

Transportation & Infrastructure Subcommittee

Tuesday, January 28, 2020
12:00 PM – 3:00 PM
Reed Hall (102 HOB)

Jose R. Oliva
Speaker

Brad Drake
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Transportation & Infrastructure Subcommittee

Start Date and Time: Tuesday, January 28, 2020 12:00 pm

End Date and Time: Tuesday, January 28, 2020 03:00 pm

Location: Reed Hall (102 HOB)

Duration: 3.00 hrs

Consideration of the following bill(s):

HB 395 Transportation by Andrade
HB 787 Driver Licenses by Tomkow
HB 789 Driver License Fees by Tomkow
HB 943 Electric Vehicle Charging Stations by Daley
HB 971 Electric Bicycles by Grant, M.
HB 1039 Transportation Network Companies by Rommel
HB 1281 Police Vehicles by McGhee
HB 1371 Traffic and Pedestrian Safety by Fine, Caruso

NOTICE FINALIZED on 01/24/2020 4:01PM by Denson.Tori

HB 395

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 395 Transportation
SPONSOR(S): Andrade
TIED BILLS: **IDEN./SIM. BILLS:** SB 1172

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

SUMMARY ANALYSIS

The bill amends various statutory provisions relating to transportation. In summary, the bill:

- Requires the Florida Transportation Commission to establish and adjust the salary of the Secretary of Transportation based on a market analysis of the salaries of comparatively skilled individuals.
- Sets the minimum salary of the Secretary of Transportation at $180,000 per year.
- Extends the length of time certain competitive solicitations required by the Department of Transportation (DOT) are exempt from public records requirements.
- Authorizes construction vehicles and portable radar speed display units to display flashing blue lights under certain circumstances.
- Authorizes the use of flashing lights on vehicles during periods of extreme low visibility under certain circumstances.
- Clarifies qualification requirements for contractors desiring to bid on DOT contracts in excess of $50 million.
- Requires contractors seeking DOT certification as qualified to bid on certain projects to submit specified financial statements.
- Revises liability provisions for DOT contractors under certain conditions.
- Authorizes the Governor, instead of the Secretary of Transportation to suspend tolls in an emergency evacuation and requires suspended tolls to be reinstated when certain conditions are met.

DOT may incur additional operating expenditures associated with salary adjustments. The Florida Transportation Commission will incur expenditures associated with conducting a market analysis to ascertain compensation levels for the Secretary of Transportation. There may be an impact to state and local government revenues due to the automatic reinstatement of tolls following an emergency evacuation. *See* Fiscal Analysis for details.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

DOT Executive Salaries

Present Situation

Department of Transportation
The Department of Transportation (DOT) is created as a decentralized agency, consisting of seven geographic districts, the Florida Turnpike Enterprise, and the Florida Rail Enterprise.[1]

DOT is headed by the Secretary of Transportation, who is appointed by the Governor from among three persons nominated by the Florida Transportation Commission (FTC), subject to Senate confirmation.[2] The Secretary of Transportation must be a proven, effective administrator who by a combination of education and experience clearly possesses a broad knowledge of the administrative, financial, and technical aspects of the development, operation, and regulation of transportation systems and facilities or comparable systems and facilities.[3]

The Secretary of Transportation may appoint up to three assistant secretaries who are directly responsible to the secretary, and who perform such duties as are assigned by the secretary. The secretary may delegate to any assistant secretary the authority to act in the absence of the secretary.[4] The Secretary of Transportation and DOT's assistant secretaries are exempt from the Career Service System[5] and must be compensated commensurate with their qualifications and competitive with compensation for comparable responsibility in the private sector.[6]

Florida Transportation Commission
The FTC is a nine-member citizen's advisory board for DOT. While specifically prohibited from entering into DOT's day to day operations, the FTC:

- Reviews major transportation policy initiatives or revisions submitted by DOT.
- Recommends transportation policy to the Governor and Legislature.
- Serves as an oversight body for DOT.
- Serves as an oversight body for statutorily-created transportation authorities.[7]

Secretary of Transportation Compensation
Rule 60L-32.001, F.A.C., states that "upon appointment, an agency shall set an employee's base rate of pay within the pay band for the broadband level to which appointed." In the State Personnel System, most agency heads are in Pay Band 25, with a salary range of $68,135.86 - $318,327.74. While the broad-banding system is the State Personnel System's official classification/compensation system, for planning and budgeting purposes the Legislature and the Office of Policy and Budget use the state's former pay grade system. Under the former pay grade system, Pay Grade 95, which is associated with the most agency heads, including the Secretary of Transportation, has salary a range of $77,470.12 - $184,557.21.[8] However, unless a specific salary is set by law or in the General Appropriations Act, the salaries of agency heads are determined by the appointing person or entity.[9]

[1] Section 20.23(4)(a), F.S.
[2] Section 20.23(1)(a), F.S.
[3] Section 20.23(1)(b), F.S.
[4] Section 20.23(1)(d), F.S.
[5] Part III of Ch. 110, F.S.
[6] Section 20.23(1)(e), F.S.
[7] Section 20.23(2), F.S. FTC website, http://www.ftc.state.fl.us/aboutus.shtm (Last visited Jan. 22, 2020).
[8] Exceptions include the Chancellor of the Board of Governors, the Executive Director of the Department of Citrus, and the State Surgeon General.
[9] Email from Andrew Forst, Deputy Legislative Affairs Director, Department of Management Services, RE: HB 395-Transportation (Oct. 25, 2019).

The Secretary of Transportation's current salary is $142,500 per year.[10]

Effect of the Bill

The bill requires that the Secretary of Transportation and any assistant secretaries be compensated commensurate with his or her qualification and competitive with compensation for persons with comparable responsibility in both other public sector organizations and the private sector.

The bill requires the FTC to establish and adjust the Secretary of Transportation's salary according to a market analysis focused on comparably skilled individuals in other public sector organizations[11] and on comparably skilled individuals in the private sector. The market analysis must serve as a basis for ascertaining compensation levels required to retain the Secretary of Transportation in the position within DOT and to attract external individuals whose talents can fulfill DOT's mission and effect change. This market analysis must be updated before the appointment of a new Secretary of Transportation.

The bill also sets the minimum salary for the Secretary of Transportation at $180,000 per year.

DOT Competitive Solicitations-Public Records Exemption

Present Situation

Public Records

Article I, s. 24(a) of the State 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).[12] The general law must only contain such exemptions and state with specificity the public necessity justifying the exemption[13] and must be no more broad than necessary to accomplish its purpose.[14]

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act[15] 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 is 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.[16]

Section 119.071(1), F.S., provides general exemptions from the inspection or copying of public records, including an exemption for sealed bids, proposals, or replies received by an agency[17] pursuant to a

[10] Florida Has A Right to Know, State Employee's Salaries: Available at: https://salaries.myflorida.com/?utf8=%E2%9C%93&by_name=Thibault&by_agency=FL+Dept+of+Transportation&by_class_code=&min_salary=0&max_salary=317200 (Last visited Dec. 9, 2019).

[11] These public sector organizations, include, but are not limited to, expressway authorities, aviation authorities, and port authorities.

[12] Art. I, s. 24(c), Fla. Const.

[13] This portion of a public record exemption is commonly referred to as a "public necessity statement."

[14] Art. I, s. 24(c), Fla. Const.

[15] Section 119.15, F.S.

[16] Section 119.15(6)(b), F.S.

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

competitive solicitation[18] until such time as the agency provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever is earlier.[19]

DOT's Competitive Solicitation Authority
Section 337.11, F.S., authorizes DOT to enter into contracts for the construction and maintenance of all roads placed under its supervision. DOT may also enter into contracts for the construction and maintenance of various structures used in connection with such facilities.[20] The statute provides requirements for contracts that DOT may enter into, including requirements for advertisement, the awarding of contracts, bid protests, design-build contracts, supplemental agreements, and certain required provisions in this contract. However, s. 337.11, F.S., does not contain a separate public records exemption for the documents required for competitive solicitations.

Effect of the Bill
The bill amends s. 119.071(1)(b)2., F.S., providing that DOT's competitive solicitations under s. 337.11, F.S., are exempt from public records requirements until 90 days, instead of the current 30 days, after opening the bids, proposals, or final replies, whichever is earlier.

Display of Blue Lights

Present Situation
Florida law prohibits blue lights on any vehicle or equipment, except police vehicles, and vehicles of the Department of Corrections or any county correctional agency when responding to emergencies.[21]

Road or street maintenance equipment, road or street maintenance vehicles, road service vehicles, refuse collection vehicles, petroleum tankers, and mail carrier vehicles are authorized to display amber lights when in operation or a hazard exists.[22] Additionally, road maintenance and construction equipment and vehicles may display flashing white lights or flashing white strobe lights when in operation and where a hazard exists.[23]

Effect of the Bill
The bill authorizes construction vehicles within a work zone on roadways with a posted speed limit of 55 miles per hour or more to use flashing blue lights in conjunction with paving operations or where a hazard exists.

The bill also authorizes portable radar speed display units in advance of a work zone on roadways with a posted speed limit of 55 miles per hour or more to show or display flashing red or blue lights when workers are present.

Flashing Lights on Vehicles

Present Situation
Flashing lights are prohibited on vehicles except:
- As a means of indicating a right or left turn, to change lanes, or to indicate that the vehicle is lawfully stopped or disabled upon the highway;
- When a motorist intermittently flashes his or her vehicle's headlamps at an oncoming vehicle notwithstanding the motorist's intent for doing so; and
- For various lamps authorized in statute, which may flash.[24]

[18] Section 119.071(1)(b)1., F.S. defines the term "competitive solicitation" as a process of requesting and receiving sealed bids, proposals, or replies in accordance with the terms of a competitive process, regardless of the method of procurement.
[19] Section 119.071(1)(b)2., F.S.
[20] Section 337.11(1), F.S.
[21] Section 316.2397(2), F.S.
[22] Section 316.2397(4), F.S.
[23] Section 316.2397(5), F.S.
[24] Section 316.2397(2), F.S.

A violation is a noncriminal traffic infraction, punishable as a nonmoving violation. The statutory base fine is $30, but with additional fees and surcharges, the total fine is up to $108.[25]

With the exception of funeral processions,[26] Florida law does not expressly authorize the use of hazard lights in moving vehicles. The Florida Driver Handbook indicates you **should not** use your emergency flashers in instances of low visibility or rain, and may only be used when a vehicle is broken down or stopped on the side of the road.[27]

Effect of the Bill
The bill authorizes the use of flashing lights during periods of extreme low visibility on roadways with a posted speed limit of 55 hours or more. This provision effectively authorizes the use of hazard lights on moving vehicles under specified circumstances.

DOT Application for Qualification

Present Situation
Any contractor desiring to bid for the performance of any construction contract in excess of $250,000 which DOT proposes to let must first be certified by DOT as qualified pursuant to s. 337.14, F.S., and DOT's rules.[28], [29]

Any contractor who is not qualified and in good standing with DOT as of January 1, 2019, and desires to bid on contracts in excess of $50 million must have satisfactorily completed two projects, each in excess of $15 million, for DOT or for any other state department of transportation.[30]

Each application for certification must be accompanied by the applying contractor's latest annual financial statement, which must have been completed within the last 12 months. If the application or the annual financial statement shows the applying contractor's financial condition more than four months prior to the date on which DOT receives the application, the applying contractor must also submit an interim financial statement and an updated application. The interim financial statement must cover the period from the end date of the annual statement and must show the financial condition of the applying contractor no more than four months prior to the date that DOT receives the interim financial statement. Each required annual or interim financial statement must be audited and accompanied by the opinion of a certified public accountant.[31]

Effect of the Bill
The bill provides that any contractor who desires to bid on contracts in excess of $50 million must, in addition to have successfully completed two projects, each in excess of $15 million for DOT or another state transportation department, must also first be certified by DOT as qualified.

