. This legislation directs the USDOT to disqualify for life any individual who uses a CMV in committing a felony involving a severe form of trafficking in persons. On September 23, 2019, an FMCSA rule went into effect that permanently bans drivers convicted of human trafficking from operating a CMV for which a CDL or a commercial learner's permit is required.[34]

Currently, Florida does not have specific statutory authority to take action against a CDL when an individual commits a felony involving human trafficking.[35]

Effect of the Bill
The bill defines the term "human trafficking" for purposes of the driver license law as having same meaning as provided in Florida's criminal laws.

The bill provides that DHSMV may not issue a driver license to any person, as a CMV operator, who has been convicted of, or has entered a plea of guilty or nolo contendere, regardless of whether adjudication was withheld, to any felony involving human trafficking under state or federal law involving the use of a CMV.

The bill requires each clerk of court to promptly report to DHSMV each conviction, regardless of whether adjudication was withheld, for human trafficking which involves the use of a CMV.

[31] *Id.* at 4.
[32] S. 787.06(2)(d), F.S.
[33] 22 U.S.C. 7012 (11)
[34] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 1151, p. 4. (March 5, 2021).
[35] *Id.*

The bill requires the court to permanently revoke the CDL of a person who has been convicted of, or has entered a plea of guilty or nolo contendere, regardless of whether adjudication is withheld to any felony involving human trafficking under state or federal law involving the use of a commercial motor vehicle. If the court has not permanently revoked such driver license or driving privilege within 30 days after imposing a sentence, DHSMV must permanently revoke the driver license or driving privilege.

The bill provides that any person who uses a CMV involving human trafficking under state or federal law must, be permanently disqualified from operating a commercial motor vehicle upon conviction of, or plea of guilty or nolo contendere to, regardless of whether adjudication is withheld, such felony. This is in addition to any other applicable penalty.

CDL Eight Year Requirement

Current Situation
Pursuant to s. 322.18, F.S., DHSMV issues an original CDL that expires eight years from the date of the driver's next birthday. This allows an original CDL holder to have a license that is valid for more than eight years from the issue date. However, under federal regulations[36] a CDL cannot be valid for more than eight years from the date of issuance. This issue has been pointed out as a deficiency in an FMCSA compliance audit.[37]

Effect of the Bill
The bill provides that a CDL expires at midnight eight years after the licensee's last birthday. This change will not impact current CDL holders.[38]

CMV-Serious Disqualifying Offense

Current Situation
In 2013, the Legislature codified a federal prohibition on drivers of CMVs using handheld devices while driving. However, at that time, the law was not amended to add this infraction to the list of serious disqualifying offenses.

Under current law, a person who, for offenses occurring within a three-year period, is convicted of two serious traffic violations arising in separate incidents committed in a CMV must, in addition to any other applicable penalties, be disqualified from operating a CMV for a period of 60 days. A holder of a CDL or commercial learner's permit who, for offenses occurring within a 3-year period, is convicted of two serious traffic violations, or any combination thereof, arising in separate incidents committed in a noncommercial motor vehicle must, in addition to any other applicable penalties, be disqualified from operating a CMV for a period of 60 days if such convictions result in the suspension, revocation, or cancellation of the license holder's driving privilege. Current serious disqualifying offenses include, but are not limited to, reckless driving, driving a CMV without a CMV license, improper lane change, and following too close.[39]

When these violations occur in other states, DHSMV places these violations on the driver record as "not applicable to Florida Statutes" and does not evaluate them to determine if a disqualification should be imposed on the driver. This situation was addressed in a recent FMCSA compliance audit.[40]

Effect of the Bill
The bill provides that texting while driving a commercial motor vehicle or using a hand-held mobile telephone while driving a commercial motor vehicle as provided by federal regulations are serious disqualifying offenses for a CDL. This will give DHSMV the statutory authority to comply with the deficiency in the FMCSA compliance audit.

[36] 49 C.F.R. s. 383.73
[37] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 1151, p. 5. (March 5, 2021).
[38] *Id.* at 7.
[39] Section 322.61(1), F.S.
[40] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 1151, p. 4. (March 5, 2021).

Effective Date

The bill has an effective date of July 1, 2021.

B. SECTION DIRECTORY:

Section 1 Amends s. 316.302, F.S., relating to commercial motor vehicles.

Section 2 Amends s. 316.614, F.S., relating to safety belt usage.

Section 3 Amends s. 316.70, F.S., relating to nonpublic sector buses.

Section 4 Amends s. 319.225, F.S., relating to transfer and reassignment forms and odometer disclosure statements.

Section 5 Amends s. 320.0715, F.S., relating to the International Registration Plan.

Section 6 Amends s. 322.01, F.S., providing definitions.

Section 7 Amends s. 322.05, F.S., relating to persons not to be licensed.

Section 8 Amends s. 322.18, F.S., relating to original applications, licenses, and renewals.

Section 9 Amends s. 322.25, F.S., relating to when a court must forward license to DHSMV and report convictions.

Section 10 Amends s. 322.28, F.S., relating to period of suspension or revocation.

Section 11 Amends s. 322.61, F.S., relating to disqualification from operating a commercial motor vehicle.

Section 12 Amends s. 322.34, F.S., conforming a cross reference.

Section 13 Provides an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

While the bill does not have a direct impact on state government revenues, state noncompliance with certain federal regulations such as human trafficking using a CMV and serious disqualifying offenses for CMV drivers, and failing to achieve compatibility with FMCSA regulations within three years of the effective date could impact the state's receipt of federal funds.[41] The bill appears to achieve state compliance with these regulations.

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 of municipalities have to raise revenue in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide a grant of rulemaking, nor does it require rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

[41] E-mail from Kevin Jacobs, Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, RE: DHSMV Package questions. (February 24, 2021).

A bill to be entitled

An act relating to the Department of Highway Safety and Motor Vehicles; amending s. 316.302, F.S.; revising regulations applicable to owners and drivers of commercial motor vehicles; revising the length of time within which an officer is authorized to give written notice requiring correction of an unduly hazardous operating condition; amending s. 316.614, F.S.; revising the definition of the term "motor vehicle"; amending s. 316.70, F.S.; requiring the Department of Highway Safety and Motor Vehicles, rather than the Department of Transportation, to establish and revise standards to ensure the safe operation of nonpublic sector buses; conforming provisions to changes made by the act; amending s. 319.225, F.S.; revising applicability; providing that vehicles that meet certain conditions are exempt from odometer disclosure after specified periods of time; amending s. 320.0715, F.S.; requiring motor carriers and vehicle owners whose registrations have been suspended to return their license plates to the Department of Highway Safety and Motor Vehicles or surrender their license plates to law enforcement; requiring the department to deny registration of a motor vehicle trip permit under certain conditions;

amending s. 322.01, F.S.; defining the term "human trafficking"; amending s. 322.05, F.S.; prohibiting the department from issuing a license to any person as a commercial motor vehicle operator under specified conditions; amending s. 322.18, F.S.; providing that commercial driver licenses expire at midnight 8 years after the licensee's birthday; amending s. 322.25, F.S.; requiring clerks of court to promptly report to the department each conviction for human trafficking, regardless of whether adjudication is withheld; amending s. 322.28, F.S.; requiring the court to permanently revoke the commercial driver license of a person under specified conditions; requiring the department to permanently revoke the driver license or driving privilege of the person if the court has not revoked such driver license or driving privilege within a specified timeframe; amending s. 322.61, F.S.; revising provisions for disqualification from operating a commercial motor vehicle; providing a penalty for any person who uses a commercial motor vehicle in the commission of a felony involving human trafficking; amending s. 322.34, F.S.; conforming a cross-reference; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (b) of subsection (1) and subsection (9) of section 316.302, Florida Statutes, are amended to read:

316.302 Commercial motor vehicles; safety regulations; transporters and shippers of hazardous materials; enforcement.—

(1)

(b) Except as otherwise provided in this section, all owners and ~~or~~ drivers of commercial motor vehicles that are engaged in intrastate commerce are subject to the rules and regulations contained in 49 C.F.R. parts 382, 383, 385, 386, and 390-397, as such rules and regulations existed on December 31, 2020 ~~2018~~.

(9) For the purpose of enforcing this section, any law enforcement officer of the Department of Highway Safety and Motor Vehicles or duly appointed agent who holds a current safety inspector certification from the Commercial Vehicle Safety Alliance may require the driver of any commercial vehicle operated on the highways of this state to stop and submit to an inspection of the vehicle or the driver's records. If the vehicle or driver is found to be operating in an unsafe condition, or if any required part or equipment is not present or is not in proper repair or adjustment, and the continued operation would present an unduly hazardous operating condition, the officer may require the vehicle or the driver to be removed from service pursuant to the North American Standard Out-of-

Service Criteria, until corrected. However, if continuous operation would not present an unduly hazardous operating condition, the officer may give written notice requiring correction of the condition within 15 ~~14~~ days.

(a) Any member of the Florida Highway Patrol or any law enforcement officer employed by a sheriff's office or municipal police department authorized to enforce the traffic laws of this state pursuant to s. 316.640 who has reason to believe that a vehicle or driver is operating in an unsafe condition may, as provided in subsection (11), enforce the provisions of this section.

(b) Any person who fails to comply with an officer's request to submit to an inspection under this subsection commits a violation of s. 843.02 if the person resists the officer without violence or a violation of s. 843.01 if the person resists the officer with violence.

Section 2. Paragraph (a) of subsection (3) of section 316.614, Florida Statutes, is amended to read:

316.614 Safety belt usage.—

(3) As used in this section:

(a) "Motor vehicle" means a motor vehicle as defined in s. 316.003 which is operated on the roadways, streets, and highways of this state or when stationary at a traffic control device. The term does not include:

1. A school bus.

2. A bus used for the transportation of persons for compensation.

3. A farm tractor or implement of husbandry.

4. A truck having a gross vehicle weight rating of more than 26,000 pounds.

5. A motorcycle, a moped, a bicycle, or an electric bicycle.

Section 3. Section 316.70, Florida Statutes, is amended to read:

316.70 Nonpublic sector buses; safety rules.—

(1) The Department of Highway Safety and Motor Vehicles ~~Transportation~~ shall establish and revise standards to ensure the safe operation of nonpublic sector buses, which standards shall be those contained in 49 C.F.R. parts 382, 385, and 390-397 and which shall be directed toward ensuring that:

(a) Nonpublic sector buses are safely maintained, equipped, and operated.

(b) Nonpublic sector buses are carrying the insurance required by law and carrying liability insurance on the checked baggage of passengers not to exceed the standard adopted by the United States Department of Transportation.

(c) Florida license tags are purchased for nonpublic sector buses pursuant to s. 320.38.

(d) The driving records of drivers of nonpublic sector buses are checked by their employers at least once each year to

ascertain whether the driver has a suspended or revoked driver license.

(2) Department of Highway Safety and Motor Vehicles ~~Transportation~~ personnel may conduct compliance reviews for the purpose of determining compliance with this section. A civil penalty not to exceed $5,000 in the aggregate may be assessed against any person who violates any provision of this section or who violates any rule or order of the Department of Highway Safety and Motor Vehicles ~~Transportation~~. A civil penalty not to exceed $25,000 in the aggregate may be assessed for violations found in a followup compliance review conducted within a 24-month period. A civil penalty not to exceed $25,000 in the aggregate may be assessed and the motor carrier may be enjoined pursuant to s. 316.3026 if violations are found after a second followup compliance review within 12 months after the first followup compliance review. Motor carriers found to be operating without insurance coverage required by s. 627.742 or 49 C.F.R. part 387 may be enjoined as provided in s. 316.3026.

(3) School buses subject to the provisions of chapter 1006 or s. 316.615 are exempt from the provisions of this section.

Section 4. Subsection (4) of section 319.225, Florida Statutes, is amended to read:

319.225 Transfer and reassignment forms; odometer disclosure statements.—

(4) Upon transfer or reassignment of a certificate of

title to a used motor vehicle, the transferor shall complete the odometer disclosure statement provided for by this section and the transferee shall acknowledge the disclosure by signing and printing his or her name in the spaces provided. This subsection does not apply to a vehicle that has a gross vehicle rating of more than 16,000 pounds, a vehicle that is not self-propelled, or a vehicle that is exempt from odometer disclosure. A vehicle with a model year of 2011 or newer is exempt from odometer disclosure after 20 years, and a vehicle with a model year of 2010 or older is exempt from odometer disclosure after 10 years ~~old or older~~. A lessor who transfers title to his or her vehicle without obtaining possession of the vehicle shall make odometer disclosure as provided by 49 C.F.R. s. 580.7. Any person who fails to complete or acknowledge a disclosure statement as required by this subsection is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. The department may not issue a certificate of title unless this subsection has been complied with.

Section 5. Subsections (6) and (7) are added to section 320.0715, Florida Statutes, to read:

320.0715 International Registration Plan; motor carrier services; permits; retention of records.—

(6) A motor carrier or vehicle owner whose registration has been suspended shall return his or her license plate to the department or surrender his or her license plates to law

enforcement.

(7) The department shall deny registration if:

(a) The applicant fails to disclose material information required on the application;

(b) The applicant has applied in an attempt to hide the disclosure of the real party in interest who has been issued a federal out-of-service order; or

(c) The applicant's business is operated, managed, or otherwise controlled by or affiliated with a person who is ineligible for registration, including the applicant entity, a relative, a family member, a corporate officer, or a shareholder.

Section 6. Present subsections (25) through (47) of section 322.01, Florida Statutes, are redesignated as subsections (26) through (48), respectively, and a new subsection (25) is added to that section, to read:

322.01 Definitions.—As used in this chapter:

(25) "Human trafficking" has the same meaning as provided in s. 787.06(2)(d).

Section 7. Subsection (12) is added to section 322.05, Florida Statutes, to read:

322.05 Persons not to be licensed.—The department may not issue a license:

(12) To any person, as a commercial motor vehicle operator, who has been convicted of, or has entered a plea of

guilty or nolo contendere to, regardless of whether adjudication was withheld, any felony involving human trafficking under state or federal law involving the use of a commercial motor vehicle.

Section 8. Paragraph (f) is added to subsection (2) of section 322.18, Florida Statutes, to read:

322.18 Original applications, licenses, and renewals; expiration of licenses; delinquent licenses.—

(2) Each applicant who is entitled to the issuance of a driver license, as provided in this section, shall be issued a driver license, as follows:

(f) Notwithstanding any other provision of this chapter, an applicant applying for an original issuance of a commercial driver license as defined in s. 322.01(7) shall be issued a driver license that expires at midnight 8 years after the licensee's last birthday.

Section 9. Subsection (7) is added to section 322.25, Florida Statutes, to read:

322.25 When court to forward license to department and report convictions.—

(7) Each clerk of court shall promptly report to the department each conviction, regardless of whether adjudication was withheld, for human trafficking which involves the use of a commercial motor vehicle.

Section 10. Subsection (8) is added to section 322.28, Florida Statutes, to read:

322.28 Period of suspension or revocation.—

(8) The court shall permanently revoke the commercial driver license of a person who is convicted of, or has entered a plea of guilty or nolo contendere to, regardless of whether adjudication is withheld, any felony involving human trafficking under state or federal law which involves the use of a commercial motor vehicle. If the court has not permanently revoked such driver license or driving privilege within 30 days after imposing a sentence, the department must permanently revoke the driver license or driving privilege pursuant to this section.

Section 11. Section 322.61, Florida Statutes, is amended to read:

322.61 Disqualification from operating a commercial motor vehicle.—

(1) A person who, for offenses occurring within a 3-year period, is convicted of two of the following serious traffic violations or any combination thereof, arising in separate incidents committed in a commercial motor vehicle shall, in addition to any other applicable penalties, be disqualified from operating a commercial motor vehicle for a period of 60 days. A holder of a commercial driver license or commercial learner's permit who, for offenses occurring within a 3-year period, is convicted of two of the following serious traffic violations, or any combination thereof, arising in separate incidents committed

in a noncommercial motor vehicle shall, in addition to any other applicable penalties, be disqualified from operating a commercial motor vehicle for a period of 60 days if such convictions result in the suspension, revocation, or cancellation of the licenseholder's driving privilege:

(a) 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;

(b) Reckless driving, as defined in s. 316.192;

(c) Unlawful speed of 15 miles per hour or more above the posted speed limit;

(d) Improper lane change, as defined in s. 316.085;

(e) Following too closely, as defined in s. 316.0895;

(f) Driving a commercial vehicle without obtaining a commercial driver license;

(g) Driving a commercial vehicle without the proper class of commercial driver license or commercial learner's permit or without the proper endorsement; ~~or~~

(h) Driving a commercial vehicle without a commercial driver license or commercial learner's permit in possession, as required by s. 322.03;~~.~~

(i) Texting while driving; or

(j) Using a handheld mobile telephone while driving.

(2)(a) Any person who, for offenses occurring within a 3-year period, is convicted of three serious traffic violations

specified in subsection (1) or any combination thereof, arising in separate incidents committed in a commercial motor vehicle shall, in addition to any other applicable penalties, including but not limited to the penalty provided in subsection (1), be disqualified from operating a commercial motor vehicle for a period of 120 days.

(b) A holder of a commercial driver license or commercial learner's permit who, for offenses occurring within a 3-year period, is convicted of three serious traffic violations specified in subsection (1) or any combination thereof arising in separate incidents committed in a noncommercial motor vehicle shall, in addition to any other applicable penalties, including, but not limited to, the penalty provided in subsection (1), be disqualified from operating a commercial motor vehicle for a period of 120 days if such convictions result in the suspension, revocation, or cancellation of the licenseholder's driving privilege.

(3)(a) Except as provided in subsection (4), any person who is convicted of one of the offenses listed in paragraph (b) while operating a commercial motor vehicle shall, in addition to any other applicable penalties, be disqualified from operating a commercial motor vehicle for a period of 1 year.