The bill requires each application for certification to be accompanied by audited, certified financial statements prepared in accordance with United States generally accepted accounting principles and United States generally accepted auditing standards by a certified public accountant licensed in this state or another state. The applying contractor's audited, certified financial statements must be specifically for the applying contractor and must have been prepared within the immediately preceding 12 months. DOT may not consider any financial information relating to the parent entity of the applying contractor, if any. DOT may not certify as qualified any applying contractor that fails to submit the required audited, certified financial statements.

[25] Florida Association of Clerks and Comptrollers; *2019 Distribution Schedule of Court Related Filing Fees, Service Charges, Costs and Fines, including a Fee Schedule for Recording-Effective July 1, 2019.* p. 21. Available at: https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/advisories/advisories_2019/19bull053_Attach_1_2019_Dist.pdf (last visited Nov. 8, 2019).
[26] Section 316.1974(3)(c), F.S.
[27] Department of Highway Safety and Motor Vehicles, *2018 Florida Driver Handbook,* available at: https://www3.flhsmv.gov/handbooks/englishdriverhandbook.pdf (last visited Oct. 30, 2019).
[28] DOT's rules regarding qualifications to bid are contained in Ch. 14-22, F.A.C.
[29] Section 337.14(1), F.S.
[30] *Id.*
[31] *Id.*

If the application or the annual financial statement shows the applying contractor's financial condition more than four months before the date on which DOT receives the application, the applying contractor must also submit interim audited, certified financial statements prepared in accordance with United States generally accepted accounting and auditing principles and standards. Financial statements must be prepared by a certified public accountant licensed in this state or another state.

Limits of Liability

Present Situation

Under Florida law, a contractor who constructs, maintains, or repairs a transportation facility for DOT is not liable for personal injury, property damage, or death arising from the performance of the construction, maintenance, or repair if, at the time of the incident, the contractor was in compliance with contract documents material to the condition that was the proximate cause of the incident.[32]

This limitation on liability does not apply when the proximate cause of the incident is a latent condition, defect, error, or omission that was created by the contractor and not a defect, error, or omission in the contract documents; or when the proximate cause of the personal injury, property damage, or death was the contractor's failure to perform, update, or comply with the maintenance of the traffic safety plan as required by the contract documents.[33]

DOT's Contractor Past Performance Rating (CPPR) regime tracks various categories of a contractor's performance during the course of a construction project, including the contractor's conformance with contract documents.[34, 35] This regime is not set forth in statute, but in DOT's procedures. Categories tracked in DOT's CPPR regime include: the number of performance deficiency letters issued; whether active progress is being made with sufficient labor, materials, and equipment; effectiveness in minimizing impacts to the traveling public; timely and complete submission of documents; timely completion of the project; success in mitigating costs and time overruns; conformance with contract documents; and the utilization of disadvantaged business enterprises.[36]

Effect of the Bill

The bill provides that in all incidents involving personal injury, property damage or death, a contractor who constructs, maintains, or repairs transportation facilities for DOT is not liable for personal injury, property damage, or death arising from the contractor's performance if, at the time of the incident, the contractor was in compliance with contract documents material to the condition that was the proximate cause of the personal injury, property damage, or death. This limitation on liability applies when, at the time of the incident, the contractor is deemed in compliance with the contract and DOT's CPPR indicates conformance with the contract documents.

This change appears to limit a contractor's liability for DOT projects if the contractor is deemed in compliance with the contract and DOT's CPPR indicates conformance with the contract documents at the time of the incident.

Suspension of Tolls

Present Situation

Payment of Tolls

With limited exceptions, the payment of tolls is required for the use of toll facilities.[37] One exception is that the Secretary of Transportation, or his or her designee, may suspend tolls when necessary to

[32] Section 337.195(2), F.S.
[33] Section 337.195(2)(a), F.S.
[34] This regime is described in DOT Form 700-101-25, which is incorporated by reference into rule 14-22.003, F.A.C.
[35] Department of Transportation, Agency Analysis of 2019 House Bill 395 p. 3.
[36] DOT Form 700-010-25 (Copy on file with Transportation & Infrastructure Subcommittee).
[37] Section 338.155(1)(a), F.S.

assist in an emergency evacuation.[38] However, there is no statutory guidance as to when the suspended toll must be reinstated.

State Emergency Operations Center
The Division of Emergency Management (DEM), within the Executive Office of the Governor, operates the State Emergency Operations Center (EOC) as the central clearinghouse for disaster-related information, and requests for deployment of assistance. The EOC has the following *statewide* levels activation:

- *Level 1*-Full scale activation, the EOC is staffed with DEM personnel and all emergency support functions.
- *Level 2*-Activation of State Emergency Response Team, all primary emergency support functions are notified and the EOC is staffed with DEM personnel and necessary emergency support functions.
- *Level 3*-Monitoring Activation-This is a monitoring phase with the EOC staffed with State Warning Point Communications and DEM staff.[39]

Effect of the Bill
The bill transfers to the Governor, from the Secretary of Transportation, the authority to suspend tolls to assist in emergency evacuations. The bill requires tolls to be automatically reinstated when the county in which such tolls are collected resumes a Level 3 activation at the State Emergency Operations Center. The Governor may override the automatic reinstatement in extraordinary circumstances.

B. SECTION DIRECTORY:

Section 1 amends s. 20.23, F.S., relating to the Department of Transportation.

Section 2 amends s. 119.071, F.S., providing general exemptions from the inspection or copying of public records.

Section 3 amends s. 316.2397, F.S., providing that certain lights are prohibited.

Section 4 amends s. 337.146, F.S., providing for applications for qualification and certificates of qualification.

Section 5 amends s. 338.155, F.S., requiring the payment of tolls.

Section 6 provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Indeterminate. There may be a change in state toll revenues associated with provisions related to the automatic reinstatement of tolls. However, since the suspension of tolling is authorized during emergency evacuations, the impact on state revenues is indeterminate and cannot be quantified.

2. Expenditures:

   Indeterminate. According to DOT, there will be an indeterminate increase in expenditures associated with minimum salary requirements for the Secretary of Transportation, which will require additional budget authority and salary rate. Additionally, the FTC will need additional budget

[38] Section 338.155(1)(b), F.S.
[39] Florida Division of Emergency Management Website, EOC Activation Levels, https://www.floridadisaster.org/sert/eoc-activation-levels/ (Last visited Oct. 25, 2019).

authority in order to conduct the required salary analysis, due to insufficient resources to redirect base budget from its other core mission tasks.[40]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. Local toll agencies may experience a change in toll revenues associated with provisions related to the automatic reinstatement of tolls. However, since the suspension of tolling is authorized during emergency evacuations, the impact on local government revenues is indeterminate and cannot be quantified.

2. Expenditures:

This bill does not appear to impact local government expenditures.

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:

Public Records

As previously stated, Article I, s. 24(a) of the State 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).[41] The general law must only contain such exemptions and state with specificity the public necessity justifying the exemption[42] and must be no more broad than necessary to accomplish its purpose.[43]

Section 2 of the bill expands an existing public records exemption for certain documents related to competitive solicitations. Therefore, this provision must be in a separate bill and requires a 2/3 vote of each chamber of the Legislature for passage.

B. RULE-MAKING AUTHORITY:

DOT may need to amend Rule 14-22, F.A.C., regarding qualifications to bid on construction projects to incorporate changes made in the bill.

[40] Department of Transportation, Agency Analysis of 2020 House Bill 395, p. 5, January 8, 2020.
[41] Art. I, s. 24(c), Fla. Const.
[42] This portion of a public record exemption is commonly referred to as a "public necessity statement."
[43] Art. I, s. 24(c), Fla. Const.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

The requirement that the FTC establish and adjust the Secretary of Transportation's salary is effective upon this act becoming law. However, the bill's effective date only provides that the bill is effective July 1, 2020; and does not make any provision for the other effective date. To incorporate this change into Florida Statutes, a direction to the Division of Law Revision may be needed and the effective date of the bill may need to be amended.

Other Comments: Emergency Operations Center Activation Levels

The bill contemplates that the state EOC's activation levels are on a county level; however the state EOC operates its activation levels on a *statewide* basis. It is not clear how this will impact the toll reinstatement provisions of the bill.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to transportation; amending s. 20.23, F.S.; revising requirements for determining the salaries of the secretary of the Department of Transportation and assistant secretaries; specifying the secretary's minimum salary; amending s. 119.071, F.S.; revising the time period during which sealed bids, proposals, or replies received by the department pursuant to a competitive solicitation are exempt from public records requirements; amending s. 316.2397, F.S.; authorizing certain vehicles to show or display certain lights under certain circumstances; amending s. 337.14, F.S.; requiring certain contractors to be certified by the department as qualified; revising the financial statements required to accompany an application for certification; prohibiting the department from considering certain financial information; requiring the contractor to submit interim financial statements under certain circumstances; providing requirements for such statements; amending s. 337.195, F.S.; specifying conditions under which limitation on liability of the department for personal injury, property damage, or death applies; amending s. 338.155, F.S.; authorizing the Governor to suspend payment of tolls when

necessary to assist emergency evacuation; providing for automatic reinstatement of tolls; authorizing the Governor to override the automatic reinstatement in extraordinary circumstances; providing an effective date.

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

Section 1. Subsection (1) of section 20.23, Florida Statutes, is amended to read:

20.23 Department of Transportation.—There is created a Department of Transportation which shall be a decentralized agency.

(1) ~~(a)~~ The head of the Department of Transportation is the Secretary of Transportation. The secretary shall be appointed by the Governor from among three persons nominated by the Florida Transportation Commission and shall be subject to confirmation by the Senate. The secretary shall serve at the pleasure of the Governor.

~~(b)~~ The secretary shall be a proven, effective administrator who, by a combination of education and experience, ~~shall~~ clearly possesses ~~possess~~ a broad knowledge of the administrative, financial, and technical aspects of the development, operation, and regulation of transportation systems and facilities or comparable systems and facilities.

~~(c)~~ The secretary shall provide to the Florida Transportation Commission or its staff~~,~~ such assistance, information, and documents as are requested by the commission or its staff to enable the commission to fulfill its duties and responsibilities.

~~(d)~~ The secretary may appoint up to three assistant secretaries who shall be directly responsible to the secretary and who shall perform such duties as are assigned by the secretary. The secretary shall designate to an assistant secretary the duties related to enhancing economic prosperity, including, but not limited to, the responsibility of liaison with the head of economic development in the Executive Office of the Governor. Such assistant secretary shall be directly responsible for providing the Executive Office of the Governor with investment opportunities and transportation projects that expand the state's role as a global hub for trade and investment and enhance the supply chain system in the state to process, assemble, and ship goods to markets throughout the eastern United States, Canada, the Caribbean, and Latin America. The secretary may delegate to any assistant secretary the authority to act in the absence of the secretary.

(a) ~~(e)~~ The ~~Any~~ secretary ~~appointed after July 5, 1989,~~ and the assistant secretaries are ~~shall be~~ exempt from ~~the provisions of~~ part III of chapter 110 and shall receive compensation commensurate with their qualifications and

competitive with compensation for comparable responsibility in other public sector organizations and in the private sector.

(b) Upon this act becoming a law, the Florida Transportation Commission shall establish and adjust the salary of the secretary according to a market analysis focused on comparably skilled individuals in other public sector organizations, including, but not limited to, expressway authorities, aviation authorities, and port authorities, and on comparably skilled individuals in the private sector. The market analysis shall serve as a basis for ascertaining compensation levels required to retain the secretary in the position within the department and to attract external individuals whose talents can fulfill the department's mission and effect change. Such market analysis shall be updated before the appointment of a new secretary. The salary of the secretary shall be a minimum of $180,000 per year.