(b) Except as provided in subsection (4), any holder of a commercial driver license or commercial learner's permit who is convicted of one of the offenses listed in this paragraph while

operating a noncommercial motor vehicle shall, in addition to any other applicable penalties, be disqualified from operating a commercial motor vehicle for a period of 1 year:

1. Driving a motor vehicle while he or she is under the influence of alcohol or a controlled substance;

2. Driving a commercial motor vehicle while the alcohol concentration of his or her blood, breath, or urine is .04 percent or higher;

3. Leaving the scene of a crash involving a motor vehicle driven by such person;

4. Using a motor vehicle in the commission of a felony;

5. Refusing to submit to a test to determine his or her alcohol concentration while driving a motor vehicle;

6. Driving a commercial motor vehicle when, as a result of prior violations committed operating a commercial motor vehicle, his or her commercial driver license or commercial learner's permit is revoked, suspended, or canceled, or he or she is disqualified from operating a commercial motor vehicle; or

7. Causing a fatality through the negligent operation of a commercial motor vehicle.

(4) Any person who is transporting hazardous materials as defined in s. 322.01(24) shall, upon conviction of an offense specified in subsection (3), be disqualified from operating a commercial motor vehicle for a period of 3 years. The penalty provided in this subsection shall be in addition to any other

applicable penalty.

(5) A person who is convicted of two violations specified in subsection (3) which were committed while operating a commercial motor vehicle, or any combination thereof, arising in separate incidents shall be permanently disqualified from operating a commercial motor vehicle. A holder of a commercial driver license or commercial learner's permit who is convicted of two violations specified in subsection (3) which were committed while operating any motor vehicle arising in separate incidents shall be permanently disqualified from operating a commercial motor vehicle. The penalty provided in this subsection is in addition to any other applicable penalty.

(6) Notwithstanding subsections (3), (4), and (5), any person who uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, including possession with intent to manufacture, distribute, or dispense a controlled substance, shall, upon conviction of such felony, be permanently disqualified from operating a commercial motor vehicle. Notwithstanding subsections (3), (4), and (5), any holder of a commercial driver license or commercial learner's permit who uses a noncommercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, including possession with intent to manufacture, distribute, or dispense a controlled substance,

shall, upon conviction of such felony, be permanently disqualified from operating a commercial motor vehicle. The penalty provided in this subsection is in addition to any other applicable penalty.

(7) Any person who uses a commercial motor vehicle in the commission of any felony involving human trafficking under state or federal law shall, upon conviction of, or plea of guilty or nolo contendere to, regardless of whether adjudication is withheld, such felony, be permanently disqualified from operating a commercial motor vehicle. The penalty provided in this subsection is in addition to any other applicable penalty.

(8) ~~(7)~~ A person whose privilege to operate a commercial motor vehicle is disqualified under this section may, if otherwise qualified, be issued a Class E driver license, pursuant to s. 322.251.

(9) ~~(8)~~ A driver who is convicted of or otherwise found to have committed a violation of an out-of-service order while driving a commercial motor vehicle is disqualified as follows:

(a) At least 180 days but not more than 1 year if the driver is convicted of or otherwise found to have committed a first violation of an out-of-service order.

(b) At least 2 years but not more than 5 years if, for offenses occurring during any 10-year period, the driver is convicted of or otherwise found to have committed two violations of out-of-service orders in separate incidents.

(c) At least 3 years but not more than 5 years if, for offenses occurring during any 10-year period, the driver is convicted of or otherwise found to have committed three or more violations of out-of-service orders in separate incidents.

(d) At least 180 days but not more than 2 years if the driver is convicted of or otherwise found to have committed a first violation of an out-of-service order while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act, 49 U.S.C. ss. 5101 et seq., or while operating motor vehicles designed to transport more than 15 passengers, including the driver. A driver is disqualified for a period of at least 3 years but not more than 5 years if, for offenses occurring during any 10-year period, the driver is convicted of or otherwise found to have committed any subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act, 49 U.S.C. ss. 5101 et seq., or while operating motor vehicles designed to transport more than 15 passengers, including the driver.

(10) ~~(9)~~ A driver who is convicted of or otherwise found to have committed an offense of operating a commercial motor vehicle in violation of federal, state, or local law or regulation pertaining to one of the following six offenses at a railroad-highway grade crossing must be disqualified for the period of time specified in subsection (11) ~~(10)~~:

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

(a) For drivers who are not always required to stop, failing to slow down and check that the tracks are clear of approaching trains.

(b) For drivers who are not always required to stop, failing to stop before reaching the crossing if the tracks are not clear.

(c) For drivers who are always required to stop, failing to stop before driving onto the crossing.

(d) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping.

(e) For all drivers, failing to obey a traffic control device or all directions of an enforcement official at the crossing.

(f) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance.

(11)(a) ~~(10)(a)~~ A driver must be disqualified for at least 60 days if the driver is convicted of or otherwise found to have committed a first violation of a railroad-highway grade crossing violation.

(b) A driver must be disqualified for at least 120 days if, for offenses occurring during any 3-year period, the driver is convicted of or otherwise found to have committed a second railroad-highway grade crossing violation in separate incidents.

(c) A driver must be disqualified for at least 1 year if, for offenses occurring during any 3-year period, the driver is

convicted of or otherwise found to have committed a third or subsequent railroad-highway grade crossing violation in separate incidents.

Section 12. Subsection (2) of section 322.34, Florida Statutes, is amended to read:

322.34 Driving while license suspended, revoked, canceled, or disqualified.—

(2) Any person whose driver license or driving privilege has been canceled, suspended, or revoked as provided by law, or who does not have a driver license or driving privilege but is under suspension or revocation equivalent status as defined in s. 322.01(42) ~~s. 322.01(41)~~, except persons defined in s. 322.264, who, knowing of such cancellation, suspension, revocation, or suspension or revocation equivalent status, drives any motor vehicle upon the highways of this state while such license or privilege is canceled, suspended, or revoked, or while under suspension or revocation equivalent status, commits:

(a) A misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b)1. A misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, upon a second or subsequent conviction, except as provided in paragraph (c).

2. A person convicted of a third or subsequent conviction, except as provided in paragraph (c), must serve a minimum of 10 days in jail.

(c) A felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, upon a third or subsequent conviction if the current violation of this section or the most recent prior violation of the section is related to driving while license canceled, suspended, revoked, or suspension or revocation equivalent status resulting from a violation of:

1. Driving under the influence;

2. Refusal to submit to a urine, breath-alcohol, or blood alcohol test;

3. A traffic offense causing death or serious bodily injury; or

4. Fleeing or eluding.

The element of knowledge is satisfied if the person has been previously cited as provided in subsection (1); or the person admits to knowledge of the cancellation, suspension, or revocation, or suspension or revocation equivalent status; or the person received notice as provided in subsection (4). There shall be a rebuttable presumption that the knowledge requirement is satisfied if a judgment or order as provided in subsection (4) appears in the department's records for any case except for one involving a suspension by the department for failure to pay a traffic fine or for a financial responsibility violation.

Section 13. This act shall take effect July 1, 2021.

TOURISM, INFRASTRUCTURE & ENERGY SUBCOMMITTEE

HB 1151 by Rep. Brannan
DEPARTMENT of HIGHWAY SAFETY and MOTOR VEHICLES

AMENDMENT SUMMARY
MARCH 22, 2021

Amendment 1 by Rep. Brannan (line 108):

- Revises provisions regarding non-public sector buses including:
    - Replaces language regarding penalties for violations by non-public sector buses with references to existing law related to commercial motor vehicle penalties. The penalties do not change.
    - Contains language regarding commercial motor vehicle violations and provides 15 days for operators to provide notice that certain violations were corrected.

Amendment 2 by Rep. Brannan (Line 428):

- Provides the Department of Highway Safety and Motor Vehicles with investigative and subpoena power and the ability to administer oaths or affirmations, examine witnesses, require affidavits, take depositions, and compel the attendance of witnesses and the production of documents, records, and other evidence for use in conducting investigations or examinations into:
    - Authorized private rebuilt inspection providers;
    - Persons suspected of violating or of having violated ch. 319, F.S., relating to motor vehicle title certificates;
    - Persons suspected of violating or of having violated ch. 320, F.S., relating to motor vehicles manufacturers and distributors; and
    - Persons suspected of violating or of having violated ch. 322, F.S., relating to driver licenses.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___ (Y/N)
ADOPTED AS AMENDED	___ (Y/N)
ADOPTED W/O OBJECTION	___ (Y/N)
FAILED TO ADOPT	___ (Y/N)
WITHDRAWN	___ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Tourism, Infrastructure & Energy Subcommittee

Representative Brannan offered the following:

Amendment (with title amendment)

Remove lines 108-145 and insert:

Section 3. Section 316.70, Florida Statutes, is amended to read:

316.70 Nonpublic sector buses; safety rules.—

(1) All owners and drivers of nonpublic sector buses operated on the public highways of this state are subject to the rules and regulations ~~The Department of Transportation shall establish and revise standards to ensure the safe operation of nonpublic sector buses, which standards shall be those~~ contained in 49 C.F.R. parts 382, 385, and 390-397 to ensure ~~and which shall be directed toward ensuring~~ that:

(a) Nonpublic sector buses are safely maintained, equipped, and operated.

(b) Nonpublic sector buses are carrying the insurance required by law and carrying liability insurance on the checked baggage of passengers not to exceed the standard adopted by the United States Department of Transportation.

(c) Florida license tags are purchased for nonpublic sector buses pursuant to s. 320.38.

~~(d) The driving records of drivers of nonpublic sector buses are checked by their employers at least once each year to ascertain whether the driver has a suspended or revoked driver license.~~

(2) Department of Highway Safety and Motor Vehicles ~~Transportation~~ personnel may conduct compliance reviews for the purpose of determining compliance with this section. A civil penalty ~~not to exceed $5,000 in the aggregate~~ may be assessed against any person who violates any provision of this section or who violates any rule or order of the department found during a compliance review as provided in s. 316.3025. A ~~of Transportation. A civil penalty not to exceed $25,000 in the aggregate may be assessed for violations found in a followup compliance review conducted within a 24-month period. A civil penalty not to exceed $25,000 in the aggregate may be assessed and the~~ motor carrier may be enjoined from operation pursuant to s. 316.3026 for ~~if~~ violations found during a ~~are found after a~~

~~second followup~~ compliance review ~~within 12 months after the first followup compliance review~~. Motor carriers found to be operating without insurance coverage required by s. 627.742 or 49 C.F.R. part 387 may be enjoined as provided in s. 316.3026.

(3) For the purpose of enforcing this section, any law enforcement officer of the Department of Highway Safety and Motor Vehicles or a duly appointed agent of the department who holds a current safety inspector certification from the Commercial Vehicle Safety Alliance may require the driver of any nonpublic sector bus operated on the highways of this state to stop and submit to an inspection of the vehicle or the driver's records. If the vehicle is being operated or the driver is operating the vehicle in an unsafe condition, or if any required part or equipment is not present or is not in proper repair or adjustment, and the continued operation would be unduly hazardous, the officer or agent may require the vehicle or the driver to be removed from service pursuant to the North American Standard Out-of-Service Criteria until all safety concerns are corrected. However, if continuous operation would not be unduly hazardous, the officer or agent may give written notice requiring correction of the condition within 15 days after the inspection.

(4) School buses subject to ~~the provisions of~~ chapter 1006 or s. 316.615 are exempt from ~~the provisions of~~ this section.

T I T L E A M E N D M E N T

Remove lines 10-14 and insert:

vehicle; amending s. 316.70, F.S.; providing that owners and drivers of nonpublic sector buses operated on public highways of this state are subject to specified provisions of law; authorizing the Department of Highway Safety and Motor Vehicles to conduct compliance reviews for a specified purpose; revising civil penalties; authorizing certain law enforcement officers and appointed agents to require drivers of nonpublic sector buses to submit to an inspection of the bus and the driver's records; authorizing such officers and agents to require the bus and driver to be removed from service under specified conditions; authorizing such officers and agents to give written notice; conforming

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___ (Y/N)
ADOPTED AS AMENDED	___ (Y/N)
ADOPTED W/O OBJECTION	___ (Y/N)
FAILED TO ADOPT	___ (Y/N)
WITHDRAWN	___ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Tourism, Infrastructure & Energy Subcommittee

Representative Brannan offered the following:

Amendment (with title amendment)

Between lines 428 and 429, insert:

Section 12. Section 319.1414, Florida Statutes, is created to read:

319.1414 Investigations; examinations; subpoenas; hearings; witnesses.—

(1) The department may conduct investigations and examinations of department-authorized private rebuilt inspection providers as it deems necessary to determine whether a person is violating or has violated this chapter or a contract entered into pursuant to this chapter or to assist with the enforcement of this chapter.

(2) For purposes of any investigation or examination conducted pursuant to this section, the department may exercise the power of subpoena and the powers to administer oaths or affirmations, to examine witnesses, to require affidavits, to take depositions, and to compel the attendance of witnesses and the production of books, papers, documents, records, and other evidence. A designated agent of the department may serve a subpoena relating to an investigation or examination.

(3) If a person refuses to testify; produce books, papers, documents, or records; or otherwise obey a subpoena or subpoena duces tecum issued under subsection (2), the department may petition a court of competent jurisdiction in the county where the person's residence or principal place of business is located, upon which the court must issue an order requiring such person to obey the subpoena or show cause for failing to obey the subpoena. Unless the person shows sufficient cause for failing to obey the subpoena, the court shall direct the person to obey the subpoena. Failure to comply with such order is contempt of court.

(4) For the purpose of any investigation, examination, or proceeding initiated by the department under this chapter, the department is authorized to designate agents to serve subpoenas and other process and to administer oaths or affirmations.

(5) Witnesses subpoenaed under this section are entitled to witness fees at the same rate established by s. 92.142 for

witnesses in a civil case, except that witness fees are not payable for appearance at the witness's place of business during regular business hours or at the witness's residence.

(6) The department may adopt rules to administer this section.

Section 13. Section 319.25, Florida Statutes, is amended to read:

319.25 Cancellation of certificates; investigations; subpoenas and other process; oaths; rules.—

(1) If it appears that a certificate of title has been improperly issued, the department shall cancel the certificate. Upon cancellation of any certificate of title, the department shall notify the person to whom the certificate of title was issued, as well as any lienholders appearing thereon, of the cancellation and shall demand the surrender of the certificate of title, but the cancellation shall not affect the validity of any lien noted thereon. The holder of the certificate of title shall return it to the department forthwith. If a certificate of registration has been issued to the holder of a certificate of title so canceled, the department shall immediately cancel the certificate of registration and demand the return of such certificate of registration and license plate or mobile home sticker; and the holder of such certificate of registration and license plate or sticker shall return them to the department forthwith.

(2) The department is authorized, upon application of any person and payment of the proper fees, to prepare and furnish lists containing title information in such form as the department may authorize, to search the records of the department and make reports thereof, and to make photographic copies of the department records and attestations thereof, except as provided in chapter 119.

(3) The department may conduct investigations and examinations of any person suspected of violating or of having violated this chapter or any rule adopted or order issued under this chapter.

(4) For purposes of any investigation or examination conducted pursuant to this section, the department may exercise the power of subpoena and the powers to administer oaths or affirmations, to examine witnesses, to require affidavits, to take depositions, and to compel the attendance of witnesses and the production of books, papers, documents, records, and other evidence. An authorized representative of the department may serve a subpoena relating to an investigation or examination.

(5) If a person refuses to testify; produce books, papers, documents, or records; or otherwise obey the subpoena or subpoena duces tecum issued under subsection (4), the department may petition a court of competent jurisdiction in the county where the person's residence or principal place of business is located, upon which the court must issue an order requiring such

person to obey the subpoena or show cause for failing to obey the subpoena. Unless the person shows sufficient cause for failing to obey the subpoena, the court must direct the person to obey the subpoena. Failure to comply with such order is contempt of court.

(6) For the purpose of any investigation, examination, or proceeding initiated by the department under this chapter, the department is authorized to designate agents to serve subpoenas and other process and to administer oaths or affirmations.

(7) Witnesses subpoenaed under this section are entitled to witness fees at the same rate established by s. 92.142 for witnesses in a civil case, except that witness fees are not payable for appearance at the witness's place of business during regular business hours or at the witness's residence.

(8) The department may adopt rules to administer this section.

Section 14. Section 320.861, Florida Statutes, is amended to read:

320.861 Investigations; subpoenas and other process; oaths; rules ~~Inspection of records; production of evidence; subpoena power~~.—

(1) The department may conduct investigations and examinations of any person suspected of violating or of having violated this chapter or any rule adopted or order issued thereunder ~~inspect the pertinent books, records, letters, and~~

~~contracts of any licensee, whether dealer or manufacturer, relating to any written complaint made to it against such licensee~~.

(2) For purposes of any investigation or examination conducted pursuant to this section, the department may ~~is granted and authorized to~~ exercise the power of subpoena and the powers to administer oaths or affirmations, to examine witnesses, to require affidavits, to take depositions, and to compel the attendance of witnesses and the production of books, papers, documents, records, and other evidence. A designated agent of the department may serve a subpoena relating to an investigation or examination ~~for the attendance of witnesses and the production of any documentary evidence necessary to the disposition by it of any written complaint against any licensee, whether dealer or manufacturer~~.

(3) If a person refuses to testify; to produce books, papers, documents, or records; or to otherwise obey the subpoena or subpoena duces tecum issued under subsection (2), the department may petition a court of competent jurisdiction in the county where the person's residence or principal place of business is located, upon which the court must issue an order requiring such person to obey the subpoena or show cause for failing to obey the subpoena. Unless the person shows sufficient cause for failing to obey the subpoena, the court must direct

the person to obey the subpoena. Failure to comply with such order constitutes contempt of court.

(4) For the purpose of any investigation, examination, or proceeding initiated by the department under this chapter, the department may designate agents to serve subpoenas and other process and to administer oaths or affirmations. The department shall exercise this power on its own initiative in accordance with ss. 320.615 and 320.71.

(5) Witnesses subpoenaed under this section are entitled to witness fees at the same rate established by s. 92.142 for witnesses in a civil case, except that witness fees are not payable for appearance at the witness's place of business during regular business hours or at the witness's residence.

(6) The department may adopt rules to administer this section.

Section 15. Section 322.71, Florida Statutes, is created to read:

322.71 Investigations; subpoenas and other process; oaths; rules.—

(1) The department may conduct investigations and examinations of any person suspected of violating or of having violated any provision of this chapter or any rule adopted or order issued under this chapter.

(2) For purposes of any investigation or examination conducted pursuant to this section, the department may exercise

the power of subpoena and the powers to administer oaths or affirmations, to examine witnesses, to require affidavits, to take depositions, and to compel the attendance of witnesses and the production of books, papers, documents, records, and other evidence. Such subpoenas may be served by an authorized representative of the department.