Section 2. Paragraph (b) of subsection (1) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of public records.—

(1) AGENCY ADMINISTRATION.—

(b)1. For purposes of this paragraph, "competitive solicitation" means the process of requesting and receiving sealed bids, proposals, or replies in accordance with the terms of a competitive process, regardless of the method of

procurement.

2. Sealed bids, proposals, or replies received by an agency pursuant to a competitive solicitation are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of an intended decision or until 30 days, or 90 days for a competitive solicitation under s. 337.11, after opening the bids, proposals, or final replies, whichever is earlier.

3. If an agency rejects all bids, proposals, or replies submitted in response to a competitive solicitation and the agency concurrently provides notice of its intent to reissue the competitive solicitation, the rejected bids, proposals, or replies remain exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the agency provides notice of an intended decision concerning the reissued competitive solicitation or until the agency withdraws the reissued competitive solicitation. A bid, proposal, or reply is not exempt for longer than 12 months after the initial agency notice rejecting all bids, proposals, or replies.

Section 3. Subsections (2) and (7) of section 316.2397, Florida Statutes, are amended to read:

316.2397 Certain lights prohibited; exceptions.—

(2) It is expressly prohibited for any vehicle or equipment~~, except police vehicles,~~ to show or display blue lights, except that:

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

(a) Police vehicles may show or display blue lights.

(b) ~~However,~~ Vehicles owned, operated, or leased by the Department of Corrections or any county correctional agency may show or display blue lights when responding to emergencies.

(c) Construction vehicles within a work zone on roadways with a posted speed limit of 55 miles per hour or more may show or display flashing blue lights in conjunction with paving operations or where a hazard exists.

(d) Portable radar speed display units in advance of a work zone on roadways with a posted speed limit of 55 miles per hour or more may show or display flashing red and blue lights when workers are present.

(7) Flashing lights are prohibited on vehicles except:

(a) As a means of indicating a right or left turn, to change lanes, or to indicate that the vehicle is lawfully stopped or disabled upon the highway;

(b) When a motorist intermittently flashes his or her vehicle's headlamps at an oncoming vehicle notwithstanding the motorist's intent for doing so;

(c) During periods of extreme low visibility on roadways with a posted speed limit of 55 miles per hour or more; and

(d)~~(c)~~ For the lamps authorized under subsections ~~(1),~~ (2), (3), (4), (5), and (9), s. 316.2065, or s. 316.235(6) which may flash.

Section 4. Subsection (1) of section 337.14, Florida

Statutes, is amended to read:

337.14 Application for qualification; certificate of qualification; restrictions; request for hearing.—

(1) Any contractor desiring to bid for the performance of any construction contract in excess of $250,000 which the department proposes to let must first be certified by the department as qualified pursuant to this section and rules of the department. The rules of the department must address the qualification of contractors to bid on construction contracts in excess of $250,000 and must include requirements with respect to the equipment, past record, experience, financial resources, and organizational personnel of the applying contractor which are necessary to perform the specific class of work for which the contractor seeks certification. Any contractor who desires to bid on contracts in excess of $50 million and is not qualified and in good standing with the department as of January 1, 2019, must first be certified by the department as qualified and ~~desires to bid on contracts in excess of $50 million~~ must have satisfactorily completed two projects, each in excess of $15 million, for the department or for any other state department of transportation. The department may limit the dollar amount of any contract upon which a contractor is qualified to bid or the aggregate total dollar volume of contracts such contractor is allowed to have under contract at any one time. Each applying contractor seeking qualification to bid on construction

contracts in excess of $250,000 shall furnish the department a statement under oath, on such forms as the department may prescribe, setting forth detailed information as required on the application. Each application for certification must be accompanied by audited, certified financial statements prepared in accordance with United States generally accepted accounting principles and United States generally accepted auditing standards by a certified public accountant licensed by this state or another state ~~the latest annual financial statement of the applying contractor completed within the last 12 months~~. The audited, certified financial statements must be for the applying contractor specifically and must have been prepared within the immediately preceding 12 months. The department may not consider any financial information relating to the parent entity of the applying contractor, if any. The department shall not certify as qualified any applying contractor that fails to submit the audited, certified financial statements required by this subsection. If the application or the annual financial statement shows the financial condition of the applying contractor more than 4 months before ~~prior to~~ the date on which the application is received by the department, the applying contractor must also submit interim audited, certified financial statements prepared in accordance with United States generally accepted accounting principles and United States generally accepted auditing standards by a certified public accountant licensed by this

state or another state ~~an interim financial statement and an updated application must be submitted~~. The interim financial statements ~~statement~~ must cover the period from the end date of the annual statement and must show the financial condition of the applying contractor no more than 4 months before ~~prior to~~ the date that the interim financial statements are ~~statement is~~ received by the department. However, upon the request of the applying contractor, an application and accompanying annual or interim financial statements ~~statement~~ received by the department within 15 days after either 4-month period under this subsection shall be considered timely. ~~Each required annual or interim financial statement must be audited and accompanied by the opinion of a certified public accountant.~~ An applying contractor desiring to bid exclusively for the performance of construction contracts with proposed budget estimates of less than $1 million may submit reviewed annual or reviewed interim financial statements prepared by a certified public accountant. The information required by this subsection is confidential and exempt from s. 119.07(1). The department shall act upon the application for qualification within 30 days after the department determines that the application is complete. The department may waive the requirements of this subsection for projects having a contract price of $500,000 or less if the department determines that the project is of a noncritical nature and the waiver will not endanger public health, safety,

or property.

Section 5. Subsection (2) of section 337.195, Florida Statutes, is amended to read:

337.195 Limits on liability.—

(2) In all cases involving personal injury, property damage, or death, a contractor who constructs, maintains, or repairs a highway, road, street, bridge, or other transportation facility for the Department of Transportation is not liable to a claimant for personal injury, property damage, or death arising from the performance of the construction, maintenance, or repair if, at the time of the personal injury, property damage, or death, the contractor was in compliance with contract documents material to the condition that was the proximate cause of the personal injury, property damage, or death.

(a) The limitation on liability contained in this subsection applies when the contractor is deemed in compliance with the contract and the Department of Transportation Contractor's Past Performance Rating (CPPR) indicates conformance with the contract documents at the time of the personal injury, property damage, or death.

(b) ~~(a)~~ The limitation on liability contained in this subsection does not apply when the proximate cause of the personal injury, property damage, or death is a latent condition, defect, error, or omission that was created by the contractor and not a defect, error, or omission in the contract

documents~~;~~ or when the proximate cause of the personal injury, property damage, or death was the contractor's failure to perform, update, or comply with the maintenance of the traffic safety plan as required by the contract documents.

(c) ~~(b) Nothing in~~ This subsection does not relieve ~~shall be interpreted or construed as relieving~~ the contractor of any obligation to provide the Department of Transportation with written notice of any apparent error or omission in the contract documents.

(d) ~~(c) Nothing in~~ This subsection does not ~~shall be interpreted or construed to~~ alter or affect any claim of the Department of Transportation against such contractor.

(e) ~~(d)~~ This subsection does not affect any claim of any entity against such contractor, which claim is associated with such entity's facilities on or in Department of Transportation roads or other transportation facilities.

Section 6. Paragraph (b) of subsection (1) of section 338.155, Florida Statutes, is amended to read:

338.155 Payment of toll on toll facilities required; exemptions.—

(1)

(b) The Governor ~~secretary or the secretary's designee~~ may suspend the payment of tolls on a toll facility when necessary to assist in emergency evacuation. Such tolls shall automatically be reinstated when the county in which such tolls

are collected resumes a Level 3 activation of the State Emergency Operations Center. The Governor may override the automatic reinstatement in extraordinary circumstances.

Section 7. This act shall take effect July 1, 2020.

Amendment No.

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: Transportation & Infrastructure Subcommittee
Representative Andrade offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsection (2) and paragraph (b) of subsection (55) of section 316.003, Florida Statutes, are 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:

(2) AUTOCYCLE.—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 meeting Federal Motor Vehicle Safety Standard

No. 112, a steering mechanism ~~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.

(55) PERSONAL DELIVERY DEVICE.—An electrically powered device that:

(b) Weighs less than 150 ~~80~~ pounds, excluding cargo;

A personal delivery device is not considered a vehicle unless expressly defined by law as a vehicle. A mobile carrier is not considered a personal delivery device.

Section 2. Subsections (2) and (7) of section 316.2397, Florida Statutes, are amended to read:

316.2397 Certain lights prohibited; exceptions.—

(2) It is expressly prohibited for any vehicle or equipment~~, except police vehicles,~~ to show or display blue lights, except that:

(a) Police vehicles may show or display blue lights.

(b) ~~However,~~ Vehicles owned, operated, or leased by the Department of Corrections or any county correctional agency may show or display blue lights when responding to emergencies.

(c) Portable radar speed display units in advance of a work zone area on roadways with a posted speed limit of 55 miles

per hour or more may show or display flashing red and blue lights when workers are present.

(7) Flashing lights are prohibited on vehicles except:

(a) As a means of indicating a right or left turn, to change lanes, or to indicate that the vehicle is lawfully stopped or disabled upon the highway;

(b) When a motorist intermittently flashes his or her vehicle's headlamps at an oncoming vehicle notwithstanding the motorist's intent for doing so;

(c) During periods of extreme low visibility on roadways with a posted speed limit of 55 miles per hour or more; and

(d) ~~(c)~~ For the lamps authorized under subsections ~~(1),~~ (2), (3), (4), (5), and (9), s. 316.2065, or s. 316.235(6) which may flash.

Section 3. Subsection (4) of section 316.520, Florida Statutes, is amended to read:

316.520 Loads on vehicles.—

(4) The provision of subsection (2) requiring covering and securing the load with a close-fitting tarpaulin or other appropriate cover does not apply to vehicles carrying agricultural products locally from a harvest site or to or from a farm on roads where the posted speed limit is 65 miles per hour ~~or less and the distance driven on public roads is less than 20 miles~~.

Section 4. Paragraph (c) is added to subsection (4) of

section 322.12, Florida Statutes, to read:

322.12 Examination of applicants.—

(4) The examination for an applicant for a commercial driver license shall include a test of the applicant's eyesight given by a driver license examiner designated by the department or by a licensed ophthalmologist, optometrist, or physician and a test of the applicant's hearing given by a driver license examiner or a licensed physician. 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 pertaining to the class of motor vehicle which he or she is applying to be licensed to operate, including laws regulating driving under the influence of alcohol or controlled substances, driving with an unlawful blood-alcohol level, and driving while intoxicated; his or her knowledge of the effects of alcohol and controlled substances and the dangers of driving a motor vehicle after having consumed alcohol or controlled substances; and his or her knowledge of any special skills, requirements, or precautions necessary for the safe operation of the class of vehicle which he or she is applying to be licensed to operate. In addition, the examination shall include an actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor vehicle or combination of vehicles of the type covered by the license classification which

the applicant is seeking, including an examination of the applicant's ability to perform an inspection of his or her vehicle.

(c) Notwithstanding any provision of law to the contrary, the department may waive skill test requirements for a commercial driver license contained in this subsection for persons with military commercial motor vehicle experience who qualify under 49 C.F.R. 383.77, while on active duty or within one year of honorable discharge from military service.