(3) If a person refuses to testify; to produce books, papers, documents, or records; or to otherwise obey the subpoena or subpoena duces tecum issued under subsection (2), the department may petition a court of competent jurisdiction in the county where the person's residence or principal place of business is located, upon which the court must issue an order requiring such person to obey the subpoena or show cause for failing to obey the subpoena. Unless the person shows sufficient cause for failing to obey the subpoena, the court must direct the person to obey the subpoena. Failure to comply with such order constitutes contempt of court.

(4) For the purpose of any investigation, examination, or proceeding initiated by the department under this chapter, the department may designate agents to serve subpoenas and other process and to administer oaths or affirmations.

(5) Witnesses subpoenaed under this section are entitled to witness fees at the same rate established by s. 92.142 for witnesses in a civil case, except that witness fees are not

payable for appearance at the witness's place of business during regular business hours or at the witness's residence.

(6) The department may adopt rules to administer this section.

T I T L E A M E N D M E N T

Remove line 47 and insert:

trafficking; creating s. 319.1414, F.S.; authorizing the department to conduct investigations and examinations of department-authorized private rebuilt inspection providers; authorizing the department to exercise certain powers when conducting such investigations and examinations; authorizing the department to petition a court if a person refuses to testify, produce materials, or obey a subpoena or subpoena duces tecum; requiring the court to issue an order; requiring such person to obey the subpoena or show cause for failing to obey the subpoena; providing a penalty for a person who fails to comply with the court's order; authorizing the department to designate agents for specified purposes; providing that subpoenaed witnesses are entitled to witness fees; providing exceptions; authorizing the department to adopt rules; amending s. 319.25, F.S.; authorizing the department to conduct investigations and examinations relating to violations of provisions relating to title certificates; authorizing the department to exercise

certain powers when conducting such investigations and examinations; authorizing the department to petition a court if a person refuses to testify, produce materials, or obey a subpoena or subpoena duces tecum; requiring the court to issue an order; requiring such person to obey the subpoena or show cause for failing to obey the subpoena; providing a penalty for a person who fails to comply with the court's order; authorizing the department to designate agents for specified purposes; providing that subpoenaed witnesses are entitled to witness fees; providing exceptions; authorizing the department to adopt rules; amending s. 320.861, F.S.; authorizing the department to conduct investigations and examinations relating to violations of certain laws, rules, or orders relating to motor vehicle licenses; revising the powers of the department relating to conducting such investigations and examinations; authorizing the department to petition a court if a person refuses to testify, produce materials, or obey a subpoena or subpoena duces tecum; requiring the court to issue an order; requiring such person to obey the subpoena or show cause for failing to obey the subpoena; providing a penalty for a person who fails to comply with the court's order; authorizing the department to designate agents for specified purposes; providing that subpoenaed witnesses are entitled to witness fees; providing exceptions; authorizing the department to adopt rules; creating s. 322.71, F.S.; authorizing the department to conduct investigations and

examinations relating to violations of certain laws, rules, or orders relating to driver licenses; authorizing the department to exercise certain powers when conducting such investigations and examinations; authorizing the department to petition a court if a person refuses to testify, produce materials, or obey a subpoena or subpoena duces tecum; requiring the court to issue an order; requiring such person to obey the subpoena or show cause for failing to obey the subpoena; providing a penalty for a person who fails to comply with the court's order; authorizing the department to designate agents for specified purposes; providing that subpoenaed witnesses are entitled to witness fees; providing exceptions; authorizing the department to adopt rules; amending s. 322.34; conforming a

HB 1201

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1201 Space Florida Board of Directors
SPONSOR(S): Altman
TIED BILLS: **IDEN./SIM. BILLS:** SB 1512

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee		Willson	Keating
2) Public Integrity & Elections Committee			
3) Commerce Committee			

SUMMARY ANALYSIS

Established by the Legislature in 2006, Space Florida was created to promote aerospace business development by facilitating business and infrastructure financing, spaceport operations, research and development, workforce development, and innovative education programs. Space Florida is an independent special district which covers the entire state.

Space Florida is governed by a 13 member independent board of directors. The board must be comprised of the 12 private sector members of the Enterprise Florida Board, plus the Governor or Governor's designee. The Governor or Governor's designee is a voting member and serves as the chair of the board.

The bill adds two ex officio, nonvoting members to the board of directors of Space Florida, as follows:

- One member of the Senate, appointed by the President of the Senate, and
- One member of the House of Representatives, appointed by the Speaker of the House of Representatives.

The bill does not impact state or local government revenues or expenditures.

The bill takes effect July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Space Florida

Space Florida was established by the Legislature in 2006 to consolidate Florida's three existing space entities, namely the Florida Space Authority, the Florida Space Research Institute, and the Florida Aerospace Finance Corporation, into a single organization.[1] Space Florida was created to promote aerospace business development by facilitating business and infrastructure financing, spaceport operations, research and development, workforce development and innovative education programs.[2] Space Florida acts as the single point of contact for state aerospace-related activities with federal agencies, the military, state agencies, businesses, and the private sector.[3] Space Florida may purchase or construct facilities; set rates, fees, and charges for the use of facilities; and undertake joint financing with municipalities or private sector entities for any project.[4]

Space Florida is an independent special district and a subdivision of the state. The boundary and services area for the Space Florida special district covers the entire state. Space Florida is subject to the provisions of the Uniform Special District Accountability Act, to the extent that the provisions of that act do not conflict with the Space Florida Act.[5]

Board of Directors

Space Florida is governed by a 13 member independent board of directors. The board is comprised of the 12 private sector members of the Enterprise Florida, Inc. (EFI) board of directors,[6] plus the Governor or his or her designee. The Governor, or the Governor's designee, is a voting member and serves as the chair of the board.[7]

The duties of the Space Florida board of directors include:

- Adopting rules and orders to conduct the business of Space Florida, the maintenance of records, and the form of all documents and records of Space Florida.
- Maintaining an executive office and Space Florida offices in close proximity to the John F. Kennedy Space Center.
- Appointing a president of Space Florida, and determining his or her title, functions, duties, powers, and salary.
- Preparing an annual report of operations as a supplement to its annual report, which is also required by law.[8]

The Space Florida board of directors is authorized to exercise the following powers:

- Enter, and authorize any agent or employee of Space Florida to enter, upon any lands, waters, and premises, upon giving reasonable notice and due process to the land owner, for the purposes of making surveys, soundings, drillings, appraisals, and examinations necessary to perform its duties and functions.

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[1] Space Florida, *Open Government*, https://www.spaceflorida.gov/about/open-government/ (last visited Mar. 17, 2021).
[2] S. 331.302, F.S.
[3] S. 331.3011, F.S.
[4] S. 331.305, F.S.
[5] S. 331.301–331.371, F.S.
[6] The 12 private sector members of the EFI board of directors (who by default comprise the Space Florida board of directors) are appointed to four-year terms. Six members are appointed by the Governor, three members are appointed by the President of the Senate, and three members are appointed by the Speaker of the House of Representatives. S. 288.901(5)(a)7., F.S.
[7] S. 331.3081, F.S.
[8] S. 331.310(2), F.S.

- Execute all contracts and other documents, adopt all proceedings, and perform all acts determined by the board to be necessary or desirable to carry out the purposes given it in statute.
- Establish and create such departments, committees, or other entities as from time to time the board deems necessary or desirable in the performance of any acts or other things necessary to the exercise of the powers provided in statute.
- Provide financial services to support aerospace-related business development within the state. Financial services may include, but are not limited to:
    - Insuring, coinsuring, or originating for sale direct aerospace-related loans.
    - Direct lending.
    - Guaranteeing and collateralizing loans.
    - Creating accounts.
    - Capitalizing, underwriting, leasing, selling, or securing funding for aerospace-related infrastructure.
    - Investing in permissible securities.
    - Organizing financial institutions and international bank syndicates.
    - Acquiring, accepting, or administering grants, contracts, and fees from other organizations to perform activities that are consistent with the purposes of Space Florida's business plan. If the board deems a financial services entity is necessary, the board may create, form, or contract with one or more such entities.
- Examine, and authorize any officer or agent of Space Florida to examine, the county tax rolls with respect to the assessed valuation of the real and personal property within any spaceport territory.
- Engage in the planning and implementation of space-related economic and educational development within the state.
- Provide the strategic direction for the aerospace-related research priorities of the state and its aerospace-related businesses.
- Execute intergovernmental agreements and development agreements consistent with prevailing statutory provisions, including, but not limited to, special benefits or tax increment financing initiatives.
- Establish reserve funds for future board operations.
- Adopt rules pursuant to chapter 120 to carry out the purposes of ch. 331, which governs Space Florida.[9]

Effect of the Bill

The bill adds two ex officio, nonvoting members to the board of directors of Space Florida, as follows:
- One member of the Senate, appointed by the President of the Senate, and
- One member of the House of Representatives, appointed by the Speaker of the House of Representatives.

The bill takes effect July 1, 2021.

B. SECTION DIRECTORY:

Section 1 Amends s. 331.3081, F.S.; revising the membership of the board of directors of Space Florida to include two ex officio, nonvoting members appointed by the Legislature.

Section 2 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

[9] S. 331.310(1), F.S.

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

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:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to Space Florida board of directors; amending s. 331.3081, F.S.; revising the membership of the board of directors of Space Florida to include two ex officio, nonvoting members appointed by the Legislature; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 331.3081, Florida Statutes, is amended to read:

331.3081 Board of directors.—Space Florida shall be governed by a 15-member ~~13-member~~ independent board of directors that consists of:

(1) The 12 members appointed to the board of directors of Enterprise Florida, Inc., by the Governor, the President of the Senate, and the Speaker of the House of Representatives pursuant to s. 288.901(5)(a)7.

(2) One ex officio, nonvoting member appointed by the President of the Senate from the members of the Senate, and one ex officio, nonvoting member appointed by the Speaker of the House of Representatives from the members of the House of Representatives. ~~and~~

(3) The Governor, who shall serve ex officio, or who may appoint a designee to serve, as the chair and a voting member of

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

the board.

Section 2. This act shall take effect July 1, 2021.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1239 Broadband Internet Infrastructure
SPONSOR(S): Tomkow and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1592

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee		Willson	Keating
2) Ways & Means Committee			
3) Commerce Committee			

SUMMARY ANALYSIS

Federal law provides that a state or local government may not prohibit the ability of any entity to provide telecommunications services. Federal law also recognizes the authority of state and local governments to manage the public right-of-way (ROW) and to require fair and reasonable compensation from telecommunications service providers, on a competitively neutral and nondiscriminatory basis, for the use of such ROW.

Federal law requires investor-owned utilities to provide nondiscriminatory access for attachments to their poles, conduit, or ROW by cable television systems and telecommunications carriers, and authorizes the Federal Communications Commission (FCC) to regulate the rates, terms, and conditions of such attachments in the absence of parallel state regulation.

Most attachments of cable and telecommunications carrier facilities to utility poles owned by a municipal electric utility are not currently regulated at the state or federal level.

Florida levies a six percent sales and use tax on the sale or rental of most tangible personal property, admissions, transient rentals, rental of commercial real estate, and a limited number of services. In addition to the state tax, current law authorizes counties to impose nine local discretionary sales surtaxes.

The bill provides a sales tax exemption for equipment purchased, leased, or sold in Florida for use by providers of telecommunications services and providers of Internet access services, as defined in the bill.

The bill requires and provides a procedure for access by broadband providers for attachments to poles owned and operated by municipal electric utilities. It provides for the adoption of rates, terms, and conditions for such access consistent with federal requirements for pole attachments. Each municipal electric utility must:

- Make available all records necessary to calculate the pole attachment rate pursuant to the current FCC formula used to calculate attachment rates for cable service providers.
- Rearrange, expand, replace, or reengineer any pole if necessary to accommodate the new attachment.
- If replacement is required, the municipal utility must complete all necessary work within 90 days of a request and may be reimbursed only the cost associated with advancing the retirement of the existing pole.

The bill provides that existing pole attachment agreements must be renegotiated at the request of either party in order to bring the agreement in compliance with the bill. The bill specifies that disputes over pole attachment agreements must be adjudicated in circuit court, and that the effect of a court's determination is retroactive to the date of the request to renegotiate.

The Revenue Estimating Conference has not yet scored the bill, however the fiscal impact will likely be significant. See *Fiscal Comments* section.

The bill takes effect on July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Florida Sales and Use Tax

Florida levies a six percent sales and use tax on the sale or rental of most tangible personal property, admissions,[1] transient rentals,[2] rental of commercial real estate,[3] and a limited number of services. Chapter 212, F.S., authorizes the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. There are currently more than 260 exemptions, exclusions, deductions, and credits from the sales and use tax.[4] Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.[5]

In addition to the state tax, s. 212.055, F.S., authorizes counties to impose nine local discretionary sales surtaxes. A surtax applies to "all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by [ch. 212, F.S.], and communications services as defined in ch. 202, F.S."[6] The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold, or are delivered into. Discretionary sales surtax rates currently levied vary by county in a range from 0.5 percent to 2 percent.[7]

Regulation of Pole Attachments

The term pole attachment refers to the process by which communications companies can collocate communications infrastructure on existing electric utility poles. Utility poles are divided into various "spaces" for specific uses, and different vertical portions of the pole serve different functions.[8] Utility poles often accommodate equipment used to provide a variety of services, including electric power, telephone, cable, wireline broadband, and wireless, which benefits the public by minimizing "unnecessary and costly duplication of plant for all pole users."[9]

The bottom of the pole generally is unusable for most types of attachments, although providers of wireless services and facilities sometimes attach equipment associated with distributed antenna systems and other small wireless facilities to the portion of the pole near the ground.[10] Above that, the lower usable space on a pole (known as the "communications space") houses low-voltage communications equipment, including fiber, coaxial cable, and copper wiring.[11] The topmost portion of the pole, the "electric space," houses high-voltage electrical equipment.[12] Historically, communications equipment attachers used only the communications space; however, mobile wireless providers increasingly are seeking access to areas above the communications space, including the electric

[1] S. 212.04, F.S.
[2] S. 212.03, F.S.
[3] S. 212.031, F.S.
[4] *See* Office of Economic and Demographic Research, The Florida Legislature, *Florida Tax Handbook,* pp. 166-171 (2020), http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2020.pdf (last visited Mar. 17, 2021).
[5] Florida Dept. of Revenue, *Who must pay tax? Partial list of taxable business activities,* http://dor.myflorida.com/dor/taxes/sales_tax.html (last visited Mar. 17, 2021).
[6] S. 212.054, F.S.
[7] *See* Office of Economic and Demographic Research, The Florida Legislature, *County Tax Rates: CY 2007-2021*, http://edr.state.fl.us/Content/local-government/data/data-a-to-z/g-l.cfm (last visited Mar. 17, 2021).
[8] *See* Florida Public Service Commission, What's on a Utility Pole? http://www.psc.state.fl.us/ConsumerAssistance/UtilityPole (last visited Mar. 17, 2021).
[9] S. REP. NO. 95-580, at 13 (1977), *as reprinted in* 1978 U.S.C.C.A.N. 109, 121.
[10] *See* EEI Oct. 3, 2017 Wireline *Ex Parte* Letter at Attach. *Pole Attachments: Safety and Reliability*; Crown Castle Wireline NPRM Comments at 5.
[11] PSC, *supra.*
[12] PSC, *supra.*

space, to attach pole-top small wireless facilities. When a new attacher seeks access to a pole, it is necessary to evaluate whether adding the attachment will be safe and whether there is room for it. In many cases, existing attachments must be moved to make room for the new attachment. In some cases, it is necessary to install a larger pole to accommodate a new attachment.[13]

Federal law provides that a state or local government may not prohibit the ability of any entity to provide telecommunications services.[14] Federal law also recognizes the authority of state and local governments to manage the public right-of-way (ROW) and to require fair and reasonable compensation from telecommunication providers, on a competitively neutral and nondiscriminatory basis, for the use of such ROW.[15]

Congress began regulating pole attachments[16] in 1978.[17] The Telecommunications Act (Act) of 1996[18] expanded pole attachment rights to telecommunications[19] carriers. The Act requires utilities[20] to provide nondiscriminatory access to cable television systems and telecommunications carriers. The Act also authorizes the Federal Communications Commission[21] (FCC) to regulate the rates, terms, and conditions of attachments by cable television operators to the poles, conduit, or ROW owned or controlled by utilities in the absence of parallel state regulation.[22] The Act withheld from FCC jurisdiction the authority to regulate attachments where the utility is a railroad, cooperatively organized, or owned by a government entity.[23]

In April 2011, the FCC approved a pole attachment order which established a revised telecommunications formula and included make-ready[24] provisions which provided a benchmark for pole attachment rates and access.[25]

In September 2018, the FCC issued an order[26] which preempted state and local laws and agreements, including those related to pole attachments, to remove regulatory barriers that would inhibit the deployment of "small cell" infrastructure necessary to support new wireless broadband services. The order set uniform rates and regulations for attachments on poles owned and controlled by publicly-

[13] FCC-CIRC1808-03 at 4-5.
[14] 47 U.S.C. § 253(a).
[15] 47 U.S.C. § 253(c). states that "Nothing in this section affects the authority of a State or local government to manage the public rights-of-way or to require fair and reasonable compensation from telecommunications providers, on a competitively neutral and nondiscriminatory basis, for use of public rights-of-way on a nondiscriminatory basis, if the compensation required is publicly disclosed by such government."
[16] 47 U.S.C. § 224(a)(4), defines ''pole attachment'' as "any attachment by a cable television system or provider of telecommunications service to a pole, duct, conduit, or right-of-way owned or controlled by a utility."
[17] The Pole Attachment Act of 1978 granted utility pole access to cable companies and was designed to promote utility competition and service to the public. Communications Act Amendments of 1978, Pub. L. No. 95-234. (Feb. 21, 1978).
[18] Telecommunications Act of 1996, Pub. LA. No. 104-104, 110 Stat. 56 (1996).
[19] The term "telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received. 47 U.S.C. § 153(50).
[20] 47 U.S.C. § 224(a)(1), defines ''utility'' as "any person who is a local exchange carrier or an electric, gas, water, steam, or other public utility, and who owns or controls poles, ducts, conduits, or rights-of-way used, in whole or in part, for any wire communications. Such term does not include any railroad, any person who is cooperatively organized, or any person owned by the Federal Government or any State."
[21] The FCC regulates interstate and international communications by radio, television, wire, satellite and cable in all 50 states, the District of Columbia and U.S. territories. An independent U.S. government agency overseen by Congress, the FCC is the United States' primary authority for communications law, regulation and technological innovation. FCC, *What We Do*, https://www.fcc.gov/about-fcc/what-we-do (last visited Mar 13, 2021).
[22] 47 U.S.C. § 224.
[23] *In the Matter of Implementation of Section 224 of the Act A Nat'l Broadband Plan for Our Future*, 26 F.C.C. Rcd. 5240, 5245–46 (2011)
[24] "Make-ready" generally refers to the modification of poles or lines or the installation of guys and anchors to accommodate additional attachments. FCC, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket Nos. 96-98, 95-185, Order on Reconsideration, 14 FCC Rcd 18049, 18056 n.50 (1999).
[25] FCC, *In the Matter of A National Broadband Plan for Our Future* (GN Docket No. 09-51) Implementation of Section 224 of the Act (WC Docket No. 07-245) Report And Order And Order On Reconsideration, FCC 11-50. (April 7, 2011).
[26] FCC, *Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, Report and Order*, 33 FCC Rcd 9088 (14), FCC-18-133. *See also* Congressional Research Service, *Overview of Legal Challenges to the FCC's 5G Order on Small Cell Siting* (Feb. 25, 2019) The Order's discussion of preemption begins by interpreting the Telecommunication Act's two relevant preemption provisions: Sections 253 and 332(c)(7). Subject to certain exceptions, these sections preempt state and local requirements that "prohibit or have the effect of prohibiting the ability of any entity" to provide "telecommunications" or "personal wireless services." The Order interprets these provisions as imposing a "material inhibition" standard, concluding that a law "ha[s] the effect of prohibiting" a telecommunications entity from providing service if it "materially limits or inhibits the ability of any competitor or potential competitor to compete in a fair and balanced legal and regulatory environment."

owned electric utilities.[27] The order provided that state or local fees charged to mobile service providers for deploying small cell sites violate federal law unless they:

- Are a reasonable approximation of the state or local government's costs,
- Only factor in costs that are "objectively reasonable," and
- Are no higher than fees charged to similarly situated competitors.[28]

Except for small cell wireless facilities, attachments of cable and telecommunications carrier facilities to utility poles owned by a municipal electric utility are not currently regulated by at the state or federal level.

Effect of the Bill

Sales and Use Tax

The bill exempts from the sales and use tax the purchase, lease, or sale of equipment used by providers of communication services or Internet access services, as defined in the bill. The bill provides that the purchase, lease, or sale of equipment used in the business of providing communication services or Internet access services, in whole or in part, by a provider of the services is exempt from sales tax imposed by ch. 212, F.S.

The bill defines the following terms:

- "Equipment used in the business of providing communications services or Internet access services" means all equipment, machinery, software, or other infrastructure that is:
  - Classified as central office equipment, station equipment or apparatus, station connection, wiring, or large private branch exchanges according to the uniform system of accounts which was adopted and prescribed for the provider by the Public Service Commission; [29] or
  - Part of a national, regional, or local headend[30] or similar facility operated by a provider of communications services or Internet access services.
- "Communication services" has the same meaning as in s. 202.11(1), F.S.[31]
- "Internet access service" has the same meaning is s. 202.11(6), F.S.[32]

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[27] American Public Power Association, *Preserving the Municipal Exemption from Federal Pole Attachment Regulations*, at 2. https://www.publicpower.org/system/files/documents/January%202021%20-%20Federal%20Pole%20Attachment%20Regulations.pdf (last visited Mar. 17, 2021).

[28] CRS, *supra*, at 2-3. The order also identifies specific fee limits that are presumptively allowed under federal law. For non-recurring fees, such as up-front applications for small cell site installations, localities may charge up to $500, subject to certain exceptions. For recurring fees, such as access fees, localities may charge up to $270 per year. Under certain circumstances, higher fees may be charged due to local cost variances.

[29] In 2011, Florida eliminated most of the retail regulation of local exchange telecommunications services by the PSC, including the elimination of rate caps on all retail telecommunications services, elimination of telecommunications-related consumer protection and assistance duties of the PSC, and elimination of the PSC's remaining oversight of telecommunications service quality. Ch. 2011-64, Laws of Fla.

[30] A headend is a facility that accepts TV signals as input from satellites, processes them into cable quality signals, and then distributes them to homes and cable networks. It can also be considered as a master distribution center where incoming television signals are received, selected, amplified and re-modulated, and sent for transmission to cable networks. *See* Techopedia, *Headend: What does Headend mean?* https://www.techopedia.com/definition/7550/headend (last visited March 17, 2021).

[31] "Communications services means the transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals, including video services, to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance. The term includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such service is referred to as voice-over-Internet-protocol services or is classified by the Federal Communications Commission as enhanced or value-added. The term does not include: Information services; Installation or maintenance of wiring or equipment on a customer's premises; The sale or rental of tangible personal property; The sale of advertising, including, but not limited to, directory advertising; Bad check charges; Late payment charges; Billing and collection services; or Internet access service, electronic mail service, electronic bulletin board service, or similar online computer services." S. 202.11(1), F.S.

[32] S. 202.11(6), F.S. "Internet access service" has the same meaning as ascribed to the term "Internet access" by s. 1105(5) of the Internet Tax Freedom Act, 47 U.S.C. s. 151 note, as amended by Pub. L. No. 110-108. S. 1105(5) "The term 'Internet access'- "(A) means a service that enables users to connect to the Internet to access content, information, or other services offered over the Internet; "(B) includes the purchase, use or sale of telecommunications by a provider of a service described in subparagraph (A) to the extent such telecommunications are purchased, used or sold-"(i) to provide such service; or "(ii) to otherwise enable users to access content, information or other services offered over the Internet; "(C) includes services that are incidental to the provision of the service described in subparagraph (A) when furnished to users as part of such service, such as a home page, electronic mail and instant messaging (including voice- and video-capable electronic mail and instant messaging), video clips, and personal electronic storage capacity; "(D) does not include voice, audio or video programming, or other products and services (except services

- "Provider of communication services or Internet services" means a dealer[33] and any member of an affiliated group with such dealer.[34]

Broadband Service Infrastructure

The bill creates s. 364.0137, F.S., to provide requirements for broadband provider attachments to municipal electric utility poles.

The bill provides legislative findings that just, reasonable, and nondiscriminatory rates, terms, and condition for access and use of municipal electric utility poles by broadband service providers is essential for the deployment of broadband service to the residents of the state.

The bill defines the following terms:
- "Attachment" means any attachment to a utility pole or structure, duct, conduit, or right-of-way owned or controlled by a municipal electric utility.
- "Broadband provider" means a person who provides broadband service, and includes a person who provides or offers additional services to the public in addition to broadband service.
- "Broadband service" means a service that provides high-speed access to the Internet at a rate of at least 25 megabits per second in the downstream direction and at least 3 megabits per second in the upstream direction.
- "Utility pole" means a pole owned or controlled by a municipal electric utility which is used in whole or in part for electric distribution.

The bill provides that to promote the deployment of broadband service to all residents, each municipal utility must provide broadband providers with access to any utility pole it owns or operates and adopt rates, terms and conditions for such access that are consistent with 47 U.S.C. s. 224 and any FCC regulations and decisions adopted as of July 1, 2021. The rates, terms, and conditions must be nondiscriminatory, just, and reasonable and may not favor a pole owner, owner, or affiliate of the pole owner.

A municipal electric utility may not discriminate between providers and any attaching entity, regardless of the services furnished. The annual recurring rate established by the utility must be calculated pursuant to the cable service rate formula established by 47 U.S.C. s. 224(d) and FCC regulations and decisions in existence on July 1, 2021. The utility must maintain the records necessary to calculate the charges, including costs, description, and depreciation of the utility poles, including any ancillary poles.

The bill requires a municipal utility to rearrange or otherwise reengineer any utility pole if necessary to accommodate the broadband provider's new attachment. If the utility pole must be replaced to accommodate the attachment, the utility may only charge the broadband provider its actual and reasonable costs of "advancing the retirement of the existing utility pole." The costs must be measured by all of the following:
- Net book value of the existing utility pole;
- Incremental cost of installing a utility pole with greater capacity than the existing pole; and
- Other incremental costs that may not include the cost of a pole that the municipal utility would have installed at the same location.

A municipal utility may not prohibit a broadband provider from using boxing techniques, extension arms, attachments below existing attachments where space is unavailable above the existing

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described in subparagraph (A), (B), (C), or (E)) that utilize Internet protocol or any successor protocol and for which there is a charge, regardless of whether such charge is separately stated or aggregated with the charge for services described in subparagraph (A), (B), (C), or (E); and "(E) includes a homepage, electronic mail and instant messaging (including voice- and video-capable electronic mail and instant messaging), video clips, and personal electronic storage capacity, that are provided independently or not packaged with Internet access.

[33] "Dealer" means a person registered with the department as a provider of communications services in this state. S. 202.11(2), F.S.

[34] An affiliated group is defined as one or more chains of includable corporations or partnerships connected through ownership with a common parent corporation or other partnership which is an includable corporation or partnership when the common parent corporation or partnership has ownership in at least one other includable corporation or partnership which generally satisfies the requirements of s. 267 or s. 707 of the Internal Revenue Code. If a dealer or a member of an affiliated group provides communications services in more than one county in the state, the department will notify the local government that no audit may be performed. S. 202.37(1)(c)2., F.S.

attachments, temporary attachments, or other methods or equipment, provided that they comply with the National Electric Safety Code, or any other applicable safety codes.

For any pole replacement, the bill requires the municipal utility to complete all work necessary to accommodate the broadband provider's attachments within 90 days after receipt of an attachment request from the provider. The municipal utility may not require the provider to comply with any attachment specifications that exceed the National Electric Safety Code or any applicable codes.

A municipal electric utility or a broadband provider may submit a written request to negotiate an agreement or to amend, modify, or renew an existing agreement on attachments to conform to the provisions of the bill. The parties must negotiate in good faith for at least 60 days, and after that time, either party may petition the circuit court to determine rates, terms and conditions of the agreements consistent with the provisions of the bill, which include application of current federal law, such as the FCC-approved formula for calculating cable service attachment rates. The court must enter a decision within 180 days after the filing of the petition. The court's decision is retroactive to apply to existing attachments and to the date of the written request to negotiate and applies to the continuing terms of all existing attachments installed before the written request.

Between the date of the written request and the court's decision:

- The terms of any existing agreement on attachments apply, subject to true-up, to put the parties in the position they would have been if the court's decision had been in effect on the date of the negotiation request.
- In absence of an existing agreement, unless the parties agree otherwise, the court, within 30 days following the petition for determination, is required to establish interim rates and conditions, subject to a true-up, to put the parties in the position they would have been if the court's decision had been in effect on the date of the negotiation request.

A utility or provider may seek available remedies at law or equity for violations of the provisions of the bill. The court is required to give effect to the provisions of 47 U.S.C. s. 224 and FCC regulations and decisions in existence on July 1, 2021, in making its decision.

The bill takes effect on July 1, 2021.

B. SECTION DIRECTORY:

Section 1 Provides a short title.

Section 2 Amends s. 212.08, F.S., exempting the purchase, lease, or sale of certain equipment used by a provider of communications services or a provider of Internet access services in this state from the sales and use tax.

Section 3 Creates s. 364.0137, F.S., relating to broadband service infrastructure.

Section 4 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill appears to have a significant negative impact on state government revenues associated with the sales tax exemption in the bill. The Revenue Estimating Conference has not scored the bill, as drafted.

2. Expenditures:

The bill may have an indeterminate negative impact on state government expenditures associated with circuit court proceedings to resolve disputes over pole attachment rates, terms, and conditions.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill may have an indeterminate, but likely negative, impact on local government revenues associated with the pole attachment charges.

2. Expenditures:

The bill appears to have an indeterminate negative impact on local government expenditures associated with the renegotiation and possible litigation of pole attachment rates, terms, and conditions.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Broadband service providers may see an adjustment in the pole attachment fees paid to municipal electric utilities for installation of attachments to the utilities' poles.

D. FISCAL COMMENTS:

The Department of Revenue (DOR) has raised the following concerns:

- It is unclear if the sales tax exemption in the bill is intended to be limited to purchases by providers of communications services or Internet access service or if the intent is to also exempt sales by providers.
- It is unclear if the intent of the bill is to exempt the tax imposed on the lease of real property under s. 212.031, F.S. Section 212.08, F.S., generally provides exemptions for tangible personal property. While it is assumed the intent is to exempt tangible items, the bill provides that the term equipment includes "other infrastructure" which may include land or buildings.
- It is unclear what constitutes "Equipment used in the business of providing communications services or Internet access services" on lines 105-115. Reference to a specific publication or definitions would be preferable.[35]

Without clarification of these provisions, the impact of the bill on state government revenues cannot be fairly estimated.

[35] Department of Revenue, *2021 Agency Legislative Bill Analysis for HB 1239-Revised* at 4. (Mar. 3, 2021).

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:

Line 257 refers to the "commission's determination" but should read "court's determination."

Additionally, DOR states that the effective date of July 1, 2021, does not allow sufficient time for the promulgation of permanent rules.[36]

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

[36] DOR, *supra*.

A bill to be entitled

An act relating to broadband Internet infrastructure; providing a short title; amending s. 212.08, F.S.; exempting the purchase, lease, or sale of certain equipment used by a provider of communications services or a provider of Internet access services in this state from the sales and use tax; providing definitions; creating s. 364.0137, F.S.; providing legislative findings; providing definitions; requiring municipal electric utilities to ensure that their broadband provider rates and fees meet certain requirements, make certain records available to broadband providers, and establish just and reasonable terms and conditions for broadband provider attachments; prohibiting utilities from prohibiting a broadband provider from using certain techniques and equipment if used in accordance with certain safety standards; requiring any required pole replacement to be completed within a specified timeframe; prohibiting utilities from requiring a broadband provider to comply with attachment specifications that exceed specified established safety levels; providing construction; authorizing municipal electric utilities and broadband providers to negotiate agreements or renegotiate existing agreements and to petition the

court after a specified timeframe if unable to reach an agreement; requiring the court to make a determination within a specified timeframe; specifying that such determination applies retroactively; authorizing municipal electric utilities and broadband providers to seek any available remedies; providing an effective date.

WHEREAS, although this state is a national leader in private sector broadband investment, including billions of dollars invested by existing service providers, estimates show that as many as 804,000 residents lack access to the services, particularly in rural areas where the cost to deploy facilities is significantly higher than in more densely populated areas, and

WHEREAS, the lack of advanced communication capabilities, broadband facilities, and services in certain areas deprives residents of access to opportunities, and

WHEREAS, the Legislature finds that it is in the public interest of this state to encourage private-sector investment in broadband deployment and upgrades, encourage greater participation and access for all residents, and remove regulatory and economic barriers to such investment, and

WHEREAS, the Legislature finds that it is in the public interest of this state to encourage and facilitate the

development of and investment in broadband facilities to advance Florida's economic competitiveness, create job opportunities, enhance health care, and enhance educational advancement, and

WHEREAS, the Legislature finds that reasonable rates, terms, and conditions for access and use of municipal utility poles by broadband service providers are essential for the deployment, upgrade, and maintenance of broadband service, and

WHEREAS, it is critical that such access rates, terms, and conditions be reasonable and fully compensatory, as approved by the federal pole attachment framework imposed by the Communications Act of 1934, as amended, 47 U.S.C. s. 224, and the regulations of the Federal Communications Commission governing utilities whose pole attachments are regulated under federal law, NOW, THEREFORE,

Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as the "Florida Broadband Deployment Act of 2021."

Section 2. Paragraph (ppp) is added to subsection (7) of section 212.08, Florida Statutes, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following

are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(ppp) Equipment purchased, leased, or sold in this state for use by a provider of communications services or a provider of Internet access services.—

1. The purchase, lease, or sale of equipment used in the business of providing communications services or Internet access

services, in whole or in part, by a provider of communications services or Internet access services is exempt from the tax imposed by this chapter.

2. As used in this paragraph, the term:

a. "Equipment used in the business of providing communications services or Internet access services" means all equipment, machinery, software, or other infrastructure that is:

(I) Classified as central office equipment, station equipment or apparatus, station connection, wiring, or large private branch exchanges according to the uniform system of accounts which was adopted and prescribed for the provider by the Public Service Commission; or

(II) Part of a national, regional, or local headend or similar facility operated by a provider of communications services or Internet access services.

b. "Communications services" has the same meaning as in s. 202.11(1).

c. "Internet access service" has the same meaning as in s. 202.11(6).

d. "Provider of communications services or Internet access services" means a dealer as defined in s. 202.11(2) and any member of an affiliated group as defined in s. 202.37(1)(c)2. with such dealer.

Section 3. Section 364.0137, Florida Statutes, is created to read:

364.0137 Broadband service infrastructure.—

(1) The Legislature finds that just, reasonable, and nondiscriminatory rates, terms, and conditions for the access and use of municipal electric utility poles by broadband service providers is essential to deploy, upgrade, and maintain broadband service to residents of the state. It is critical that municipal electric utility pole access and use rates are just, reasonable, nondiscriminatory, and fully compensatory, which may be achieved under the federal law framework applicable to utility poles owned and operated by investor-owned utilities. The terms and conditions associated with the access and use of utility poles must be consistent with 47 U.S.C. s. 224, the Communications Act of 1934, as amended, and the regulations of the Federal Communications Commission, as those regulations existed on July 1, 2021.

(2) As used in this section, the term:

(a) "Attachment" means any attachment to a utility pole or structure, duct, conduit, or right-of-way owned or controlled by a municipal electric utility.

(b) "Broadband provider" means a person who provides broadband service, and includes a person who provides or offers additional services to the public in addition to broadband service.

(c) "Broadband service" means a service that provides high-speed access to the Internet at a rate of at least 25

megabits per second in the downstream direction and at least 3 megabits per second in the upstream direction.

(d) "Utility pole" means a pole owned or controlled by a municipal electric utility which is used in whole or in part for electric distribution.

(3) To promote the deployment of broadband service to all residents, each municipal electric utility:

(a) Shall provide broadband providers with access to any to utility poles it owns or operates and adopt rates, terms, and conditions for such access which are consistent with the provisions of 47 U.S.C. s. 224 and any Federal Communications Commission regulations and decisions adopted thereunder, as such regulations and decisions existed on July 1, 2021. The rates, terms, and conditions must be nondiscriminatory, just, and reasonable and may not favor a pole owner or an affiliate of the pole owner.