Section 5. Section 324.031, Florida Statutes, is amended to read:

324.031 Manner of proving financial responsibility.—The owner or operator of a taxicab, limousine, jitney, or any other for-hire passenger transportation vehicle may prove financial responsibility by providing satisfactory evidence of holding a motor vehicle liability policy as defined in s. 324.021(8) or s. 324.151, which policy is provided by an insurer authorized to do business in this state ~~issued~~ by an insurance carrier which is a member of the Florida Insurance Guaranty Association or an eligible non-admitted insurer that has a superior, excellent, exceptional, or equivalent financial strength rating by a rating agency acceptable to the Office of Insurance Regulation of the Financial Services Commission. The operator or owner of any other vehicle may prove his or her financial responsibility by:

(1) Furnishing satisfactory evidence of holding a motor vehicle liability policy as defined in ss. 324.021(8) and 324.151;

(2) Furnishing a certificate of self-insurance showing a deposit of cash in accordance with s. 324.161; or

(3) Furnishing a certificate of self-insurance issued by the department in accordance with s. 324.171.

Any person, including any firm, partnership, association, corporation, or other person, other than a natural person, electing to use the method of proof specified in subsection (2) shall furnish a certificate of deposit equal to the number of vehicles owned times $30,000, to a maximum of $120,000; in addition, any such person, other than a natural person, shall maintain insurance providing coverage in excess of limits of $10,000/20,000/10,000 or $30,000 combined single limits, and such excess insurance shall provide minimum limits of $125,000/250,000/50,000 or $300,000 combined single limits. These increased limits shall not affect the requirements for proving financial responsibility under s. 324.032(1).

Section 6. Subsection (2) of section 324.032, Florida Statutes, is amended to read:

324.032 Manner of proving financial responsibility; for-hire passenger transportation vehicles.—Notwithstanding the provisions of s. 324.031:

(2) An owner or a lessee who is required to maintain insurance under s. 324.021(9)(b) and who operates at least 150 ~~300~~ taxicabs, limousines, jitneys, or any other for-hire passenger transportation vehicles may provide financial responsibility by complying with the provisions of s. 324.171, such compliance to be demonstrated by maintaining at its principal place of business an audited financial statement, prepared in accordance with generally accepted accounting principles, and providing to the department a certification issued by a certified public accountant that the applicant's net worth is at least equal to the requirements of s. 324.171 as determined by the Office of Insurance Regulation of the Financial Services Commission, including claims liabilities in an amount certified as adequate by a Fellow of the Casualty Actuarial Society.

Upon request by the department, the applicant must provide the department at the applicant's principal place of business in this state access to the applicant's underlying financial information and financial statements that provide the basis of the certified public accountant's certification. The applicant shall reimburse the requesting department for all reasonable costs incurred by it in reviewing the supporting information. The maximum amount of self-insurance permissible under this subsection is $300,000 and must be stated on a per-occurrence

basis, and the applicant shall maintain adequate excess insurance issued by an authorized or eligible insurer licensed or approved by the Office of Insurance Regulation. All risks self-insured shall remain with the owner or lessee providing it, and the risks are not transferable to any other person, unless a policy complying with subsection (1) is obtained.

Section 7. Subsection (1) of section 327.59, Florida Statutes, is amended and subsection (5) is added to that section to read:

327.59 Marina evacuations.—

(1) Except as provided in this section ~~After June 1, 1994~~, marinas may not adopt, maintain, or enforce policies pertaining to evacuation of vessels which require vessels to be removed from marinas following the issuance of a hurricane watch or warning, in order to ensure that protecting the lives and safety of vessel owners is placed before interests of protecting property.

(5) Upon the issuance of a hurricane watch affecting the waters of marinas located in a deepwater seaport, vessels under 500 gross tons may not remain in the waters of such marinas that have been deemed not suitable for refuge during a hurricane. Vessel owners shall promptly remove their vessels from the waterways upon issuance of an evacuation order by the deepwater seaport. In the event U.S. Coast Guard Captain of the Port sets the deepwater seaport condition to Yankee and a vessel owner has

failed to remove a vessel from the waterway, the marina owner, operator, employee or agent, regardless of existing contractual provisions between the marina owner and vessel owner, shall remove the vessel, or cause it to be removed, if reasonable, from its slip and may charge the vessel owner a reasonable fee for any such services rendered. A marina owner, operator, employee or agent shall not be held liable for any damage incurred to a vessel from hurricanes and is held harmless as a result of such actions to remove the vessel from the waterways. Nothing in this section, may be construed to provide immunity to a marina owner, operator, employee or agent for any damage caused by intentional acts or negligence when removing a vessels as permitted under this section. After the hurricane watch has been issued, the owner or operator of any vessel that has not been removed from the waterway of the marina, pursuant to an order from the deepwater seaport, may be subject to the penalties under s. 313.22(3).

Section 8. Subsection (1) of section 337.14, Florida Statutes, is amended to read:

337.14 Application for qualification; certificate of qualification; restrictions; request for hearing.—

(1) Any contractor desiring to bid for the performance of any construction contract in excess of $250,000 which the department proposes to let must first be certified by the department as qualified pursuant to this section and rules of

the department. The rules of the department must address the qualification of contractors to bid on construction contracts in excess of $250,000 and must include requirements with respect to the equipment, past record, experience, financial resources, and organizational personnel of the applying contractor which are necessary to perform the specific class of work for which the contractor seeks certification. Any contractor who desires to bid on contracts in excess of $50 million and is not qualified and in good standing with the department as of January 1, 2019, must first be certified by the department as qualified and ~~desires to bid on contracts in excess of $50 million~~ must have satisfactorily completed two projects, each in excess of $15 million, for the department or for any other state department of transportation. The department may limit the dollar amount of any contract upon which a contractor is qualified to bid or the aggregate total dollar volume of contracts such contractor is allowed to have under contract at any one time. Each applying contractor seeking qualification to bid on construction contracts in excess of $250,000 shall furnish the department a statement under oath, on such forms as the department may prescribe, setting forth detailed information as required on the application. Each application for certification must be accompanied by audited financial statements prepared in accordance with United States generally accepted accounting principles and United States generally accepted auditing

standards by a certified public accountant licensed by this state or another state ~~the latest annual financial statement of the applying contractor completed within the last 12 months~~. The audited financial statements must be for the applying contractor specifically and must have been prepared within the immediately preceding 12 months. The department may not consider any financial information relating to the parent entity of the applying contractor, if any. The department shall not certify as qualified any applying contractor that fails to submit the audited financial statements required by this subsection. If the application or the annual financial statement shows the financial condition of the applying contractor more than 4 months before ~~prior to~~ the date on which the application is received by the department, the applying contractor must also submit interim audited financial statements prepared in accordance with United States generally accepted accounting principles and United States generally accepted auditing standards by a certified public accountant licensed by this state or another state ~~an interim financial statement and an updated application must be submitted~~. The interim financial statements ~~statement~~ must cover the period from the end date of the annual statement and must show the financial condition of the applying contractor no more than 4 months before ~~prior to~~ the date that the interim financial statements are ~~statement is~~ received by the department. However, upon the request of the

applying contractor, an application and accompanying annual or interim financial statements ~~statement~~ received by the department within 15 days after either 4-month period under this subsection shall be considered timely. ~~Each required annual or interim financial statement must be audited and accompanied by the opinion of a certified public accountant.~~ An applying contractor desiring to bid exclusively for the performance of construction contracts with proposed budget estimates of less than $1 million may submit reviewed annual or reviewed interim financial statements prepared by a certified public accountant. The information required by this subsection is confidential and exempt from s. 119.07(1). The department shall act upon the application for qualification within 30 days after the department determines that the application is complete. The department may waive the requirements of this subsection for projects having a contract price of $500,000 or less if the department determines that the project is of a noncritical nature and the waiver will not endanger public health, safety, or property.

Section 9. Present paragraphs (b), (e) and (g), of subsection (1), subsection (2), paragraph (b) of subsection (7), and paragraph (a) of subsection (15) of Section 627.748, Florida Statutes, are amended and new subsection (15) is added to read:

627.748 Transportation network companies.—

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

(b) "Prearranged ride" means the provision of transportation by a TNC driver to a rider, beginning when a TNC driver accepts a ride requested by a rider through a digital network controlled by a transportation network company, continuing while the TNC driver transports the rider, and ending when the last rider exits from and is no longer occupying the TNC vehicle. The term does not include a taxicab, ~~for-hire vehicle,~~ or street hail service and does not include ridesharing as defined in s. 341.031, carpool as defined in s. 450.28, or any other type of service in which the driver receives a fee that does not exceed the driver's cost to provide the ride.

(e) "Transportation network company" or "TNC" means an entity operating in this state pursuant to this section using a digital network to connect a rider to a TNC driver, who provides prearranged rides. A TNC is not deemed to own, control, operate, direct, or manage the TNC vehicles or TNC drivers that connect to its digital network, except where agreed to by written contract, and is not a taxicab association ~~or for-hire vehicle owner~~. An individual, corporation, partnership, sole proprietorship, or other entity that arranges medical transportation for individuals qualifying for Medicaid or Medicare pursuant to a contract with the state or a managed care organization is not a TNC. This section does not prohibit a TNC from providing prearranged rides to individuals who qualify for Medicaid or Medicare if it meets the requirements of this

section.

(g) "Transportation network company vehicle" or "TNC vehicle" means a vehicle that is not a taxicab, jitney, or limousine~~, or for-hire vehicle as defined in s. 320.01(15)~~ and that is:

1. Used by a TNC driver to offer or provide a prearranged ride; and

2. Owned, leased, or otherwise authorized to be used by the TNC driver.

Notwithstanding any other provision of law, a vehicle that is let or rented to another for consideration may be used as a TNC vehicle.

(2) NOT OTHER CARRIERS.—A TNC or TNC driver is not a common carrier, contract carrier, or motor carrier and does not provide taxicab ~~or for-hire vehicle~~ service. In addition, a TNC driver is not required to register the vehicle that the TNC driver uses to provide prearranged rides as a commercial motor vehicle or ~~a for-hire vehicle~~.

(7) TRANSPORTATION NETWORK COMPANY AND TNC DRIVER INSURANCE REQUIREMENTS.—

(b) The following automobile insurance requirements apply while a participating TNC driver is logged on to the digital network but is not engaged in a prearranged ride:

1. Automobile insurance that provides:

a. A primary automobile liability coverage of at least $50,000 for death and bodily injury per person, $100,000 for death and bodily injury per incident, and $25,000 for property damage;

b. Personal injury protection benefits that meet the minimum coverage amounts required under ss. 627.730-627.7405; and

c. Uninsured and underinsured vehicle coverage as required by s. 627.727.

2. The coverage requirements of this paragraph may be satisfied by any of the following:

a. Automobile insurance maintained by the TNC driver or the TNC vehicle owner;

b. Automobile insurance maintained by the TNC; or

c. A combination of sub-subparagraphs a. and b.

(c) The following automobile insurance requirements apply while a TNC driver is engaged in a prearranged ride:

1. Automobile insurance that provides:

a. A primary automobile liability coverage of at least $1 million for death, bodily injury, and property damage;

b. Personal injury protection benefits that meet the minimum coverage amounts required of a limousine under ss. 627.730-627.7405; and

c. Uninsured and underinsured vehicle coverage as required by s. 627.727.

2. The coverage requirements of this paragraph may be satisfied by any of the following:

a. Automobile insurance maintained by the TNC driver or the TNC vehicle owner;

b. Automobile insurance maintained by the TNC; or

c. A combination of sub-subparagraphs a. and b.

(15) DISABILITY ACCESSIBLE TRANSPORTATION NETWORK COMPANIES.-

(a) As used in this subsection, the terms:

1. "Disability accessible transportation network company" or "disability accessible TNC" means a company that:

a. Meets the requirements of paragraph (b); and

b. Notwithstanding other provisions of this section, uses a digital network to connect riders to drivers who operate disability accessible vehicles.

2. "Disability accessible vehicle" means a for-hire vehicle as defined in s. 320.01(15), which meets or exceeds the requirements of the Americans with Disabilities Act.