(b)1. Shall ensure that any rate or fee that the municipal electric utility charges to a broadband provider for an attachment to a utility pole does not:

a. Discriminate between or among such providers and any other attaching entity, regardless of the services furnished.

b. Exceed the annual recurring rate calculated in accordance with the cable service rate formula established by 47 U.S.C. s. 224(d) or any Federal Communications Commission rule, regulation, or decision adopted thereunder, as such existed on

July 1, 2021.

2. Shall maintain and make available to a broadband provider all records necessary to calculate the rate it charges to the provider. The records must include:

a. All costs associated with utility poles; any improvements or reinforcements thereto; and any appurtenances, including costs associated with storm hardening efforts, which must be identified with particularity.

b. Identification of the actual height, usable space, and appurtenances associated with each utility pole.

c. Information regarding any ancillary utility poles and the costs associated with such poles, which are separately identifiable from the principal utility poles they support.

d. To the extent the accumulated depreciation for a utility pole which is used to calculate the rate is based on records specific to pole plant rather than based on proration of accumulated depreciation tracked at a higher aggregated plant amount, sufficiently detailed data to support the pole specific figure.

(c) Shall establish just and reasonable terms and conditions for a broadband provider attachment which do not discriminate between or among providers or any other attaching entity and which are consistent with 47 U.S.C. s. 224 and any Federal Communications Commission rule, regulation, or decision adopted thereunder, as such existed on July 1, 2021, except

that:

1. If necessary to accommodate a broadband provider's new attachment, the municipal electric utility shall rearrange, expand, replace, or otherwise safely reengineer any utility pole upon the request of the broadband provider. If the municipal electric utility is required to replace a utility pole pursuant to this subparagraph, the municipal electric utility may not require a broadband provider to reimburse any costs associated with such pole replacement beyond the recovery of its actual and reasonable costs of advancing the retirement of the existing utility pole. Such costs shall be measured by all of the following:

a. The net book value of the existing utility pole.

b. The incremental cost, if any, of installing a utility pole with greater capacity than the utility pole the municipal electric utility would have installed in the normal course of its operations.

c. Any other incremental costs proved by the municipal electric utility, provided that such incremental costs do not include any costs associated with a utility pole the utility would have installed at the same location.

2. The municipal electric utility may not prohibit the broadband provider from using boxing techniques, extension arms, attachments below existing attachments where space is unavailable above existing attachments, temporary attachments,

or other methods or equipment, provided that such use complies with the National Electric Safety Code or other applicable safety codes.

3. With respect to a utility pole replacement, the municipal electric utility must complete such pole replacement and any other work necessary to accommodate the broadband provider's attachment to the replaced pole within 90 days after receiving a complete attachment request from a broadband provider.

(d) May not require a broadband provider to comply with any utility pole attachment specifications that exceed the specifications in the National Electric Safety Code, applicable fire safety codes, or any building code or similar code of general applicability for the protection of public health, safety, or welfare which was adopted by the applicable local governmental jurisdiction before the broadband provider filed a utility pole attachment application. However, this section may not be construed to expand the power of any local governmental jurisdiction.

(4) A municipal electric utility or broadband provider may submit a written request to negotiate any agreement or to amend, modify, or renew any existing agreement addressing attachments by the broadband provider to conform such agreements to this section. The parties must negotiate in good faith for at least 60 days after the written request, after which either party may

petition the circuit court to determine rates, terms, and conditions for the agreements consistent with this section. The court shall make a determination within 180 days after the filing of the petition for that determination. The court's determination applies retroactively to attachments between the date of the written request to negotiate and the date of the commission's determination, and applies to the continuing terms of all existing attachments that were installed before the written request. Between the date of the written request to negotiate and the date of the court's determination:

(a) The terms and conditions of any existing agreement addressing such attachments apply, subject to true-up, to put the parties in the positions in which they would have been had the court's determination been in effect on the date of the written request to negotiate.

(b) In the absence of such existing agreement, unless the parties agree otherwise, the court, within 30 days after the petition for a determination, must establish interim rates, terms, and conditions that will apply, subject to true-up, to put the parties in the positions in which they would have been had the court's determination been in effect on the date of the written request to negotiate.

(5) A municipal electric utility or broadband provider may seek any available remedies at law or equity for violations of this section. In all cases involving this section, and to the

extent not otherwise provided by this section, the court shall give effect to the provisions and intent of 47 U.S.C. s. 224 and any Federal Communications Commission rules, regulations, or decisions adopted thereunder, as such existed on July 1, 2021.

Section 4. This act shall take effect July 1, 2021.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1313 Digital Driver Licenses and Identification Cards
SPONSOR(S): LaMarca
TIED BILLS: HB 1315 **IDEN./SIM. BILLS:** SB 1324

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee		Johnson	Keating
2) Infrastructure & Tourism Appropriations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

Since 2014, the Department of Highway Safety and Motor Vehicles (DHSMV) has been required to prepare for the development of a secure and uniform system for issuing an optional digital proof of driver license. To this end, DHSMV is in the process of developing the Florida Smart ID.

The bill requires DHSMV to establish a secure and uniform system for issuing optional digital proofs of driver licenses and identification cards. Under the bill. DHSMV may contract with one or more private entities to develop an electronic credentialing system. The electronic credentialing system may not retain Internet Protocol addresses, geolocation data, or other information that describes the location, computer, computer system, or computer network from which a customer accesses the system.

The bill prohibits a private entity who contracts for data verification through an electronic credentialing system with the DHSMV from storing, selling, or sharing personal information collected by scanning a digital proof of driver license or identification card unless consent has been provided by the individual.

The bill provides that, notwithstanding any law prescribing the design for, or information required to be displayed on, a driver license or identification card, a digital proof of driver license or identification may comprise a limited profile that includes only information necessary to conduct a specific transaction on the electronic credentialing system.

The bill also provides that a person may not be issued a digital proof of driver license or identification card until he or she satisfies all requirements for issuance of the respective driver license or identification card and has been issued a printed driver license or identification card. The bill establishes penalties for a person who manufacturers or possesses a false digital identification card.

The bill does not appear to have an impact on state or local government revenues. The bill may have an indeterminate, likely insignificant fiscal impact on state and local government expenditures.

The bill has an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Digital Driver License

A digital driver license comes in the form of a smart phone app protected by biometrics or a personal identification number (PIN). Instead of handing over a physical license to a police officer or store clerk, an individual could display the relevant information on his or her smart phone or send it electronically.[1]

Since 2012, the American Association of Motor Vehicle Administrators (AAMVA) has worked to develop identity credential standards, cross-jurisdictional use, authentication, data privacy protection, and other uses of digital driver licenses. AAMVA has collaborated with Underwriter Laboratories to establish international guidelines and interoperability for industry leaders to test their digital driver license solutions with one another.[2]

Since 2014, the Department of Highway Safety and Motor Vehicles (DHSMV) has been required to prepare for the development of a secure and uniform system for issuing an optional digital proof of driver license. DHSMV may contract with one or more private entities to develop a digital proof of driver license system.[3] The digital proof of driver license must be in such a format as to allow law enforcement to verify the authenticity of the digital proof of driver license. DSHMV may adopt rules to ensure valid authentication of digital driver licenses by law enforcement.[4]

A person may not be issued a digital proof of driver license in Florida until he or she has satisfied all of the requirements for issuance of a physical driver license as provided in ch. 322, F.S.[5]

A person who:

- Manufactures a false digital proof of driver license commits a felony of the third degree.[6]
- Possesses a false digital proof of driver license commits a misdemeanor of the second degree.[7]

While the statute allows for the creation of a digital proof of driver license, it does not authorize the creation of a digital identification card.

DHSMV's Motorist Modernization Project is a multi-phased program to modernize its legacy applications and processes. The Motorist Modernization Project has committed resources and approved funding to procure a digital driver license solution as part of Phase II. The fiscal year 2020-2021 appropriation for Motorist Modernization Phase II was $9,877,400. Of this amount, $400,000 was allocated for digital driver license development.[8]

The digital driver license that DSHMV is developing includes a digital identification, which is a digital representation of a person's identity; however, the actual digital driver license is a digital representation of a physical credential and driving privileges. The DHSMV has branded this effort as the "Florida Smart ID" (Smart ID). Below is an overview of the Smart ID development timeline:

- Received legislative authority to implement in 2014

[1] Veronica Combs, *Mobile Driver's License Would Replace the Physical Card With a Digital Identity*, Tech Republic, April 15, 2020, https://www.techrepublic.com/article/mobile-drivers-license-would-replace-the-physical-card-with-a-digital-identity/ (last visited March 11, 2021)
[2] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 1313, (March 5, 2021),
[3] S. 322.032(1), F.S.
[4] S. 322.032(2), F.S.
[5] S. 322.032(3), F.S.
[6] S. 322.032(4)(a), F.S.
[7] S. 322.032(4)(b), F.S.
[8] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 1313, (March 5, 2021),

- AAMVA standards completed in 2019
- Vendor awarded contract June 2020
- Started work July 2020
- Pilot program slated to start on March 25, 2021, and planned to run for 90 days.[9]

Florida Smart ID

Smart ID involves multiple interactions occurring between various system components, including a Credential Service Provider (CSP),[10] the Smart ID device, and an associated verifier device.

DHSMV has contracted with a vendor to start the development of Smart ID. As of February 2021, the vendor anticipates completion of development and initiation of a pilot program by late March. The pilot program will allow DHSMV to improve and optimize Smart ID and an associated verifier application prior to the statewide launch.[11]

Law enforcement personnel verifying a Smart ID will have access only to driver license information that the user consents to share, and no other information or data from the smart device will be displayed or shared. The Florida Smart ID will display a QR/barcode that will show a law enforcement officer driver license information when scanned by a verifier application. Businesses verifying a Smart ID will have access only to age verification information that a user consents to share. No other information or data from the smart device will be displayed or shared.[12]

DHSMV can remotely update a Smart ID to extend additional privileges (add an endorsement, change classes of driver license), revoke privileges (suspend driver license), or remotely deactivate or wipe a person's credentials. Both the customer and a verifier application will be able to see when the Smart ID was most recently updated.[13]

Effect of the Bill

The bill amends s. 322.032, F.S., to provide for both a digital proof of driver license (DL) and identification card (ID card). The bill defines the terms "digital proof of driver license" and "digital proof of identification card" as an electronic credential viewable on an electronic credentialing system.[14]

The bill directs DHSMV to establish a secure and uniform system for issuing an optional digital proof of DL or ID card and authorizes DHSMV to contract with a vendor for the purpose of developing an electronic credentialing system. As mentioned above, DHSMV has already begun the development of the Florida Smart ID by contracting with a vendor. The bill prohibits the electronic credentialing system from retaining internet protocol addresses, geolocation data, or other information which can reveal the location, computer, computer system, or computer network which is used by a customer to access the system.

The bill requires the digital DL and ID card to be in a format to allow for verification. The digital DL and ID card may only consist of information necessary to conduct specific transactions in the electronic credentialing system. The bill provides that any other law prescribing the design for, or information required to be displayed on a DL or ID card, a digital proof of DL or ID card may comprise a limited

[9] *Id.* at p. 3.
[10] A Credential Service Provider (CSP) is a trusted entity that issues or registers subscriber tokens and issues electronic credentials to subscribers. The CSP may encompass registration authorities and verifiers that it operates. A CSP may be an independent third party, or may issue credentials for its own use. *See* National Information Technology Laboratory, *Computer Security Resource Center*, https://csrc.nist.gov/glossary/term/credential_service_provider (last visited March 4, 2021).
[11] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 1313, (March 5, 2021),
[12] *Id.*
[13] *Id.*
[14] The bill defines the term "electronic credentialing system" as a computer system accessed using a computer, a cellular telephone, or any other personal device which queries DHSMV's driver license and identification card records, displays or transmits digital proofs of driver license and identification cards, and verifies the authenticity of those electronic credentials.

profile,[15] which includes only information necessary to conduct a specific transaction on the electronic credentialing system.

The bill amends s. 322.14(1)(a), F.S., to require DHSMV to issue a printed DL to every qualified applicant. The bill prohibits DHSMV from issuing a digital DL or ID card if the applicant is not eligible for the issuance of a physical printed DL or ID card. The digital DL or ID card must be capable of displaying current information from a DL record. For example, if a licensee's driving privilege is suspended, revoked, or disqualified, or if his or her DL is otherwise canceled or expired, a digital proof of DL may not be issued. However, a digital proof of ID card may be issued if the licensee is otherwise eligible for an ID card.[16]

The bill authorizes DHSMV to use a telephone number submitted by a licensee or cardholder in connection with a digital DL or ID for purpose of communication regarding the electronic credential or the motor vehicle records. The bill permits DHSMV to enter into a contract with a private entity to conduct online data calls or offline data verification using the electronic credentialing system.

The bill prohibits any vendor contracted with DHSMV from storing, selling, or sharing any personal information collected from scanning[17] a digital DL or ID card. However, the bill allows individuals using an electronic DL or ID card to consent to allow a private entity to collect and store such personal information. The bill also requires the individual to be informed about what information is collected and the purpose or purposes for which the information will be used. A private entity that violates this section is subject to a civil penalty of up to $5,000 per occurrence. However, this provision does not apply to a financial institution.[18]

The bill provides that any person who manufactures a false digital DL or ID card commits a felony of the third degree. The possession of a false digital DL or ID card is a misdemeanor of the second degree.

The bill amends s. 322.15(1), F.S., to require a person to submit his or her physical DL or ID card if a law enforcement officer is unable to verify a digital credential.

The bill has an effective date of July 1, 2021.

B. SECTION DIRECTORY:

Section 1 Amends s. 322.032, F.S., relating to digital proof of driver license or identification card.

Section 2 Amends s. 322.14, F.S., relating to licenses issued to drivers.

Section 3 Amends s. 322.15, F.S., relating to license to be carried and exhibited on demand.

Section 4 Reenacts s. 322.121, F.S., relating to periodic examination of all drivers.

Section 5 Provides an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

[15] The bill defines the term "limited profile" as an electronic credential containing some, but not all, of the information displayed on a printed driver license or identification card.
[16] Eligibility for ID cards is provided in s. 322.051, F.S.
[17] The bill defines the term "scanning" as obtaining data from a digital proof of driver license or identification card in an electronic format.
[18] Section 655.005(1)(i), F.S., defines the term "financial institution" as a state or federal savings or thrift association, bank, savings bank, trust company, international bank agency, international banking corporation, international branch, international representative office, international administrative office, international trust entity, international trust company representative office, qualified limited service affiliate, credit union, or an agreement corporation operating pursuant to s. 25 of the Federal Reserve Act, 12 U.S.C. ss. 601 et seq. or Edge Act corporation organized pursuant to s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et seq.

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. Businesses who wish to provide electronic verification of a Smart ID will need the retail reader application installed on a device. Additionally, if the business prefers to integrate the verification process into their point of sale systems it would require application development to be done by the business to integrate a retail reader application into their point of sale systems.[19]

D. FISCAL COMMENTS:

State and local law enforcement agencies will need to train their members and update associated enforcement policies for the Florida Smart ID. This may have an indeterminate, likely insignificant fiscal impact on state and local government.[20]

DHSMV has already undertaken development of the Florida Smart ID through existing law and therefor already has the resources to continue with the expanded requirements of the bill. Due to this, the fiscal impact on the DHSMV is minimal and can be handled within existing resources.[21]

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to impact county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority, nor does it require rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

[19] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 1313, p. 7.
[20] *Id. at 6.*
[21] *Id.*

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to digital driver licenses and identification cards; amending s. 322.032, F.S.; defining terms; requiring the Department of Highway Safety and Motor Vehicles to establish a secure and uniform system for issuing optional digital proofs of driver licenses and identification cards; authorizing the department to contract with one or more private entities to develop an electronic credentialing system; prohibiting such electronic credentialing system from retaining certain information; revising requirements for digital proofs of driver licenses and providing requirements for digital proofs of identification cards; revising the department's rulemaking authority; revising requirements for the issuance of digital proofs of driver licenses and identification cards; authorizing the department to use telephone numbers submitted by licensees and cardholders for specified purposes only; authorizing the department to enter into contracts with private entities for a specified purpose; prohibiting such private entities from storing, selling, or sharing personal information collected from scanning the digital proofs of driver licenses and identification cards; providing an exception by authorizing

individuals to consent to allow private entities to collect and store such personal information; requiring that an individual is informed what information is collected in such scans and the purposes for which the information will be used; authorizing private entities to manually collect personal information from individuals under certain circumstances; providing a civil penalty; providing applicability; conforming provisions to changes made by the act; amending s. 322.14, F.S.; conforming a provision to changes made by the act; amending s. 322.15, F.S.; conforming a provision to changes made by the act; requiring a licensee to present or submit his or her printed driver license to a law enforcement officer or an authorized representative of the department under specified circumstances; reenacting s. 322.121(2), F.S., relating to periodic reexamination of all drivers, to incorporate the amendment made to s. 322.15, F.S., in a reference thereto; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 322.032, Florida Statutes, is amended to read:

322.032 Digital proof of driver license or identification card.—

(1) As used in this section, the term:

(a) "Digital proof of driver license" means an electronic credential viewable on an electronic credentialing system.

(b) "Digital proof of identification card" means an electronic credential viewable on an electronic credentialing system.

(c) "Electronic credentialing system" means a computer system accessed using a computer, a cellular telephone, or any other personal device which queries the department's driver license and identification card records, displays or transmits digital proofs of driver licenses and identification cards, and verifies the authenticity of those electronic credentials.

(d) "Limited profile" means an electronic credential containing some, but not all, of the information displayed on a printed driver license or identification card.

(e) "Scanning" means obtaining data from a digital proof of driver license or identification card in an electronic format.

(2)(a) The department shall establish ~~begin to review and prepare for the development of~~ a secure and uniform system for issuing an optional digital proof of driver license or identification card. The department may contract with one or more private entities to develop an electronic credentialing ~~a~~

~~digital proof of driver license~~ system.

(b) The electronic credentialing system may not retain Internet protocol addresses, geolocation data, or other information that describes the location, computer, computer system, or computer network from which a customer accesses the system.

(3)(a) ~~(2)~~ The digital proof of driver license or identification card established ~~developed~~ by the department or by an entity contracted by the department must be in such a format as to allow verification of ~~law enforcement to verify~~ the authenticity of the digital proof of driver license or identification card. The department may adopt rules to ensure valid authentication of digital driver licenses and identification cards ~~by law enforcement~~.

(b)1. Notwithstanding ss. 322.14, 322.141, 322.142, and any other law prescribing the design for, or information required to be displayed on, a driver license, a digital proof of driver license may comprise a limited profile that includes only information necessary to conduct a specific transaction on the electronic credentialing system.

2. Notwithstanding ss. 322.051, 322.141, and any other law prescribing the design for, or information required to be displayed on, an identification card, a digital proof of identification card may comprise a limited profile that includes only information necessary to conduct a specific transaction on

the electronic credentialing system.

(4) ~~(3)~~ A person may not be issued a digital proof of driver license or identification card until he or she satisfies all ~~has satisfied all of the~~ requirements of this chapter for issuance of the respective ~~a physical~~ driver license or identification card and has been issued a printed driver license or identification card. The electronic credentialing system must, upon each presentation of a digital driver license or identification card, display or transmit current records for the driver license or identification card. If a licensee's driving privilege is suspended, revoked, or disqualified, or if his or her driver license is otherwise canceled or expired, a digital proof of driver license may not be issued; however, a digital proof of identification card may be issued if the licensee is otherwise eligible for an identification card under s. 322.051 ~~as provided in this chapter~~.

(5) The department may use a telephone number submitted by a licensee or cardholder in connection with a digital driver license or identification card only for purposes of communication regarding the digital proof of driver license or identification card or the motor vehicle records, as defined in s. 119.0712(2)(a), of the licensee or cardholder.

(6) The department may enter into a contract with a private entity which authorizes online data calls or offline data verification through the electronic credentialing system

that queries the department's driver license and identification card records, displays or transmits digital proofs of driver licenses or identification cards, or verifies the authenticity of such electronic credentials.

(7)(a) Except as provided in paragraph (b), a private entity that contracts with the department and that scans a digital proof of driver license or identification card may not store, sell, or share personal information collected from such scanning of the digital proof of driver license or identification card.

(b) An individual may consent to allow a private entity to collect and store personal information obtained by scanning his or her digital proof of driver license or identification card. However, the individual must be informed what information is collected and the purpose or purposes for which the information will be used. If the individual does not want the private entity to scan his or her digital proof of the individual's driver license or identification card, the private entity may manually collect personal information from the individual.

(c) A private entity that violates this subsection is subject to a civil penalty not to exceed $5,000 per occurrence.

(d) This subsection does not apply to a financial institution as defined in s. 655.005(1)(i).

(8)~~(4)~~ A person who:

(a) Manufactures a false digital proof of driver license

or identification card commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Possesses a false digital proof of driver license or identification card commits a misdemeanor of the second degree, punishable as provided in s. 775.082.

Section 2. Paragraph (a) of subsection (1) of section 322.14, Florida Statutes, is amended to read:

322.14 Licenses issued to drivers.—

(1)(a) The department shall, upon successful completion of all required examinations and payment of the required fee, issue to every qualified applicant a printed driver license that must bear a color photograph or digital image of the licensee; the name of the state; a distinguishing number assigned to the licensee; and the licensee's full name, date of birth, and residence address; a brief description of the licensee, including, but not limited to, the licensee's gender and height; and the dates of issuance and expiration of the license. A space shall be provided upon which the licensee shall affix his or her usual signature. A license is invalid until it has been signed by the licensee except that the signature of the licensee is not required if it appears thereon in facsimile or if the licensee is not present within the state at the time of issuance.

Section 3. Subsection (1) of section 322.15, Florida Statutes, is amended to read:

322.15 License to be carried and exhibited on demand;

fingerprint to be imprinted upon a citation.—

(1) Every licensee shall have his or her driver license, which must be fully legible with no portion of such license faded, altered, mutilated, or defaced, in his or her immediate possession at all times when operating a motor vehicle and shall present or submit the same upon the demand of a law enforcement officer or an authorized representative of the department. A licensee may present or submit a digital proof of driver license as provided in s. 322.032 in lieu of his or her printed ~~a physical~~ driver license; however, if the law enforcement officer or authorized representative of the department is unable to immediately verify the digital proof of driver license, upon the demand of the law enforcement officer or authorized representative of the department, the licensee must present or submit his or her printed driver license.

Section 4. For the purpose of incorporating the amendment made by this act to section 322.15, Florida Statutes, in a reference thereto, subsection (2) of section 322.121, Florida Statutes, is reenacted to read:

322.121 Periodic reexamination of all drivers.—

(2) For each licensee whose driving record does not show any revocations, disqualifications, or suspensions for the preceding 7 years or any convictions for the preceding 3 years except for convictions of the following nonmoving violations:

(a) Failure to exhibit a vehicle registration certificate,

rental agreement, or cab card pursuant to s. 320.0605;

(b) Failure to renew a motor vehicle or mobile home registration that has been expired for 6 months or less pursuant to s. 320.07(3)(a);

(c) Operating a motor vehicle with an expired license that has been expired for 6 months or less pursuant to s. 322.065;

(d) Failure to carry or exhibit a license pursuant to s. 322.15(1); or

(e) Failure to notify the department of a change of address or name within 10 days pursuant to s. 322.19,

the department shall cause such licensee's license to be prominently marked with the notation "Safe Driver."

Section 5. This act shall take effect July 1, 2021.

HB 1315

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1315 Pub. Rec./Department of Highway Safety and Motor Vehicles
SPONSOR(S): LaMarca
TIED BILLS: HB 1313 **IDEN./SIM. BILLS:** SB 1326

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee		Johnson	Keating
2) Government Operations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

The Department of Highway Safety and Motor Vehicles (DHSMV) is in the process of developing optional digital driver licenses and identification cards, known as Florida Smart ID. HB 1313 (2021), to which this bill is linked, provides for the creation of and statutory requirements for digital driver licenses and identification cards.

The bill contains public record exemptions related to DHSMV for:

- Secure login credentials held by the DHSMV; and
- Internet protocol addresses, geolocation data, and other information held by the DHSMV which describes the location, computer, computer system, or computer network from which a user accesses a public-facing portal, and the dates and times that a user accesses a public-facing portal.

The bill provides for repeal of the public record exemption on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature. The bill provides a statement of public necessity as required by the Florida Constitution.

Article I, section 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill created a public record exemption; thus, it requires a two-thirds vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Public Records

Article I, section 24(a) of the Florida Constitution sets forth the state's public policy regarding access to government records. This section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of article I, section 24(a) of the Florida Constitution.[1] The general law must state with specificity the public necessity justifying the exemption[2] and must be no broader than necessary to accomplish its purpose.[3]

Public policy regarding access to government records is addressed further in s. 119.07(1)(a), F.S., which guarantees every person a right to inspect and copy any state, county, or municipal record, unless the record is exempt. Furthermore, the Open Government Sunset Review Act[4] provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.[5]

The Open Government Sunset Review Act requires the automatic repeal of a newly created public record exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.[6]

Digital Driver License

The Department of Highway Safety and Motor Vehicles (DHSMV) is in the process of developing a digital driver license and identification card known as the Florida Smart ID system (Smart ID). Smart ID has multiple interactions occurring between various system components, including a Credential Service Provider (CSP), the Smart ID device, and an associated Verifier device.

Customers can use the Smart ID to show proof of identity or age. The application may be downloaded and installed on a smart device. Once downloaded, a secure enrollment process occurs using DHSMV's Virtual Office website. DHSMV will validate identity and eligibility to activate the Florida Smart ID for use on the device.

HB 1313 (2021) to which this bill is linked requires the DHSMV to establish digital driver licenses and identification cards. That bill also creates statutory guidelines regarding the digital driver licenses and identification cards.

Effect of the Bill

The bill amends s. 119.0712(2), F.S., to create public record exemptions for:

[1] Art. I, s. 24(c), FLA. CONST.
[2] This portion of a public record exemption is commonly referred to as a "public necessity statement."
[3] Art. I. s. 24(c), FLA. CONST.
[4] S. 119.15, F.S.
[5] S. 119.15(6)(b), F.S.
[6] S. 119.15(3), F.S.

- Secure login credentials held by the DHSMV before, on, or after the effective date of the exemption; and
- Internet protocol addresses, geolocation data, and other information held by the DHSMV which describes the location, computer, computer system, or computer network from which a user accesses a public-facing portal, and the dates and times that a user accesses a public-facing portal.

The bill defines the term "secure login credentials" as information collected or issued by DHSMV for purposes of authenticating a user logging into a user account on a computer, a computer system, a computer network, or an electronic device, or an online user account accessible over the Internet, whether through a mobile device, a website, or any other electronic means. The term includes, but is not limited to: user identifications and passwords; personal identification numbers; security questions and answers; e-mail addresses; telephone numbers, and human biometric information[7] used for authentication or password recovery.

The bill defines the term "public-facing portal" as a web portal or computer application accessible to the public over the Internet, whether through a mobile device, website, or other electronic means, which is established for administering ch. 319, F.S., (motor vehicle titling); ch. 320, F.S., (motor vehicle licenses); ch. 322, F.S., (driver licenses); ch. 328, F.S., (vessel registration or titling); or any other provision of law conferring duties upon DHSMV.

The bill provides a public necessity statement as required by article I, section 24(c) of the Florida Constitution. The statement includes that:

- Safeguarding the integrity and accuracy of data systems maintained by DHSMV is of paramount public importance, as these systems comprise critical information related to driver licenses, state identification cards, motor vehicles and vessels, and Florida Highway Patrol law enforcement records and also comprise personal information restricted from public disclosure by the federal Driver Privacy Protection Act of 1994;[8]
- Accordingly, unauthorized access to those systems poses a serious threat to the integrity and accuracy of the data contained therein, and the unauthorized disclosure of personal information contained in those systems may subject users to identity theft, financial harm, or other adverse impacts.
- Development of information technology allows DHSMV to make secure transactions more readily available to the public through expanded use of online user accounts accessible over the Internet, including applications such as digital driver licenses, and the public release of secure login credentials, Internet protocol addresses, and geolocation data would render these data systems vulnerable to unauthorized access.
- To safeguard user accounts from unauthorized access and avert the unauthorized disclosure of personal information, it is a public necessity that secure login credentials, Internet protocol addresses, and geolocation data be exempt from public records requirements and, without the public records exemption, the effective and efficient administration of user accounts would be hindered.

The bill provides for repeal of the public record exemption on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.

B. SECTION DIRECTORY:

Section 1 Amends s. 119.0712, F.S., relating to executive branch agency-exemptions from inspection or copying of records.

Section 2 Provides a statement of public necessity.

Section 3 Provides a contingent effective date.

[7] There is currently a generally applicable public records exemption for biometric information in s. 119.071(5)(g), F.S.
[8] 18 U.S.C. ss. 2721 et seq., and s. 119.0712(2), F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill may have a negative fiscal impact to DHSMV to comply with public records requests and redact exempt information prior to releasing a record. Such costs, however, would be absorbed as part of the day-to-day responsibilities of the agency.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

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 take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   Vote Requirement
   Article I, section 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill creates new public record exemptions; thus, it requires a two-thirds vote for final passage.

   Public Necessity Statement
   Article I, section 24(c) of the Florida Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates a public record exemption and includes the required public necessity statement.

   Breadth of Exemption
   Article 1, section 24(c) of the Florida Constitution requires a newly created or expanded public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking, nor does it provide a grant of rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to public records; amending s. 119.0712, F.S.; providing exemptions from public records requirements for secure login credentials, Internet protocol addresses, and geolocation data held by the Department of Highway Safety and Motor Vehicles; providing retroactive application; defining the terms "secure login credentials" and "public-facing portal"; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity; providing a contingent effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (e) is added to subsection (2) of section 119.0712, Florida Statutes, to read:

119.0712 Executive branch agency-specific exemptions from inspection or copying of public records.—

(2) DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES.—

(e)1. Secure login credentials held by the Department of Highway Safety and Motor Vehicles are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to secure login credentials held by the department before, on, or after the effective date of the exemption. For

CODING: Words stricken are deletions; words underlined are additions.

purposes of this subparagraph, the term "secure login credentials" means information collected or issued by the department for purposes of authenticating a user logging into a user account on a computer, a computer system, a computer network, or an electronic device; or an online user account accessible over the Internet, whether through a mobile device, a website, or any other electronic means. The term includes, but is not limited to, user identifications and passwords; personal identification numbers; security questions and answers; and e-mail addresses, telephone numbers, and human biometric information used for authentication or password recovery.

2. Internet protocol addresses, geolocation data, and other information held by the Department of Highway Safety and Motor Vehicles which describes the location, computer, computer system, or computer network from which a user accesses a public-facing portal, and the dates and times that a user accesses a public-facing portal, are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the department before, on, or after the effective date of the exemption. For purposes of this subparagraph, the term "public-facing portal" means a web portal or computer application accessible by the public over the Internet, whether through a mobile device, website, or other electronic means, which is established for administering chapter 319, chapter 320, chapter 322, chapter 328, or any other

provision of law conferring duties upon the department.

3. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that secure login credentials, Internet protocol addresses, and geolocation data held by the Department of Highway Safety and Motor Vehicles for purposes of authenticating a user logging into a user account be exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The Legislature finds that safeguarding the integrity and accuracy of data systems maintained by the Department of Highway Safety and Motor Vehicles is of paramount public importance. Those systems comprise critical information related to driver licenses, state identification cards, motor vehicles and vessels, and Florida Highway Patrol law enforcement records. Those systems also comprise personal information restricted from public disclosure by the federal Driver's Privacy Protection Act of 1994. Accordingly, unauthorized access to those systems poses a serious threat to the integrity and accuracy of the data contained therein. Moreover, the unauthorized disclosure of personal information contained in those systems may subject users to identity theft, financial harm, or other adverse impacts. The Legislature further finds

that development in information technology allows the Department of Highway Safety and Motor Vehicles to make secure transactions more readily available to the public through expanded use of online user accounts accessible over the Internet, including applications such as digital driver licenses. The public release of secure login credentials, Internet protocol addresses, and geolocation data would render these data systems vulnerable to unauthorized access. The Legislature finds that, to safeguard user accounts from unauthorized access and avert the unauthorized disclosure of personal information, it is a public necessity that secure login credentials, Internet protocol addresses, and geolocation data be exempt from public records requirements and, without the public records exemption, the effective and efficient administration of user accounts would be hindered.

Section 3. This act shall take effect on the same date that HB 1313 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

HB 1359

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1359 Pub. Rec./Department of Highway Safety and Motor Vehicles
SPONSOR(S): Brannan
TIED BILLS: HB 1151 **IDEN./SIM. BILLS:** CS/SB 1502

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee		Johnson	Keating
2) Government Operations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

The bill creates four public records exemptions, each making confidential and exempt from public disclosure information received by the Department of Highway Safety and Motor Vehicles (DHSMV) as part of its investigations of:

- Suspected violations by private rebuilt inspection providers, or any contract entered into thereunder by such a provider;
- Suspected violations of ch. 319, F.S., relating to motor vehicle titles, or any rule or order thereunder;
- Suspected violations of ch. 320, F.S., relating to motor vehicle registrations and motor vehicle dealer and manufacturer licensing, or any rule or order thereunder; and
- Suspected violations of ch. 322, F.S., relating to driver licenses and identification cards, or any rule or order thereunder.

The above exemptions shield investigative records until the investigation ceases to be active or administrative action taken by DHSMV has concluded or been made part of any hearing or court proceeding, after which the investigative records are no longer confidential and exempt.

The bill provides for repeal of these public record exemptions on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature. The bill provides a statement of public necessity as required by the Florida Constitution.

The bill may have an insignificant impact on state government expenditures. The bill does not appear to have a fiscal impact on local governments or state government revenues.

The bill is effective upon the same date that CS/HB 1151 or similar legislation takes effect, if such legislation is adopted in the same legislative session or extension thereof and becomes a law.

Article I, section 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill creates new a public record exemptions; thus, it requires a two-thirds vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Public Records

Article I, section 24(a) of the Florida Constitution sets forth the state's public policy regarding access to government records. This section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of article I, section 24(a) of the Florida Constitution.[1] The general law must state with specificity the public necessity justifying the exemption[2] and must be no broader than necessary to accomplish its purpose.[3]

Public policy regarding access to government records is addressed further in s. 119.07(1)(a), F.S., which guarantees every person a right to inspect and copy any state, county, or municipal record, unless the record is exempt. Furthermore, the Open Government Sunset Review Act[4] provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.[5]

The Open Government Sunset Review Act requires the automatic repeal of a newly created public record exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.[6]

DHSMV Investigative Authority

DHSMV has jurisdiction to administer multiple chapters of the Florida Statutes with various degrees of investigative authority. For example, DHSMV is required to cancel improperly issued certificates of title,[7] but does not appear to have the authority to investigate and examine violations related to motor vehicle titles.

While DSHMV has the authority to inspect books and records of motor vehicle manufacturer and dealers,[8] it does not appear to have the authority to investigate other violations of ch. 320, F.S., relating to motor vehicle dealers.

DHSMV also does not appear to have statutory authority to investigate persons suspected of violating ch. 322, F.S., relating to driver licenses.

Effect of the Bill

[1] Art. I, s. 24(c), FLA. CONST.
[2] This portion of a public record exemption is commonly referred to as a "public necessity statement."
[3] Art. I. s. 24(c), FLA. CONST.
[4] S. 119.15, F.S.
[5] S. 119.15(6)(b), F.S.
[6] S. 119.15(3), F.S.
[7] S. 319.25(1), F.S.
[8] S. 320.861, F.S.

The bill amends ss. 319.1414, 319.25, 320.861, and 322.71, F.S., to provide that information received by DSHMV as a result of an investigation or examination is confidential and exempt from the disclosure requirements in s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution until the investigation or examination ceases to be active or administrative action taken by DHSMV has concluded or been made part of any hearing or court proceeding.

The bill authorizes DHSMV to release investigative records in furtherance of DSHMV's official duties and responsibilities or, if released to another governmental agency, in furtherance of that agency's official duties and responsibilities.