(b) An entity may elect, upon written notification to the department, to be regulated as a disability accessible TNC. A disability accessible TNC must:

1. Comply with all of the requirements of this section applicable to a TNC, including subsection (16), that do not conflict with subparagraph 2., or that prohibit the company from connecting riders to drivers who operate for-hire vehicles as

defined in s. 320.01(15), including disability accessible vehicles.

2. Maintain insurance coverage required in this section when the disability accessible TNC driver is logged on to a digital network or while the disability accessible TNC driver is engaged in a prearranged ride. However, a prospective disability accessible TNC that satisfies minimum financial responsibility at the time of written notification to the department through compliance with s. 324.032(2) by using self-insurance may continue to use self-insurance to satisfy the requirements of this subparagraph.

(16) ~~(15)~~ PREEMPTION.—

(a) It is the intent of the Legislature to provide for uniformity of laws governing TNCs, TNC drivers, ~~and~~ TNC vehicles, and disability accessible TNCs, disability accessible TNC drivers, and disability accessible TNC vehicles throughout the state. TNCs, TNC drivers, ~~and~~ TNC vehicles, disability accessible TNCs, disability accessible TNC drivers, and disability accessible TNC vehicles are governed exclusively by state law, including in any locality or other jurisdiction that enacted a law or created rules governing TNCs, TNC drivers, ~~or~~ TNC vehicles, disability accessible TNCs, disability accessible TNC drivers, and disability accessible TNC vehicles before July 1, 2017. A county, municipality, special district, airport authority, port authority, or other local governmental entity or

subdivision may not:

1. Impose a tax on, or require a license for, a TNC, a TNC driver, ~~or~~ a TNC vehicle, disability accessible TNCs, disability accessible TNC drivers, or disability accessible TNC vehicles if such tax or license relates to providing prearranged rides;

2. Subject a TNC, a TNC driver, ~~or~~ a TNC vehicle, disability accessible TNCs, disability accessible TNC drivers, or disability accessible TNC vehicles to any rate, entry, operation, or other requirement of the county, municipality, special district, airport authority, port authority, or other local governmental entity or subdivision; or

3. Require a TNC ~~or~~ a TNC driver, a disability accessible TNC, or a disability accessible TNC driver to obtain a business license or any other type of similar authorization to operate within the local governmental entity's jurisdiction.

Section 10. This act shall take effect July 1, 2020.

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

Remove everything before the enacting clause and insert: An act relating to transportation; amending s. 316.003, F.S.; revising definitions; amending s. 316.2397, F.S.; authorizing certain vehicles to show or display certain lights under certain circumstances; amending s. 316.520, F.S.; removing the distance

limit of specified vehicles not being required to secure agricultural products; amending s. 322.12, F.S.; authorizing the Department of Highway Safety and Motor Vehicles to waive commercial motor vehicle testing requirements for specified persons if certain conditions are met; amending ss. 324.031 and 324.032, F.S.; revising the manner of providing financial responsibility for owners, operators, or lessees of certain for-hire passenger transportation vehicles; amending s. 327.59, F.S.; prohibiting vessels under a specified weight from remaining in certain marinas that have deemed unsuitable for refuge during a hurricane; authorizes removal of specified vessels under certain circumstances; provides limits of liability; provides for certain immunities; providing for penalties; amending s. 337.14, F.S.; requiring certain contractors to be certified by the department as qualified; revising the financial statements required to accompany an application for certification; prohibiting the department from considering certain financial information; requiring the contractor to submit interim financial statements under certain circumstances; providing requirements for such statements; amending s. 627.748, F.S.; revising and providing definitions; deleting for-hire vehicles from the list of vehicles not considered TNC carriers; revising automobile insurance requirements for TNCs and TNC drivers; authorizing entities to be regulated as disability accessible TNCS; providing

requirements; providing that disability accessible TNCs, disability accessible TNC drivers, and disability accessible TNC vehicles are governed by state law; providing an effective date.

HB 787

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 787 Driver Licenses
SPONSOR(S): Tomkow
TIED BILLS: HB 789 **IDEN./SIM. BILLS:** SB 1692

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee		Roth	Vickers
2) Transportation & Tourism Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Upon request by a person diagnosed with a developmental disability, or by a parent or guardian of a child or ward who has a developmental disability, the Department of Highway Safety and Motor Vehicles (DHSMV) must issue an identification card exhibiting a capital "D" after payment of an additional $1 fee and proof of a developmental disability diagnosis. The $1 fee must be deposited into the Agency for Persons with Disabilities Operations and Maintenance Trust Fund.

The bill authorizes an optional "D" designation on the driver license of a person who has been diagnosed with a developmental disability. The licensee, or his or her parent or legal guardian, must present DHSMV with sufficient proof that a licensed physician has diagnosed the licensee with a developmental disability. Additionally, a licensee, or his or her parent or legal guardian, may surrender his or her current driver license at any time to receive a replacement license with a "D" designation.

House Bill 789 (2020), which this bill is linked to, provides for the payment of an additional $1 fee for a new or renewed driver license with a "D" designation on it or a payment of a $2 fee upon the surrender and replacement of a current driver license with a "D" designation on it. Both fees are to be deposited into the Highway Safety Operating Trust Fund.

The bill will likely have a negative fiscal impact to DHSMV associated with programming costs. *See* Fiscal Analysis for additional details.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The term "developmental disability" is defined as, a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.[1]

Any person who is 5 years of age or older, or any person who has a disability and who applies for a disabled parking permit (regardless of age), may be issued an identification card by the Department of Highway Safety and Motor Vehicles (DHSMV) upon completion of an application and payment of an application fee.[2] Upon request by a person diagnosed with a developmental disability, or by a parent or guardian of a child or ward who has a developmental disability, DHSMV must issue an identification card exhibiting a capital "D" after payment of an additional $1 fee and proof of a developmental disability diagnosis. The $1 fee must be deposited into the Agency for Persons with Disabilities Operations and Maintenance Trust Fund.[3] As of January 2020, DHSMV had issued 1,295 identification cards with the "D" designation.[4]

Upon successful completion of all required examinations and payment of the required fee, DHSMV must issue to every qualified applicant a driver license.[5] Each driver license must exhibit the class of vehicle the licensee is authorized to operate as well as any applicable endorsements (such as a motorcycle endorsement) or restrictions (such as corrective lenses).[6] There are also optional designations that can be exhibited on a driver license. The international symbol for the deaf and hard of hearing is an optional designation that can be exhibited on the driver license of a person who is deaf or hard of hearing. At the time of receiving a new or renewed driver license, the licensee will pay an additional $1 and provide sufficient proof to DHSMV that he or she is deaf or hard of hearing. Otherwise, upon the surrender of his or her driver license, a licensee may have the symbol added to his or her license for $2. Both fees will be deposited into the Highway Safety Operating Trust Fund.[7]

Other optional designations that can be exhibited on a driver license are the word "Veteran",[8] and symbols representing lifetime freshwater fishing, saltwater fishing, hunting, and sportsman's licenses as well as a lifetime boater safety identification card.[9]

Effect of Proposed Changes

The bill authorizes an optional "D" designation on the driver license of a person who has been diagnosed with a developmental disability. The licensee, or his or her parent or legal guardian, must present DHSMV with sufficient proof that a licensed physician has diagnosed the licensee with a qualifying developmental disability. Additionally, a licensee, or his or her parent or legal guardian, may surrender his or her current driver license at any time to receive a replacement license with a "D" designation.

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[1] Section 393.063, F.S.
[2] Section 322.051(1), F.S.
[3] Section 322.051(8)(e)1., F.S.
[4] Email from Kevin Jacobs, Deputy Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, RE: HB 787, (January 16, 2020).
[5] Section 322.14(1)(a), F.S.
[6] Section 324.14(1)(b), F.S.
[7] Section 324.14(1)(c), F.S.
[8] Section 324.14(1)(d), F.S.
[9] Section 324.14(1)(e), F.S.

The bill could benefit law enforcement agencies by providing notification to officers that a person has a developmental disability. This knowledge could be helpful in the de-escalation of some scenarios involving law enforcement officers and individuals with developmental disabilities.

House Bill 789 (2020), which this bill is linked to, provides for the payment of an additional $1 fee for a new or renewed driver license with a "D" designation on it or a payment of a $2 fee upon the surrender and replacement of a current driver license with a "D" designation on it. Both fees are to be deposited into the Highway Safety Operating Trust Fund.

B. SECTION DIRECTORY:

Section 1: Amends s.322.14, F.S., relating to licenses issued to drivers.

Section 2: Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The linked bill, HB 789, authorizes DHSMV to charge a $1 or $2 fee for a "D" designation on a driver license. DHSMV will likely have an insignificant, but positive, fiscal impact to the Highway Safety Operating Trust Fund associated with the additional $1 or $2 collected for the developmental disability designation on driver licenses.[10]

2. Expenditures:

DHSMV estimates that the bill will have an indeterminate, significant negative impact to both the department's operational resources and to the resources dedicated to Motorist Modernization Phase 1. Programming will be required in the Florida Driver License Information System to add the "D" designation to driver licenses and fee code changes to collect the $1 or $2 fee.[11]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The linked bill, HB 789, authorizes DHSMV to charge a $1 or $2 fee for a "D" designation on a driver license. Pursuant to s. 322.135(1)(c), F.S., tax collectors are required to charge a service fee of $6.25 per driver license service request per customer. This will have a positive but likely insignificant impact to the tax collectors.[12]

2. Expenditures:

The bill does not appear to impact local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Individuals diagnosed with a developmental disability may opt to pay $1 or $2 for a "D" designation on their driver license.

D. FISCAL COMMENTS:

None.

[10] Department of Highway Safety and Motor Vehicles, Agency Analysis of House Bill 787 & 789, p. 4 (January 23, 2020).
[11] *Id.*
[12] *Id.* at p. 3.

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 authority, 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 driver licenses; amending s. 322.14, F.S.; authorizing a person with specified disabilities to have the capital letter "D" placed on his or her driver license under certain circumstances; providing requirements for the placement of such letter on a person's driver license; providing an effective date.

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

Section 1. Paragraph (f) is added to subsection (1) of section 322.14, Florida Statutes, to read:

322.14 Licenses issued to drivers.—

(1)

(f)1. The capital letter "D" shall be exhibited on the driver license of a person who has a developmental disability, as defined in s. 393.063, if the person, or his or her parent or legal guardian, presents sufficient proof that the person has been diagnosed with a developmental disability by a physician licensed under chapter 458 as determined by the department.

2. Until a person's driver license is next renewed, the person, or his or her parent or legal guardian, may have the capital letter "D" added to his or her license upon the surrender of his or her current license and presentation of

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

sufficient proof that the person has been diagnosed with a developmental disability by a physician licensed under chapter 458 as determined by the department. If the applicant is not conducting any other transaction affecting the driver license, a replacement license may be issued with the capital letter "D" without payment of the fee required in s. 322.21(1)(e).

Section 2. This act shall take effect July 1, 2020.

Amendment No.

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: Transportation & Infrastructure Subcommittee

Representative Tomkow offered the following:

Amendment (with title amendment)

Remove lines 24-32 and insert:

capital letter "D" added to or removed from his or her license upon the surrender of his or her current license and presentation of sufficient proof that the person has been diagnosed with a developmental disability by a physician licensed under chapter 458 or chapter 459 as determined by the department. If the applicant is not conducting any other transaction affecting the driver license, a replacement license may be issued with the capital letter "D" without payment of the fee required in s. 322.21(1)(e).

Section 2. This act shall take effect October 1, 2020.