The bill does not express legislative intent that the exemptions apply retroactively. Therefore, the exemptions would apply prospectively to records created or received by DSHMV on or after the effective date of the bill.[9]

The bill contains a statement of public necessity, as required by article I, section 24(c) of the Florida Constitution. The public necessity statement provides that the release of information received by DHSMV as a result of an investigation or examination of violations of ss. 319.1414 and 319.25, F.S., and chs. 320 and 322, F.S., could obstruct or jeopardize the integrity of the investigation or examination and impair the ability of DHSMV to perform its official duties and carry out its responsibilities under these statutory provisions, thus it is a public necessity to make such information confidential and exempt from public records requirements.

Each provision is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill provides that it will become effective upon the same date that CS/HB 1151 or similar legislation takes effect, if such legislation is adopted in the same legislative session or extension thereof and becomes a law.

B. SECTION DIRECTORY:

Section 1 Amends s. 319.1414, F.S., to be created in a separate bill, relating to investigations; subpoenas and other process; oaths; rules.

Section 2 Amends s. 319.25, F.S., relating to cancellation of certificates; investigations; subpoenas and other process; oaths; rules.

Section 3 Amends s. 320.861, F.S., relating to investigations, subpoenas and other process; oaths; rules.

Section 4 Amends s. 322.71, F.S., to be created in a separate bill, relating to investigations; subpoenas and other process; oaths; rules.

Section 5 Provides a statement of public necessity.

Section 6 Provides a contingent effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

[9] *Memorial Hospital-West Volusia, Inc. v. News-Journal Corporation*, 784 So. 2d 438 (Fla. 2001).

2. Expenditures:

The bill may have an insignificant fiscal impact on DHSMV to comply with public records requests and redact exempt information prior to releasing a record. Such costs, however, would be absorbed as part of the day-to-day responsibilities of the agency.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

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 take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Vote Requirement
Article I, section 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill creates new public record exemptions; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement
Article I, section 24(c) of the Florida Constitution requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill creates a public record exemption and includes the required public necessity statement.

Breadth of Exemption
Article 1, section 24(c) of the Florida Constitution requires a newly created or expanded public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law.

B. RULE-MAKING AUTHORITY:

The bill does not provide a grant of rulemaking authority, nor does it require rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill creates a public records exemption for information received by DHSMV as a result of an investigation or examination pursuant to a provision of law created in a separate bill. Currently, that

separate bill does not contain provisions authorizing these investigations, but may be subsequently amended to include this authority.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to public records; amending ss. 319.1414, 319.25, 320.861, and 322.71, F.S.; providing an exemption from public records requirements for information received by the Department of Highway Safety and Motor Vehicles as a result of an investigation or examination conducted pursuant to certain provisions; authorizing the department to release such information under certain circumstances; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing a contingent effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (6) of section 319.1414, Florida Statutes, as created by CS/HB 1151, 2021 Regular Session, is renumbered as subsection (7), and a new subsection (6) is added to that section to read:

319.1414 Investigations; subpoenas and other process; oaths; rules.—

(6) Information received by the department as a result of an investigation or examination conducted pursuant to this section is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation

CODING: Words stricken are deletions; words underlined are additions.

or examination ceases to be active or administrative action taken by the department has concluded or been made part of a hearing or court proceeding. The department may release information that is made confidential and exempt under this subsection in furtherance of its official duties and responsibilities or, if released to another governmental agency, in the furtherance of that agency's official duties and responsibilities. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. Subsection (8) of section 319.25, Florida Statutes, as created by CS/HB 1151, 2021 Regular Session, is renumbered as subsection (9), and a new subsection (8) is added to that section to read:

319.25 Cancellation of certificates; investigations; subpoenas and other process; oaths; rules.—

(8) Information received by the department as a result of an investigation or examination conducted pursuant to this section is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation or examination ceases to be active or administrative action taken by the department has concluded or been made part of a hearing or court proceeding. The department may release information that is made confidential and exempt under this

subsection in furtherance of its official duties and responsibilities or, if released to another governmental agency, in the furtherance of that agency's official duties and responsibilities. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 3. Subsection (6) of section 320.861, Florida Statutes, as created by CS/HB 1151, 2021 Regular Session, is renumbered as subsection (7), and a new subsection (6) is added to that section to read:

320.861 Investigations; subpoenas and other process; oaths; rules.—

(6) Information received by the department as a result of an investigation or examination conducted pursuant to this section is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation or examination ceases to be active or administrative action taken by the department has concluded or been made part of a hearing or court proceeding. The department may release information that is made confidential and exempt under this subsection in furtherance of its official duties and responsibilities or, if released to another governmental agency, in the furtherance of that agency's official duties and responsibilities. This subsection is subject to the Open

Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 4. Subsection (6) of section 322.71, Florida Statutes, as created by CS/HB 1151, 2021 Regular Session, is renumbered as subsection (7), and a new subsection (6) is added to that section to read:

322.71 Investigations; subpoenas and other process; oaths; rules.—

(6) Information received by the department as a result of an investigation or examination conducted pursuant to this section is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation or examination ceases to be active or administrative action taken by the department has concluded or been made part of a hearing or court proceeding. The department may release information that is made confidential and exempt under this subsection in furtherance of its official duties and responsibilities or, if released to another governmental agency, in the furtherance of that agency's official duties and responsibilities. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 5. The Legislature finds that it is a public

necessity that information received by the Department of Highway Safety and Motor Vehicles as a result of an investigation or examination conducted pursuant to s. 319.1414, s. 319.25, chapter 320 as provided in s. 320.861, and chapter 322 as provided in s. 322.71, Florida Statutes, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution until the investigation or examination ceases to be active or administrative action taken by the department has concluded or been made part of a hearing or court proceeding. The release of such information about a pending investigation or examination of violations of s. 319.1414, s. 319.25, chapter 320, and chapter 322, Florida Statutes, could obstruct or jeopardize the integrity of the investigation or examination and impair the ability of the Department of Highway Safety and Motor Vehicles in the performance of its official duties and responsibilities under s. 319.1414, s. 319.25, chapter 320, and chapter 322, Florida Statutes. Therefore, the Legislature finds that it is a public necessity to make such information confidential and exempt from public records requirements.

Section 6. This act shall take effect on the same date that CS/HB 1151 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

PCS for HB 139

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 139 Motor Vehicle and Vessel Registration Data
SPONSOR(S): Tourism, Infrastructure & Energy Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:** SB 754

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Tourism, Infrastructure & Energy Subcommittee		Johnson	Keating

SUMMARY ANALYSIS

County tax collectors, as authorized agents of the Department of Highway Safety and Motor Vehicles (DHSMV), issue motor vehicle and vessel registration certificates, motor vehicle registration license plates and validation stickers, and vessel numbers and decals to applicants.

The bill requires each third party that has contracted with a tax collector and has online computer access to DHSMV's system to enter into a memorandum of understanding with DHSMV.

The bill requires DHSMV to administer funds collected through an existing fee assessed on motor vehicle and vessel registrations in a manner that ensures that all ancillary technology and other tax collection systems used by tax collectors protect customer privacy and data.

The bill authorizes DHSMV, upon a tax collector's request, to provide ancillary technology to integrate other tax collection systems used by tax collectors in order to provide tax collectors with uniform interface functionalities for registration renewal transactions performed at a tax collector's office or online via a tax collector's website and provides certain technological requirements. Such data and functionality may only be used for specified purposes.

The bill may have a negative fiscal impact to state government expenditures. *See* Fiscal Analysis.

The bill has an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Tax Collectors

County tax collectors are authorized agents of the Department of Highway Safety and Motor Vehicles (DHSMV) that issue motor vehicle and vessel registration certificates, motor vehicle registration license plates and validation stickers, mobile home stickers, and vessel numbers and decals to applicants.[1] The law specifies the service fees tax collectors are authorized to collect in exchange for providing these registration services.[2] Each tax collector must keep a full and complete record and account of all validation stickers, mobile home stickers, vessel decals, or other properties received by him or her from DHSMV.[3]

Currently, 65 counties have elected tax collectors who are constitutional officers. Broward and Miami-Dade Counties have appointed tax collectors under each county's charter government.[4] Sixteen counties have, or have until recently had, contracts with privately operated license plate agents (LPAs) to perform registration services for motor vehicles, mobile homes, trailers, and vessels.[5]

Many tax collectors hire vendors to assist with mailing, cashiering, deploying kiosks, providing online services, and performing other duties. When requested by a tax collector, DSHMV routinely provides access to data, both in real-time and through batch processes, to the tax collector's vendors for the purpose of providing support to the requesting tax collector. Some of the data provided contains personal information[6] which is confidential pursuant to the federal Driver's Privacy Protection Act (DPPA) of 1994.[7] Such information may be released only as authorized by the DPPA.

To ensure compliance with DPPA, DSHMV practices data minimization, so that personal information from driver license records is provided to agents and vendors only when it is directly related to a specified task deemed necessary by DSHMV or Legislature. Once the specified purpose has been completed, this practice requires that shared data be securely destroyed or otherwise rendered unreadable. Data minimization also decreases risks of data loss and breaches.[8]

DHSMV Information Systems

DHSMV's Florida Real Time Vehicle Information System (FRVIS) is the database application used to title and register all motor vehicles, mobile homes, trailers, and vessels in Florida. It provides real-time access to extensive transactional information[9] on every motor vehicle, mobile home, trailer, and vessel and titled or registered in the state to include owner residential and electronic mail addresses.[10]

Florida law[11] requires that FRVIS be installed in every tax collector's and LPA's office according to a schedule established by DHSMV in consultation with the tax collectors and contingent upon funds being made available for the system. DSHMV administers FRVIS in consultation with the Florida Tax Collectors, Inc., to ensure that each county tax collector's office is technologically equipped and functional for the operation of FRVIS. Only DHSMV, tax collectors, and LPAs have access to FRVIS.

[1] Ss. 320.03(1) and 328.73(1), F.S.
[2] *See* s. 320.04.
[3] Ss. 320.03(3) and 328.73(2), F.S.
[4] Pursuant to s. 1(d), Art. VIII of the State Constitution, Broward and Miami Dade counties will have elected tax collectors effective January 7, 2025.
[5] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 139, p.3.
[6] See 18 U.S.C. s. 2725
[7] See 18 U.S.C. ss. 2721 et seq.
[8] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 139, p.3.
[9] Transactional information refers to information used, accessed, or collected for purpose of a customer transaction.
[10] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 139, p.3.
[11] S. 320.03(4)(b), F.S.

This access is governed by individual memoranda of understanding (MOUs) between DSHMV and each tax collector and, if a tax collector has an LPA, by an additional MOU between DHSMV, each such tax collector, and the LPA contracted with the tax collector. Sections 320.03(5) and 328.73(3), F.S., impose a 50 cent fee on each motor vehicle, mobile home, and vessel registration to cover the operation of FRVIS. That fee is deposited into the Highway Safety Operating Trust Fund.[12]

Access to DSHMV systems and data is governed by various MOUs between DHSMV, tax collectors, and other third-party entities. The MOUs document how the data will be used and protected, ensuring compliance with various state and federal laws, including the Driver Privacy Protection Act (DPPA).[13]

Any tax collector or LPA opening a new office or expanding existing offices initially purchases the equipment needed for title and registration services. DHSMV periodically refreshes outdated equipment and pays the cost of the new equipment[14] for both tax collector's and LPA's offices. LPAs reimburse DSHMV for recurring costs, such as internet access, for each location, unless the LPA office is collocated with a tax collector's office and the costs are shared.

Motorist Modernization

Phase II of DHSMV's Motorist Modernization program will redevelop all systems and processes supporting motor vehicle, mobile home, trailer, and vessel titling and registration. Phase II will be implemented in two separate releases. The program will first focus on replacing the legacy FRVIS system with the new "ORION" system for field-office issuances. The program will next focus on replacing FRVIS functions performed by administrative staff and adding additional motor vehicle functionality to MyDMVPortal. Phase II is expected to be completed in late 2023 or early 2024.[15]

Effect of the Bill

The bill requires each third party that has contracted with a tax collector and has online computer access to DHSMV's system to enter into a memorandum of understanding with DHSMV.

The bill requires DHSMV to administer funds collected through an existing fee assessed on motor vehicle and vessel registrations in a manner that ensures that all ancillary technology and other tax collection systems used by tax collectors protect customer privacy and data.

With respect to motor vehicle and vessel registrations, the bill authorizes DHSMV, upon a tax collector's request, to provide ancillary technology to integrate other tax collection systems used by tax collectors in order to provide tax collectors with uniform interface functionalities for registration renewal transactions performed at a tax collector's office or online via a tax collector's website.

The bill also provides that DHSMV must prescribe the best manner of delivering the data access and uniform interface functionalities to tax collectors for the purpose of processing registration renewal transactions and must provide the ability to record and process renewal transactions[16] in the state system in real time and bulk data reporting for vehicle and vessel registrations, including each applicants e-mail address.[17]

Such data and functionality may be used only for purposes of fulfilling the tax collector's statutory duties pursuant to ch. 319, F.S., (motor vehicle titling); ch. 320, F.S., (motor vehicle registrations); ch. 322 (driver licenses); and ch. 328, F.S. (vessel registration and titling) and may not be resold or used for any other purpose. This data access and functionality must be developed no later than July 1, 2023.

[12] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 139, p.3.
[13] *Id.* at 4.
[14] This is contingent on appropriated funds.
[15] Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 139, p.4.
[16] The bill defines the term "registration renewal transactions" as the issuance of motor vehicle, mobile home, and trailer registration certificates, registration license plates, motor vehicle registration validation stickers, vessel registration certificates, vessel numbers and vessel decals.
[17] E-mail addresses are collected pursuant to s. 320.95.

The bill has an effective date of July 1, 2020.

B. SECTION DIRECTORY:

Section 1 Amends s. 320.03, F.S., relating to the registration duties of tax collectors.

Section 2 Amends s. 328.73, F.S., relating to the registration duties of tax collectors.

Section 3 Provides an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may facilitate additional contracts between the county tax collectors and vendors providing technology services to tax collectors.

D. FISCAL COMMENTS:

The bill provides that the 50 cent fee on each registration allocated to cover the cost of FRVIS is also to be used to ensure that all ancillary technology and other tax collection systems used by tax collectors protect customer privacy and data. Depending on the cost of this additional requirement, it may take funds away from other FRVIS projects, such as new equipment or updated software.

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 expenditure of funds; reduce the authority of counties or municipalities to raise revenues in the aggregate; or reduce the percentage sales tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill does not provide a grant of rulemaking, nor does it require rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to motor vehicle and vessel registration data; amending s. 320.03, F.S.; requiring tax collectors or third parties contracted with tax collectors to enter into a memorandum of understanding with the Department of Highway Safety and Motor Vehicles and make certain determinations regarding registration applicants; requiring the department to ensure that certain technology used by tax collectors protects customer privacy and data; authorizing the department to provide certain technology to tax collectors upon request in order to provide data access and uniform interface functionalities for registration renewal transactions; providing requirements; authorizing use of such data and functionality for certain purposes; requiring development of data access and uniform interface functionalities by a certain date; defining the term "registration renewal transactions"; amending s. 328.73, F.S.; authorizing the department to provide certain technology to tax collectors upon request in order to provide data access and uniform interface functionalities for registration renewal transactions; providing requirements; authorizing use of such data and functionality for certain purposes; requiring

development of data access and uniform interface functionalities by a certain date; defining the term "registration renewal transactions"; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (a) of subsection (4) and subsection (5) of section 320.03, Florida Statutes, are amended to read:

320.03 Registration; duties of tax collectors; International Registration Plan.—

(4)(a) Each tax collector, ~~or~~ third party contracted with a tax collector, or license tag agent, who has online computer access to the department's systems or ~~department~~ data ~~center or other reasonable access thereto~~ shall enter into a memorandum of understanding with the department and shall, except when the department has issued a registration renewal notice, upon receipt of an application for the registration of any motor vehicle, determine from the driver file of the applicant whether the applicant's driver license has been canceled, suspended, or revoked and, if so, whether the applicant has surrendered his or her license to the department as required by s. 322.251. If the applicant has not surrendered his or her license in accordance with ~~the provisions of~~ that section, the tax collector shall refuse to register the vehicle until such time as the applicant

surrenders his or her driver license to the department.

(5)(a) In addition to the fees required under s. 320.08, a fee of 50 cents shall be charged on every license registration sold to cover the costs of the Florida Real Time Vehicle Information System. The fees collected shall be deposited into the Highway Safety Operating Trust Fund to be used exclusively to fund the system. The fee may only be used to fund the system equipment, software, personnel associated with the maintenance and programming of the system, and networks used in the offices of the county tax collectors as agents of the department and the ancillary technology necessary to integrate the system with other tax collection systems. The department shall administer this program upon consultation with the Florida Tax Collectors, Inc., to ensure that each county tax collector's office is technologically equipped and functional for the operation of the Florida Real Time Vehicle Information System and to ensure that all ancillary technology and other tax collection systems used by tax collectors protect customer privacy and data. Any designated revenue collected to support functions of the county tax collectors and not used in a given year must remain exclusively in the trust fund as a carryover to the following year.

(b) Upon a tax collector's request, the department is authorized to provide ancillary technology to integrate other tax collection systems used by tax collectors in order to

provide tax collectors with data access and uniform interface functionalities for registration renewal transactions performed at a tax collector's office or online via a tax collector's website. The department shall prescribe the best manner of delivering the data access and uniform interface functionalities to tax collectors for the purpose of processing registration renewal transactions and shall provide the ability to record and process registration renewal transactions in the state system in real time and bulk data reporting for vehicle registrations, including each applicant's electronic mail address collected pursuant to s. 320.95. Such data and functionality may be used only for purposes of fulfilling the tax collector's statutory duties pursuant to this chapter, chapter 319, chapter 322, or chapter 328 and may not be resold or used for any other purpose. Such data access and uniform interface functionalities shall be developed no later than July 1, 2023. For the purposes of this paragraph, the term "registration renewal transactions" means issuance of motor vehicle, mobile home, and trailer registration certificates, registration license plates, and validation stickers.

Section 2. Subsection (1) of section 328.73, Florida Statutes, is amended to read:

328.73 Registration; duties of tax collectors.—

(1)(a) The tax collectors in the counties of the state, as authorized agents of the department, shall issue registration

certificates and vessel numbers and decals to applicants, subject to the requirements of law and in accordance with rules of the department.

(b) Upon a tax collector's request, the department is authorized to provide ancillary technology to integrate other tax collection systems used by tax collectors in order to provide tax collectors with data access and uniform interface functionalities for registration renewal transactions performed at a tax collector's office or online via a tax collector's website. The department shall prescribe the best manner of delivering the data access and uniform interface functionalities to tax collectors for the purpose of processing registration renewal transactions and shall provide the ability to record and process registration renewal transactions in the state system in real time and bulk data reporting for vessel registrations, including each applicant's electronic mail address collected pursuant to s. 320.95. Such data and functionality may be used only for purposes of fulfilling the tax collector's statutory duties pursuant to this chapter, chapter 319, chapter 320, or chapter 322 and may not be resold or used for any other purpose. Such data access and uniform interface functionalities shall be developed no later than July 1, 2023. For the purposes of this paragraph, the term "registration renewal transactions" means vessel registration certificates, vessel numbers, and decals.

Section 3. This act shall take effect July 1, 2021.

PCS for HB 1329

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 1329 Transportation Facility Designations Honoring Fallen Law Enforcement Officers
SPONSOR(S): Tourism, Infrastructure & Energy Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Tourism, Infrastructure & Energy Subcommittee		Johnson	Keating

SUMMARY ANALYSIS

State law authorizes legislative designations of transportation facilities for honorary or memorial purposes or to distinguish a particular facility. The legislative designations do not officially change the current names of the facilities, nor does the law require local governments and private entities to change street signs, mailing addresses, or 911 emergency telephone system listings. State law also requires the appropriate city or county commission to pass a resolution supporting the designation prior to the erection of markers indicating the designation.

The bill creates 3 honorary designations for various transportation facilities across the state honoring fallen law enforcement officers and directs the Department of Transportation (DOT) to erect suitable markers for each designation.

The bill will have an insignificant negative fiscal impact to the State Transportation Trust Fund associated with erecting suitable markers for the above designations. These costs can be absorbed within DOT's existing resources.

The bill has an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Designations
Section 267.062, F.S., provides for the naming of state buildings and other facilities. The statute provides that except as specifically provided by law, state buildings, roads, bridges, parks, recreational complexes, and other similar facilities may not be named for a living person.

Section 334.071, F.S., authorizes legislative designations of transportation facilities for honorary or memorial purposes or to distinguish a particular facility. The legislative designations do not officially change the current names of the facilities nor does the statute require local governments and private entities to change street signs, mailing addresses, or 911 emergency telephone-number system listings.

Road Markers
The Department of Transportation (DOT) must place a marker at each termini or intersection of an identified road or bridge and erect other markers it deems appropriate for a designated transportation facility. The appropriate city or county commission must pass a resolution in support of a particular designation before road markers are erected. Additionally, if the designated road segment extends through multiple cities or counties, a resolution must be passed by each affected local government.

Effect of the Bill

The bill requires DOT to erect suitable markers for each of the following designations.

Subsection 1 designates that portion of C.R. 611/E. Lake Road between Forelock Road and Keystone Road in Pinellas County as “Deputy Michael J. Magli Memorial Road.”

Deputy Michael J. Magli was a Pinellas County sheriff’s deputy who was killed in the line of duty on February 17, 2021. He had served the Pinellas County Sheriff’s Office for eight years.[1]

Subsection 2 designates that portion of State Road 60 between Interstate 75 and Phillip Lee Boulevard in Hillsborough County is designated as "Sergeant Brian LaVigne Road."

Sergeant Brian LaVigne was killed on January 11, 2021,when his patrol car was intentionally rammed by another vehicle on West Lumsden Road, near South King's Avenue, in Brandon. He was killed the day before his last scheduled shift before retirement.[2]

Subsection 3 designates that portion of Interstate 275 between E. Sligh Avenue and E. Dr. Martin Luther King, Jr., Boulevard in Hillsborough County as “Officer Jesse Madsen Memorial Highway.”

Officer Jesse Madsen was killed on March 9, 2021, when he was responding to reports of a vehicle driving in the wrong direction. He was struck head-on by the wrong-way driver on I-275, near Hillsborough Avenue.[3]

B. SECTION DIRECTORY:

Section 1 Creates honorary transportation facility designations; directs DOT to erect suitable markers.

[1] Florida House of Representatives and Senate File Legislation to Honor Pinellas County Deputy Michael J. Magli, Press Release, February 25, 2021.
[2] Officer Down Memorial Page, https://www.odmp.org/officer/25051-master-corporal-brian-roy-lavigne (last visited March 9, 2021).
[3] Officer Down Memorial Page, https://www.odmp.org/officer/25185-officer-jesse-madsen (last visited March 18, 2021).

Section 2 Provides an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   DOT estimates a cost of $1,000 per designation for the appropriate markers, which provides for two signs per designation at $500 per sign.[4] Therefore, the bill has an estimated negative fiscal impact of $3,000 to the State Transportation Trust Fund. This cost can be absorbed within existing DOT resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

[4] E-mail from Amanda Marsh, Legislative Programs Office, Department of Transportation, RE: Road Designation Fiscal. January 5, 2020.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to transportation facility designations honoring fallen law enforcement officers; providing honorary designations of certain transportation facilities in specified counties; directing the Department of Transportation to erect suitable markers; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Transportation facility designations; Department of Transportation to erect suitable markers.-

(1) That portion of C.R. 611/E. Lake Road between Forelock Road and Keystone Road in Pinellas County is designated as "Deputy Michael J. Magli Memorial Road."

(2) That portion of State Road 60 between Interstate 75 and Phillip Lee Boulevard in Hillsborough County is designated as "Sergeant Brian LaVigne Road."

(3) That portion of Interstate 275 between E. Sligh Avenue and E. Dr. Martin Luther King, Jr., Boulevard in Hillsborough County is designated as "Officer Jesse Madsen Memorial Highway."

(4) The Department of Transportation is directed to erect suitable markers designating the transportation facilities as described in this section.

Section 2. This act shall take effect July 1, 2021.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 1629 Transportation Facility Designations
SPONSOR(S): Tourism, Infrastructure & Energy Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Tourism, Infrastructure & Energy Subcommittee		Johnson	Keating

SUMMARY ANALYSIS

State law authorizes legislative designations of transportation facilities for honorary or memorial purposes or to distinguish a particular facility. The legislative designations do not officially change the current names of the facilities, nor does the law require local governments and private entities to change street signs, mailing addresses, or 911 emergency telephone system listings. State law also requires the appropriate city or county commission to pass a resolution supporting the designation prior to the erection of markers indicating the designation.

The bill creates 11 honorary designations for various transportation facilities across the state and directs the Department of Transportation (DOT) to erect suitable markers for each designation.

The bill will have an insignificant negative fiscal impact to the State Transportation Trust Fund associated with erecting suitable markers for the above designations. These costs can be absorbed within DOT's existing resources.

The bill has an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Designations
Section 267.062, F.S., provides for the naming of state buildings and other facilities. The statute provides that except as specifically provided by law, state buildings, roads, bridges, parks, recreational complexes, and other similar facilities may not be named for a living person.

Section 334.071, F.S., authorizes legislative designations of transportation facilities for honorary or memorial purposes or to distinguish a particular facility. The legislative designations do not officially change the current names of the facilities nor does the statute require local governments and private entities to change street signs, mailing addresses, or 911 emergency telephone-number system listings.

Road Markers
The Department of Transportation (DOT) must place a marker at each termini or intersection of an identified road or bridge and erect other markers it deems appropriate for a designated transportation facility. The appropriate city or county commission must pass a resolution in support of a particular designation before road markers are erected. Additionally, if the designated road segment extends through multiple cities or counties, a resolution must be passed by each affected local government.

Effect of the Bill

The bill requires DOT to erect suitable markers for each of the following designations.

Subsection 1 designates that portion of S.R. 87 between East Bay Blvd. and U.S. 98 in Santa Rosa County as “Ira Mae Bruce Memorial Highway.”

Ira Mae Bruce was Santa Rosa County’s first female commissioner and presided over numerous business and civic organizations. She was also co-broker/owner of Century 21 Island View Realty. Ms. Bruce passed away on November 30, 2020.[1]

Subsection 2 designates that portion of Davie Boulevard between S.W. 34th Avenue and S.W. 36th Avenue in Broward County as "Rubin Stacy Memorial Boulevard."

Rubin Stacy, a black man, died by hanging on July 19, 1935, in Fort Lauderdale, after an unconfirmed accusation by a white woman.[2]

Subsection 3 designates Bridge Number 100850 on S.R. 60/Courtney Campbell Causeway over Old Tampa Bay in Hillsborough County as "Virginia Creighton Bridge."

Virginia (Ginger) Creighton worked in the field of wetland science and was key to developing the Courtney Campbell Causeway – Old Tampa Bay Water Quality Improvement Project that provided environmental credit for other DOT projects in the Tampa Bay Area.[3] Ms. Creighton passed away on May 29, 2020.

[1] https://www.facebook.com/1619922901599897/posts/santa-rosa-countys-first-female-county-commissioner-has-passed-away-it-is-with-i/2817435305181978/ (last visited March 11, 2021).
[2] Bryan, Susannah, *A lynch mob killed a Black man in Fort Lauderdale in 1935. His name was Rubin Stacy.* South Florida Sun Sentinel, September 11, 2020. Available at: https://www.sun-sentinel.com/local/broward/fort-lauderdale/fl-ne-rubin-stacy-lynching-memorial-20200911-u3f6jg26izerllal7vva6nz3wi-story.html (last visited January 5, 2021).
[3] Virginia (Ginger) Creighton Death Notice from the Florida Department of Transportation.

Subsection 4 designates the interchange at the Florida Turnpike and U.S. 192 in Osceola County as "Representative Frank Attkisson Interchange."

Representative Frank Attkisson served on the Kissimmee City Commission from 1990-1992, as the Mayor of Kissimmee from 1996-2000, and in the Florida House of Representatives from 2000-2008. Representative Attkisson passed away on April 6, 2017.[4]

Subsection 5 designates that portion of U.S. 19/S.R. 55 between U.S. 41/S.R. 45/Tamiami Trail and Palm View Road in Manatee County as "Tiffiany Marie Olsen Memorial Highway."

On December 7, 2005, Tiffiany Marie Olsen was killed in a traffic crash on U.S. 19 in Manatee County. Following her mother not being notified of her death for several hours, her mother was instrumental in getting emergency contact information added to a person's driver license or identification card record.[5]

Subsection 6 designates that portion of the S.R. A1A between Oakland Park Boulevard and Palm Avenue in Broward County as "Pio R. Ieraci Memorial Highway."

Pio R. Ieraci was a civic leader active in the Broward County Community. He served as the President of the Galt Ocean Club Condominium Association for over 20 years. Mr. Ieraci passed away on December 20, 2020.[6]

Subsection 7 designates that portion of S.R. 520/W. King Street between S.R. 501/Clearlake Road and S.R. 519/Fiske Boulevard in Brevard County as "Sgt. George Lee Taylor, Sr., Memorial Highway."

Sgt. George Lee Taylor, Sr., served in the United States Army from 1967 to 1971. After returning from war, Sgt. Taylor founded the National Veterans Homeless Support, which is estimated to have helped reduce the homeless veteran population in Brevard County by 90 percent. Sgt. Taylor passed away on May 17, 2020.[7]

Subsection 8 designates that portion of S.R. 519/Fiske Boulevard between Rosa L. Jones Drive and I-95 in Brevard County as "Dr. Martin Luther King, Jr., Boulevard."

Dr. Martin Luther King, Jr., was a civil rights leader and the youngest man to have received the Nobel Peace Prize. Dr. King passed away on April 4, 1968.[8]

Subsection 9 designates that portion of U.S. 23/Kings Road between Spires Avenue and Tyler Street in Duval County is designated as "Professor Dock Jackson Jordan and Mrs. Carrie Thomas Jordan Memorial Highway."

Professor Dock Jackson Jordan served as President of Edward Waters College in Jacksonville from 1895-1897. He later trained black teachers, developed workshops for black educators, and worked for the advancement of black education. Professor Jordan passed away on October 20, 1943.[9]

Mrs. Carrie Thomas Jordan was born in Jacksonville in 1870 and was instrumental in rewriting school curriculum for black students, placing an emphasis on spelling, geography, and nature study. Mrs. Jordan passed away on August 11, 1968.[10]

Subsection 10 The bill designates that portion of S.R. 715/Bacom Point Road between W. Morgan Road and S.W. 14th Street in Palm Beach County as "Deputy Sheriff Donta Manuel and Deputy Sheriff

[4] https://www.myfloridahouse.gov/Sections/Representatives/details.aspx?MemberId=4234 (last visited March 4, 2021).
[5] https://www.flhsmv.gov/driver-licenses-id-cards/emergency-contact-information-history/ (last visited March 10, 2021).
[6] https://www.dignitymemorial.com/obituaries/fort-lauderdale-fl/pio-ieraci-9961464 (last visited March 9, 2021).
[7] https://www.dignitymemorial.com/obituaries/cocoa-fl/george-taylor-9187354 (last visited March 10, 2021).
[8] https://www.nobelprize.org/prizes/peace/1964/king/biographical/ (last visited March 9, 2021).
[9] Biographical information provided to the Transportation & Infrastructure Subcommittee regarding Professor Dock Jackson Jordan and Mrs. Carrie Thomas Jordan.
[10] *Id.*

Jonathan Wallace Highway."

On November 28, 2007, Deputy Sheriff Donta Manuel and Deputy Sheriff Jonathan Wallace were struck and killed by a patrol car while attempting to remove stop sticks on State Road 715 in Palm Beach County.[11]

Subsection 11 designates, upon completion of construction, the interchange at First Coast Expressway/State Road 23 and Henley Road in Clay County as "Sergeant Eric John Twisdale Memorial Interchange."

Sergeant Eric John Twisdale served as a Deputy, Detective, Dive Team Member, and Sergeant throughout his 22 years with the Clay County Sheriff's Office. He received numerous awards, including the Sheriff's Office Lifesaving Award and Deputy of the Year.[12] Sergeant Twisdale passed away on September 16, 2020, after contracting Covid-19 during a presumed exposure at the Clay County Sheriff's Office.[13]

The bill has an effective date of July 1, 2021.

B. SECTION DIRECTORY:

Section 1 Creates honorary transportation facility designations; directs DOT to erect suitable markers.

Section 2 Provides an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   DOT estimates a cost of $1,000 per designation for the appropriate markers, which provides for two signs per designation at $500 per sign.[14] Therefore, the bill has an estimated negative fiscal impact of $11,000 to the State Transportation Trust Fund. This cost can be absorbed within existing DOT resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

[11] Officer Down Memorial Page, https://www.odmp.org/officer/19071-deputy-sheriff-donta-j-manuel (last visited February 1, 2021).
[12] Clay County Resolution 2020/2021-41 supporting the designation.
[13] Officer Down Memorial Page, https://www.odmp.org/officer/24909-sergeant-eric-john-twisdale (last visited March 18, 2021).
[14] E-mail from Amanda Marsh, Legislative Programs Office, Department of Transportation, RE: Road Designation Fiscal. January 5, 2020.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to transportation facility designations; providing honorary designations of certain transportation facilities in specified counties; directing the Department of Transportation to erect suitable markers; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Transportation facility designations; Department of Transportation to erect suitable markers.-

(1) That portion of S.R. 87 between East Bay Blvd. and U.S. 98 in Santa Rosa County is designated as "Ira Mae Bruce Memorial Highway."

(2) That portion of Davie Boulevard between S.W. 34th Avenue and S.W. 36th Avenue in Broward County is designated as "Rubin Stacy Memorial Boulevard."

(3) Bridge number 100850 on S.R. 60/Courtney Campbell Causeway over Old Tampa Bay in Hillsborough County is designated as "Virginia Creighton Bridge."

(4) The interchange at the Florida Turnpike and U.S. 192 in Osceola County is designated as "Representative Frank Attkisson Interchange."

(5) That portion of U.S. 19/S.R. 55 between U.S. 41/S.R.

45/Tamiami Trail and Palm View Road in Manatee County is designated as "Tiffiany Marie Olson Memorial Highway."

(6) That portion of S.R. A1A between Oakland Park Boulevard and Palm Avenue in Broward County is designated as "Pio R. Ieraci Memorial Highway."

(7) That portion of S.R. 520/W. King Street between S.R. 501/Clearlake Road and S.R. 519/Fiske Boulevard in Brevard County is designated as "Sgt. George Lee Taylor, Sr., Memorial Highway."

(8) That portion of S.R. 519/Fiske Boulevard between Rosa L. Jones Drive and I-95 in Brevard County is designated as "Dr. Martin Luther King, Jr., Boulevard."

(9) That portion of U.S. 23/Kings Road between Spires Avenue and Tyler Street in Duval County is designated as "Professor Dock Jackson Jordan and Mrs. Carrie Thomas Jordan Memorial Highway."

(10) That portion of S.R. 715/Bacom Point Road between W. Morgan Road and S.W. 14th Street in Palm Beach County is designated as "Deputy Sheriff Donta Manuel and Deputy Sheriff Jonathan Wallace Highway."

(11) Upon completion of construction, the interchange at First Coast Expressway/State Road 23 and Henley Road in Clay County is designated as "Sergeant Eric John Twisdale Memorial Interchange."

(12) The Department of Transportation is directed to erect

suitable markers designating the transportation facilities as described in this section.

Section 2. This act shall take effect July 1, 2021.

TOURISM, INFRASTRUCTURE & ENERGY SUBCOMMITTEE

PCS for HB 1629 by Rep. Williamson
TRANSPORTATION FACILITY DESIGNATIONS

AMENDMENT SUMMARY
MARCH 22, 2021

Amendment 1 by Rep. Williamson (Line 49):

- Designates the Pensacola Police Fallen Heroes Highway in Escambia County.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___ (Y/N)
ADOPTED AS AMENDED	___ (Y/N)
ADOPTED W/O OBJECTION	___ (Y/N)
FAILED TO ADOPT	___ (Y/N)
WITHDRAWN	___ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Tourism, Infrastructure & Energy Subcommittee

Representative Williamson offered the following:

Amendment

Between lines 49 and 50, insert:

(12) That portion of E. Main Street/Bayfront Parkway/E. Gregory Street between S. Tarragona Street and the Pensacola Bay Bridge in Escambia County is designated as "Pensacola Police Fallen Heroes Highway."