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

Remove lines 5-6 and insert:
or removed from his or her driver license under certain circumstances; providing requirements for the placement or removal of such

HB 789

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 789 Driver License Fees
SPONSOR(S): Tomkow
TIED BILLS: HB 787 **IDEN./SIM. BILLS:** SB 1694

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee		Roth	Vickers
2) Transportation & Tourism Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Upon request by a person diagnosed with a developmental disability, or by a parent or guardian of a child or ward who has a developmental disability, the Department of Highway Safety and Motor Vehicles (DHSMV) must issue an identification card exhibiting a capital "D" after payment of an additional $1 fee and proof of a developmental disability diagnosis. The $1 fee must be deposited into the Agency for Persons with Disabilities Operations and Maintenance Trust Fund.

House Bill 787 (2020), which this bill is linked to, authorizes an optional "D" designation on the driver license of a person who has been diagnosed with a developmental disability.

This bill provides for the payment of an additional $1 fee for a new or renewed driver license with a "D" designation or a payment of a $2 fee upon the surrender and replacement of a current driver license. Both fees are to be deposited into the Highway Safety Operating Trust Fund.

The bill will likely have a negative fiscal impact on DHSMV associated with programming costs. *See* Fiscal Analysis section for additional details.

This bill authorizes a new state fee, requiring a two-thirds vote of the membership of the House. *See* Section III.A.2. of the analysis.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The Florida Constitution provides that no state tax or fee may be imposed, authorized, or raised by the Legislature except through legislation approved by two-thirds of the membership of each house of the Legislature.[1] For purposes of this requirement, a "fee" is any charge or payment required by law, including any fee or charge for services and fees or costs for licenses and to "raise" a fee or tax means to:[2]

- Increase or authorize an increase in the rate of a state tax or fee imposed on a percentage or per mill basis;
- Increase or authorize an increase in the amount of a state tax or fee imposed on a flat or fixed amount basis; or
- Decrease or eliminate a state tax or fee exemption or credit.

A bill that imposes, authorizes, or raises any state fee or tax may only contain the fee or tax provision(s) and may not contain any other subject.[3]

The constitutional provision does not authorize any state tax or fee to be imposed if it is otherwise prohibited by the constitution and does not apply to any tax or fee authorized or imposed by a county, municipality, school board, or special district.[4]

House Bill 787 (2020), which this bill is linked to, authorizes an optional "D" designation on the driver license of a person who has been diagnosed with a developmental disability.

Effect of Proposed Changes

The bill provides for the payment of an additional $1 fee for a new or renewed driver license with a "D" designation or a payment of a $2 fee upon the surrender and replacement of a current driver license. Both fees are to be deposited into the Highway Safety Operating Trust Fund.

B. SECTION DIRECTORY:

Section 1: Amends s.322.14, F.S., relating to licenses issued to drivers.

Section 2: Provides that this act shall take effect on the same date that HB 787 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

[1] Fla. Const. art. VII, s. 19(a)-(b). The amendment appeared on the 2018 ballot as Amendment 5.
[2] Fla. Const. art. VII, s. 19(d).
[3] Fla. Const. art. VII, s. 19(e).
[4] Fla. Const. art. VII s. 19(c).

1. Revenues:

   DHSMV will likely have an insignificant, but positive, fiscal impact to the Highway Safety Operating Trust Fund associated with the additional $1 or $2 collected for the developmental disability designation on driver licenses.[5]

2. Expenditures:

   DHSMV estimates that the bill will have an indeterminate, negative impact to both the department's operational resources and to the resources dedicated to Motorist Modernization Phase 1. Programming will be required in the Florida Driver License Information System to add the "D" designation to driver licenses and fee code changes to collect the $1 or $2 fee.[6]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   Pursuant to s. 322.135(1)(c), F.S., tax collectors are required to charge a service fee of $6.25 per driver license service request per customer. As a result, the bill will have a positive but insignificant impact to tax collectors.[7]

2. Expenditures:

   The bill does not appear to impact local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Individuals diagnosed with a developmental disability may opt to pay $1 or $2 for a "D" designation on their driver license.

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:

   Article VII, s. 19 of the Florida Constitution requires the imposition, authorization, or raising of a state tax or fee be contained in a separate bill that contains no other subject and be approved by two-thirds of the membership of each house of the Legislature. As such, the bill appears to implicate Art. VII, s. 19 of the Florida Constitution because the bill authorizes a $1 or $2 fee for an optional "D" designation on a driver license.

B. RULE-MAKING AUTHORITY:

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

[5] Department of Highway Safety and Motor Vehicles, Agency Analysis of House Bill 787 & 789, p. 4 (January 23, 2020).
[6] *Id*.
[7] *Id*. at p. 3.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to driver license fees; amending s. 322.14, F.S.; providing fees for the placement of a specified letter on the driver license of a person who has a developmental disability; providing a contingent effective date.

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

Section 1. Paragraph (f) of subsection (1) of section 322.14, Florida Statutes, as created by HB 787, is amended to read:

322.14 Licenses issued to drivers.—

(1)

(f)1. The capital letter "D" shall be exhibited on the driver license of a person who has a developmental disability, as defined in s. 393.063, upon the payment of an additional $1 fee for the license and if the person, or his or her parent or legal guardian, presents sufficient proof that the person has been diagnosed with a developmental disability by a physician licensed under chapter 458 as determined by the department.

2. Until a person's driver license is next renewed, the person, or his or her parent or legal guardian, may have the capital letter "D" added to his or her license upon the surrender of his or her current license, payment of a $2 fee to

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be deposited into the highway safety Operating Trust Fund, and presentation of sufficient proof that the person has been diagnosed with a developmental disability by a physician licensed under chapter 458 as determined by the department. If the applicant is not conducting any other transaction affecting the driver license, a replacement license may be issued with the capital letter "D" without payment of the fee required in s. 322.21(1)(e).

Section 2. This act shall take effect on the same date that HB 787 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

Amendment No.

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: Transportation & Infrastructure Subcommittee
Representative Tomkow offered the following:

Amendment (with title amendment)

Remove lines 24-29 and insert:

capital letter "D" added to or removed from his or her license upon the surrender of his or her current license, payment of a $2 fee to be deposited into the Highway Safety Operating Trust Fund, and presentation of sufficient proof that the person has been diagnosed with a developmental disability by a physician licensed under chapter 458 or chapter 459 as determined by the department. If

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

Remove line 3 and insert:

322.14, F.S.; providing fees for the placement or removal of a

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 943 Electric Vehicle Charging Stations
SPONSOR(S): Daley
TIED BILLS: **IDEN./SIM. BILLS:** SB 452

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

SUMMARY ANALYSIS

Under current law, the provision of electric vehicle charging to the public by a nonutility is not considered the retail sale of electricity, and is not subject to regulation as a public utility. Additionally, the Department of Agriculture and Consumer Services is required to adopt rules regarding electric vehicle charging stations, and is authorized, but not required, to post information on its website relating to alternative fueling stations (including electric vehicle charging stations) that are available for public use in this state.

The bill requires the Department of Transportation, in coordination with other entities to, by July 1, 2020, develop and adopt a master plan for electric vehicle charging stations on the State Highway System. The bill provides goals and objectives for the master plan including identifying locations for charging stations, evaluating types of charging stations and the economic potential for charging stations, and identifying specific projects to meet the above goals. The Department of Transportation must then annually update its master plan.

The bill has an indeterminate negative fiscal impact to state government associated with completing the master plan. *See* Fiscal Analysis for details.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Electric vehicles (EVs) offer a cleaner fuel source, and interest in EV use has been driven in part by their potential for reduction in greenhouse gas emissions. However, their relative high cost compared to conventional fuel-powered vehicles and their relative limited range have restricted the commercial viability of EVs.[1] While advancements in EV-related technology are continuing, EV manufacturing is rising, and EV prices have been dropping, representatives in both the government and the private sector acknowledge that successful adoption of EV use is heavily dependent on the accessibility of charging stations.[2]

Electric Vehicle Charging Equipment

EV charging equipment is generally classified based on the rate at which the equipment charges the EV batteries. Charging times vary, depending on the depletion level of the battery, how much energy the battery holds, the type of battery, and the type of supply equipment. According to the Alternative Fuels Data Center (AFDC), charging times can range from less than 20 minutes to 20 hours or more, depending on the identified factors. Potential driving distance ranges from:

- Two to five miles of range per one hour of charging for AC Level 1 supply equipment;
- Ten to twenty miles per one hour of charging for AC Level 2 supply equipment; and
- Sixty to eighty miles per twenty minutes of charging for DC fast charging supply equipment.[3]

According to the AFDC, for most drivers, EV charging currently occurs at home or at fleet facilities.[4]

Level 1 (home) charging cords come as standard equipment on new EVs, only require a standard 120-volt outlet, and can add about 50 miles of range in an overnight charge. Level 1 charging is sufficient for low- and medium-range EV drivers with relatively low daily driving.[5]

Level 2 (home and public) charging commonly requires a charging unit on a 240-volt circuit, with the charging rate dependent on the rate at which a vehicle can accept a charge and the maximum current available. An eight-hour charge adds about 180 miles of range with a typical 30-amp circuit. This method may require the purchase of a home charging unit and modifications to a home electric system, but charges from two to eight times faster than a Level 1, depending on the amperage and the vehicle. These chargers are most commonly found at public charging places like offices, grocery stores, and parking garages.[6]

DC Fast Chargers (public charging) can typically add 50 to 90 miles in 30 minutes, depending on the charging station's power capacity and the make of the EV. These chargers are best used for longer travel distances; vehicles used the major portion of a day, such as taxis; and for vehicles whose drivers have limited access to home charging.[7]

Electric Vehicle Charging in Florida

[1] *See* the Federal Highway Administration's *FHWA NHTS Brief, Electric Vehicle Feasibility*, July 2016, pp. 1-2, available at https://nhts.ornl.gov/briefs/EVFeasibility20160701.pdf (last visited Jan. 6, 2020).
[2] *Id.* at p. 2. *See also* CBS Chicago, *Electric Vehicle Sales on the Rise, But More Charging Stations Needed To Keep the Trend Going*, September 19, 2019, available at https://chicago.cbslocal.com/2019/09/19/electric-vehicles-super-fast-charging-stations/ (last visited Jan. 6, 2020).
[3] *See* the AFDC's website available at: https://www.afdc.energy.gov/vehicles/electric.html. (Last visited Jan. 6, 2020.)
[4] AFDC, *Developing Infrastructure to Charge Electric Plug-In Vehicles*, available at https://afdc.energy.gov/fuels/electricity_infrastructure.html (last visited Jan.6, 2020).
[5] UCSUSA, *Electric Vehicle Charging, Types, Time, Cost and Savings*, (March 2018) available at https://www.ucsusa.org/resources/electric-vehicle-charging-types-time-cost-and-savings (last visited Jan. 6, 2020).
[6] *Id.*
[7] *Id.*

Under Florida law, the provision of electric vehicle charging to the public by a nonutility is not considered the retail sale of electricity, and is not subject to regulation as a public utility.[8] Additionally, the Department of Agriculture and Consumer Services (DACS) is required to adopt rules to provide definitions, methods of sale, labeling requirements, and price-posting requirements for electric vehicle charging stations to allow for consistency for consumers and the industry.[9]

Section 377.815, F.S., authorizes, but does not require, DACS to post information on its website relating to alternative fueling stations (including electric vehicle charging stations) that are available for public use in this state. DACS' website contains addresses by city and county for EV charging station locations in Florida. The website identifies 930 charging station locations by specific address.[10]

Clean Cities Coalitions

Established in 1993 as part of the U.S. Department of Energy's Vehicle Technologies Office, the Clean Cities Coalitions have funded hundreds of transportation projects nationwide in furtherance of their mission to foster the nation's economic, environmental, and energy security by working locally to advance affordable, domestic transportation fuels, energy efficient mobility systems, and other fuel-saving technologies and practices.[11] There are four Florida Clean Cities Coalitions: North Florida, Central Florida, Tampa, and Southeast Florida.[12]

Department of Agriculture and Consumer Services Office of Energy Electric Vehicle Roadmap

DACS' Office of Energy is currently working on an EV Roadmap with the goals of:

- Identifying EV charging infrastructure impacts on the electric grid.
- Identifying solutions for any negative impacts.
- Locating areas that lack EV charging infrastructure.
- Identifying best practices for siting EV charging stations.
- Identifying technical or regulatory barriers to expansion of EV charging infrastructure.[13]

Effect of the Bill

The bill defines the term "master plan for electric vehicle charging station" or "master plan" as a comprehensive plan of the Department of Transportation (DOT) which describes current and future plans for the development of electric vehicle charging stations on the State Highway System (SHS).[14]

The bill requires DOT to, by July 1, 2021, in coordination with DACS' Office of Energy and the Clean Cities Coalitions or other appropriate public or private entities, develop and adopt a master plan for electric vehicle charging stations on the SHS.

The master plan's goals and objectives include, but are not limited to:

- Identifying optimal locations on the SHS for the development of EV charging stations as a means of facilitating EV short-range and long-range travel and adequately serving as evacuation routes.
- Identifying locations that would serve existing EVs or encourage the expansion of EV use.
- Evaluating and comparing the types of EV charging stations available at present and in the future, including the technology and infrastructure incorporated in such stations, for the purpose of identifying any advantages to developing a particular type of station.

[8] Section 366.94(1), F.S.
[9] Section 366.94(2), F.S.
[10] *See* the Florida Department of Agriculture and Consumer Services website, select *Electricity*, available at https://www.fdacs.gov/Energy/Florida-Energy-Clearinghouse/Transportation (last visited Jan. 6, 2020).
[11] Clean Cities Coalition, *available at* https://cleancities.energy.gov/, (last visited Jan. 10, 2020).
[12] Florida Department of Agriculture and Consumer Services, Agency Analysis of 2020 Senate Bill 452, p.2. (Oct. 9, 2019)
[13] *Id.*
[14] Section 334.03(24), F.S., defines the term "State Highway System" as the interstate system and all other roads within the state which were under the jurisdiction of the state on June 10, 1995, and roads constructed by an agency of the state for the State Highway System, plus roads transferred to the state's jurisdiction after that date by mutual consent with another governmental entity, but not including roads so transferred from the state's jurisdiction. These facilities shall be facilities to which access is regulated.

- Evaluating the economic potential for EV charging stations and consider strategies to develop that potential, including methods for building partnerships with local governments, other state and federal entities, electric utilities, the business community, and the public in support of EV charging stations.
- Identifying specific projects that will accomplish the above goals and objectives.

After its adoption, DOT must annually, by July 1, update its master plan.

B. SECTION DIRECTORY:

Section 1 creates s. 339.287, F.S., relating to electric vehicle charging stations.

Section 2 provides that the bill is effective upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to impact state government revenues.

2. Expenditures:

The bill has an indeterminate negative fiscal impact to DOT associated with completing the master plan. DACS may incur a negative fiscal impact associated with assisting DOT in preparing its master plan.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to impact local government revenues.

2. Expenditures:

The bill does not appear to impact local government expenditures.

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 impact county or municipal governments.

2. Other:

None.

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:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to electric vehicle charging stations; creating s. 339.287, F.S.; defining the term "master plan for electric vehicle charging stations" or "master plan"; requiring the Department of Transportation, in coordination with the Office of Energy within the Department of Agriculture and Consumer Services and the Florida Clean Cities Coalitions, or other appropriate entities, to develop and adopt by a specified date a master plan for electric vehicle charging stations on the state highway system; specifying goals and objectives of the master plan; requiring the master plan to be updated annually by a specified date; providing an effective date.

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

Section 1. Section 339.287, Florida Statutes, is created to read:

339.287 Electric vehicle charging stations; master plan requirements.—

(1) As used in this section, the term "master plan for electric vehicle charging stations" or "master plan" means a comprehensive plan of the department which describes current and

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

future plans for the development of electric vehicle charging stations on the state highway system.

(2) The department, in coordination with the Office of Energy within the Department of Agriculture and Consumer Services and the Florida Clean Cities Coalitions designated by the United States Department of Energy, or other appropriate public or private entities, shall develop and adopt a master plan for electric vehicle charging stations on the state highway system by July 1, 2021.

(3) The goals and objectives of the master plan include, but are not limited to, all of the following:

(a) Identify optimal locations on the state highway system for the development of electric vehicle charging stations as a means of facilitating electric vehicle short-range and long-range travel and adequately serving evacuation routes in this state.

(b) Identify locations that would serve existing electric vehicles or encourage the expansion of electric vehicle use in this state.

(c) Evaluate and compare the types of electric vehicle charging stations available at present and in the future, including the technology and infrastructure incorporated in such stations, for the purpose of identifying any advantages to developing a particular type of station.

(d) Evaluate the economic potential for electric vehicle

charging stations in this state and consider strategies to develop that potential, including, but not limited to, methods of building partnerships with local governments, other state and federal entities, electric utilities, the business community, and the public in support of electric vehicle charging stations.

(e) Identify specific projects that will accomplish the goals and objectives of this section.

(4) After its adoption, the master plan shall be updated annually by July 1.

Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 971 Electric Bicycles
SPONSOR(S): Grant, M.
TIED BILLS: **IDEN./SIM. BILLS:** SB 1148

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee		Roth	Vickers
2) Transportation & Tourism Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The bill defines electric bicycles (e-bikes) within a three-tiered classification system. Class 1 e-bikes are bicycles equipped with a motor that provides assistance only when the rider is pedaling, and that ceases to provide assistance when the e-bike reaches 20 mph. Class 2 e-bikes are bicycles equipped with a throttle-actuated motor that may be used exclusively to propel the bicycle and that ceases to provide assistance when the e-bike reaches 20 mph. Class 3 e-bikes are bicycles equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the e-bike reaches 28 mph.

Additionally, the bill creates regulations governing the operation of e-bikes. An e-bike or an operator of an e-bike must be afforded all the rights and privileges, and be subject to all of the duties, of a bicycle or the operator of a bicycle. An e-bike is considered a vehicle to the same extent as a bicycle, and the bill authorizes an e-bike to operate where bicycles are allowed, including, but not limited to, streets, highways, roadways, shoulders, bicycle lanes, and bicycle or multiuse paths. However, following notice and a public hearing, a municipality, county, or agency of the state having jurisdiction over a bicycle or multiuse path may restrict or prohibit the operation of an e-bike on the path if the entity determines that such a restriction is necessary in the interest of public safety or to comply with other laws or legal obligations.

The bill provides that an e-bike or an operator of an e-bike is not subject to the provisions of law relating to financial responsibility, driver or motor vehicle licenses, vehicle registration, title certificates, off-highway motorcycles, or off-highway vehicles.

The bill requires that beginning January 1, 2021, manufacturers and distributors of e-bikes must apply a label that is permanently affixed in a prominent location to each e-bike. The label must contain the classification number, top assisted speed, and motor wattage of the e-bike. The bill prohibits a person from tampering with or modifying an e-bike in order to change the motor-powered speed capability or engagement of an e-bike, unless the label indicating the classification number required is replaced after such modification.

The bill will likely have a negative but insignificant fiscal impact on state government revenues. *See* Fiscal Analysis for additional details.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Bicycle Regulations
Section 316.003, F.S, defines a "bicycle" as:

> Every vehicle propelled solely by human power, and every motorized bicycle propelled by a combination of human power and an electric helper motor capable of propelling the vehicle at a speed of not more than 20 miles per hour on level ground upon which any person may ride, 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 such a vehicle with a seat height of no more than 25 inches from the ground when the seat is adjusted to its highest position or a scooter or similar device. A person under the age of 16 may not operate or ride upon a motorized bicycle.[1]

Under state traffic control laws, bicyclists are considered vehicle operators and are generally required to obey the same rules of the road as other vehicle operators, including traffic signs, signals, and lane markings.[2] Section 316.2065, F.S., governs the operation of bicycles in Florida and provides for a number of bicycle-specific regulations, including:

- A bicycle rider or passenger who is under 16 years of age must wear a bicycle helmet.[3]
- A person may not knowingly rent or lease any bicycle to be ridden by a child who is under the age of 16 years unless the child possesses a bicycle helmet or the lessor provides a bicycle helmet for the child to wear.[4]
- Every bicycle in use between sunset and sunrise must be equipped with a lamp on the front exhibiting a white light visible from a distance of at least 500 feet to the front and a lamp and reflector on the rear each exhibiting a red light visible from a distance of 600 feet to the rear.[5]
- A person operating a bicycle on a sidewalk, or across a roadway on a crosswalk, must yield the right-of-way to any pedestrian and must give an audible signal before overtaking and passing the pedestrian.[6]

A person operating a bicycle on a roadway must ride in the bicycle lane, but if there is no bicycle lane, the bicycle operator must ride as close to the right-hand curb as practicable. However, a bicycle operator may move to the center of the lane when:

- Overtaking and passing another bicycle or vehicle proceeding in the same direction;
- Preparing for a left turn at an intersection or into a private road or driveway; or
- 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,[7] which makes it unsafe to continue along the right-hand curb or edge or within a bicycle lane.[8]

[1] Section 316.003(4), F.S.
[2] Section 316.2065(1), F.S.
[3] Section 316.2065(3)(d), F.S.
[4] Section 316.2065(15)(a), F.S.
[5] Section 316.2065(7), F.S.
[6] Section 316.2065(10), F.S.
[7] A substandard width lane is any lane that is too narrow for a bicycle and another vehicle to travel safely side-by-side within the lane.
[8] Section 316.2065(5)(a), F.S.

Bicycle operators traveling on a one-way highway with two or more marked traffic lanes may ride as near to the left-hand curb as practicable[9] and bicycle operators may not ride more than two abreast on a roadway.[10]

Electric Bicycles

In 2002, Congress amended the Consumer Product Safety Commission (CPSC) definition of electric bicycles (e-bikes).[11] The law defines a low-speed e-bike as "A two- or three-wheeled vehicle with fully operable pedals and an electric motor of less than 750 watts (1 h.p.), whose maximum speed on a paved level surface, when powered solely by such a motor while ridden by an operator who weighs 170 pounds, is less than 20 mph." The federal law permits e-bikes to be powered by the motor alone (a "throttle-assist" e-bike), or by a combination of motor and human power (a "pedal-assist" e-bike).[12]

Devices that meet the federal definition of an e-bike are regulated by the CPSC and must meet bicycle safety standards. However, federal law only applies to e-bikes' product standards and safety, and only specifies the maximum speed that an e-bike can travel under motor power alone. It does not provide a maximum speed when the bicycle is being propelled by a combination of human and motor power. The law does distinguish e-bikes that can travel 20 mph or less under motor power alone from motorcycles, mopeds, and motor vehicles. The CPSC has clarified that the federal law does not prohibit e-bikes from traveling faster than 20 mph when using a combination of human and motor power.[13]

While the federal government regulates the manufacturing and first sale of an e-bike, its operation on streets and bikeways remains within each state's control. Therefore, many states have their own laws that categorize e-bikes with mopeds and other motorized vehicles, require licensure and registration, or do not enable them to be used on facilities such as bike lanes or multi-purpose trails.[14]

According to a 2018 bicycle industry analysis, e-bike sales increased 83 percent between May 2017 and May 2018, and e-bikes made up 10 percent of overall bike sales in the U.S. for that time period. E-bikes cost on average $2,000 - $3,000, versus a $1,000 average investment for a mid-range traditional commuter bicycle.[15] As of June 2019, 22 states define e-bikes with a three-class definition.[16]

Representatives of the Florida Bicycle Association have expressed some concerns with the e-bike three-class definition. One concern is that the class 2 e-bike does not need pedal assist to engage and may be more similar to a motorized vehicle than a bicycle. Another concern is that the class 3 e-bike can reach speeds of 28 mph, which may be too fast to safely operate on sidewalks or multi-use paths.[17]

Likewise, some environmental groups, mountain bikers, hunters, and anglers in other states have voiced opposition to the authorization of e-bikes on public trails. Their concerns relate to damage to the trails, overcrowding of the trails, and too much access to wildlife habitats.[18]

Effect of Proposed Changes

[9] Section 316.2065(5)(b), F.S.
[10] Section 316.2065(6), F.S.
[11] House Bill 727, available at https://www.congress.gov/bill/107th-congress/house-bill/727/text (last visited January 8, 2020).
[12] National Conference of State Legislatures, *State Electric Bicycle Laws: A Legislative Primer* (March 28, 2019), available at https://www.ncsl.org/research/transportation/state-electric-bicycle-laws-a-legislative-primer.aspx (last visited January 8, 2020).
[13] *Id.*
[14] *Id.*
[15] *Id.*
[16] People for Bikes, *22 States Now Follow the Three Class E-Bike System, Doubling Total in Six Months* (July 19, 2019), available at https://peopleforbikes.org/blog/22-states-now-follow-the-three-class-ebike-system/ (last visited January 8, 2020).
[17] Email from Becky Afonso, Executive Director, Florida Bicycle Association, RE: E-bikes (November 11, 2019).
[18] *See* Kurt Repanshek, *Dozens of Conservation Groups Oppose eBikes on Non-Motorized Trails*, National Parks Traveler (August 7, 2019), available at https://www.nationalparkstraveler.org/2019/08/dozens-conservation-groups-oppose-ebikes-non-motorized-trails (last visited January 8, 2020).

The bill removes the definition of “motorized bicycle” from within the definition of “bicycle” and creates a separate definition for “electric bicycle” to read:

> 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.

Additionally, the bill creates regulations governing the operation of e-bikes and provides that an e-bike or an operator of an e-bike must be afforded all the rights and privileges, and be subject to all of the duties, of a bicycle or the operator of a bicycle. An e-bike is considered a vehicle to the same extent as a bicycle, and the bill authorizes an e-bike to operate where bicycles are allowed, including, but not limited to, streets, highways, roadways, shoulders, bicycle lanes, and bicycle or multiuse paths. However, following notice and a public hearing, a municipality, county, or agency of the state having jurisdiction over a bicycle or multiuse path may restrict or prohibit the operation of an e-bike on the path if the entity finds that such a restriction is necessary in the interest of public safety or to comply with other laws or legal obligations.

The bill provides that an e-bike or an operator of an e-bike is not subject to the provisions of law relating to financial responsibility, driver or motor vehicle licenses, vehicle registration, title certificates, off-highway motorcycles, or off-highway vehicles. The bill requires that an e-bike must function so that the electric motor is disengaged or ceases to function when the rider stops pedaling or when the brakes are applied.

The bill requires that beginning January 1, 2021, manufacturers and distributors of e-bikes must apply a label that is permanently affixed in a prominent location to each e-bike. The label must contain the classification number, top assisted speed, and motor wattage of the e-bike. The bill prohibits a person from tampering with or modifying an e-bike in order to change the motor-powered speed capability or engagement of an e-bike, unless the label indicating the classification number required is replaced after such modification.

The bill removes the registration fee requirement for “motorized bicycles” and makes conforming changes to exclude “electric bicycle” from the definitions of “off-highway motorcycle”, “moped”, “motor vehicle”, “motorcycle”, and “motorized scooter”.

B. SECTION DIRECTORY:

Section 1: Amends s. 261.03, F.S., relating to definitions.

Section 2: Amends s. 316.003, F.S., relating to definitions.

Section 3: Amends s. 316.027, F.S., relating to crash involving death or personal injuries.

Section 4: Amends s. 316.083, F.S., relating to overtaking and passing a vehicle.

Section 5: Amends s. 316.1995, F.S., relating to driving upon sidewalk or bicycle path.

Section 6: Creates s. 316.20655, F.S., relating to electric bicycle regulations.

Section 7: Amends s. 316.613, F.S., relating to child restraint requirements.

Section 8: Amends s. 316.614, F.S., relating to safety belt usage.

Section 9: Amends s. 320.01, F.S., relating to definitions, general.

Section 10: Amends s. 322.01, F.S., relating to definitions.

Section 11: Amends s. 324.021, F.S., relating to definitions, minimum insurance required.

Section 12: Amends s. 403.717, F.S., relating to waste tire and lead-acid battery requirements.

Section 13: Amends s. 681.102, F.S., relating to definitions.

Section 14: Amends s. 320.08, F.S., relating to license taxes.

Section 15: Amends s. 316.306, F.S., relating to school and work zones; prohibition on the use of a wireless communications device in a handheld manner.

Section 16: Amends s. 655.960, F.S., relating to definitions.

Section 17: Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill will likely have a negative but insignificant fiscal impact to the State Transportation Trust Fund and Highway Safety Operating Trust Fund. In FY 2018-19, $14,633 was collected by the Department of Highway Safety and Motor Vehicles for both moped and motorized bicycle registration fees.[19] Because the data is collected and stored together, it is uncertain what percent of the $14,633 is associated with motorized bicycle registration fees.

2. Expenditures:

   The bill will likely have no impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill will likely have no impact on local government revenues.

2. Expenditures:

   The bill will likely have no impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may increase the sale of e-bikes in this state.

D. FISCAL COMMENTS:

[19] E-mail from Kevin Jacobs, Deputy Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, RE: HB 971 (January 9, 2020).

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 authority, 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 electric bicycles; amending s. 261.03, F.S.; revising the definition of the term "OHM" or "off-highway motorcycle"; amending s. 316.003, F.S.; revising definitions relating to the Florida Uniform Traffic Control Law; defining the term "electric bicycle"; amending s. 316.027, F.S.; revising the definition of the term "vulnerable road user"; amending s. 316.083, F.S.; requiring the driver of a vehicle overtaking an electric bicycle to pass the electric bicycle at a certain distance; amending s. 316.1995, F.S.; expanding exceptions to a prohibition on persons driving certain vehicles on sidewalks and bicycle paths; creating s. 316.20655, F.S.; providing electric bicycle regulations; providing for rights and privileges of electric bicycles and operators of electric bicycles; providing that electric bicycles are vehicles to the same extent as bicycles; providing that electric bicycles and operators of electric bicycles are not subject to specified provisions; requiring manufacturers and distributers, beginning on a specified date, to apply a label containing certain information to each electric bicycle; prohibiting persons from tampering with or modifying electric bicycles for certain

purposes; providing an exception; requiring electric bicycles to comply with specified provisions of law; requiring electric bicycles to operate in a manner that meets certain requirements; authorizing operators to ride electric bicycles where bicycles are allowed; authorizing municipalities, counties, and agencies to regulate the use of electric bicycles on certain paths; amending ss. 316.613, 316.614, and 320.01, F.S.; revising the definition of the term "motor vehicle"; amending s. 322.01, F.S.; revising the definitions of the terms "motor vehicle" and "vehicle"; amending ss. 324.021, 403.717, and 681.102, F.S.; revising the definition of the term "motor vehicle"; amending s. 320.08, F.S.; conforming a provision to changes made by the act; amending ss. 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. Subsection (4) of section 261.03, Florida Statutes, is amended to read:

261.03 Definitions.—As used in this chapter, the term:

(4) "OHM" or "off-highway motorcycle" means any motor vehicle used off the roads or highways of this state that has a

seat or saddle for the use of the rider and is designed to travel with not more than two wheels in contact with the ground, but excludes a tractor, an electric bicycle, or a moped.

Section 2. Present subsections (22) through (104) of section 316.003, Florida Statutes, are redesignated as subsections (23) through (105), respectively, a new subsection (22) is added to that section, and subsection (4) and present subsections (41), (43), (44), (45), and (61) of that section are 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:

(4) BICYCLE.—Every vehicle propelled solely by human power~~, and every motorized bicycle propelled by a combination of human power and an electric helper motor capable of propelling the vehicle at a speed of not more than 20 miles per hour on level ground upon which any person may ride~~, 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 such a vehicle with a seat height of no more than 25 inches from the ground when the seat is adjusted to its highest position or a scooter or similar device. ~~A person under the age of 16 may not operate or ride upon a motorized bicycle.~~

(22) ELECTRIC BICYCLE.—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:

(a) "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.

(b) "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.

(c) "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.

(42) ~~(41)~~ MOPED.—Any vehicle with pedals to permit propulsion by human power, having a seat or saddle for the use of the rider and designed to travel on not more than three wheels, with a motor rated not in excess of 2 brake horsepower and not capable of propelling the vehicle at a speed greater than 30 miles per hour on level ground and with a power-drive system that functions directly or automatically without clutching or shifting gears by the operator after the drive system is engaged. If an internal combustion engine is used, the

displacement may not exceed 50 cubic centimeters. The term does not include an electric bicycle.

(44) ~~(43)~~ MOTOR VEHICLE.—Except when used in s. 316.1001, 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. For purposes of s. 316.1001, "motor vehicle" has the same meaning as provided in s. 320.01(1)(a).

(45) ~~(44)~~ MOTORCYCLE.—Any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground. The term includes an autocycle, but does not include a tractor, a moped, an electric bicycle, or any vehicle in which the operator is enclosed by a cabin unless it meets the requirements set forth by the National Highway Traffic Safety Administration for a motorcycle.

(46) ~~(45)~~ MOTORIZED SCOOTER.—Any vehicle or micromobility device that is powered by a motor with or without a seat or saddle for the use of the rider, which is designed to travel on not more than three wheels, and which is not capable of propelling the vehicle at a speed greater than 20 miles per hour on level ground. The term does not include an electric bicycle.

(62) ~~(61)~~ PRIVATE ROAD OR DRIVEWAY.—Except as otherwise provided in paragraph (84)(b) ~~(83)(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.

Section 3. Paragraph (b) of subsection (1) of section 316.027, Florida Statutes, is amended to read:

316.027 Crash involving death or personal injuries.—

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

(b) "Vulnerable road user" means:

1. A pedestrian, including a person actually engaged in work upon a highway, or in work upon utility facilities along a highway, or engaged in the provision of emergency services within the right-of-way;

2. A person operating a bicycle, an electric bicycle, a motorcycle, a scooter, or a moped lawfully on the roadway;

3. A person riding an animal; or

4. A person lawfully operating on a public right-of-way, crosswalk, or shoulder of the roadway:

a. A farm tractor or similar vehicle designed primarily for farm use;

b. A skateboard, roller skates, or in-line skates;

c. A horse-drawn carriage;

d. An electric personal assistive mobility device; or

e. A wheelchair.

Section 4. Subsection (1) of section 316.083, Florida Statutes, is amended to read:

316.083 Overtaking and passing a vehicle.—The following rules shall govern the overtaking and passing of vehicles 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 shall give an appropriate signal as provided for in s. 316.156, shall pass to the left thereof at a safe distance, and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle. The driver of a vehicle overtaking a bicycle or other nonmotorized vehicle, or an electric bicycle, must pass the bicycle, ~~or~~ other nonmotorized vehicle, or electric bicycle at a safe distance of not less than 3 feet between the vehicle and the bicycle, ~~or~~ other nonmotorized vehicle, or electric bicycle.

Section 5. Section 316.1995, Florida Statutes, is amended to read:

316.1995 Driving upon sidewalk or bicycle path.—

(1) Except as provided in s. 316.008, s. 316.20655, s. 316.212(8), or s. 316.2128, a person may not drive any vehicle other than by human power upon a bicycle path, sidewalk, or sidewalk area, except upon a permanent or duly authorized temporary driveway.

(2) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

(3) This section does not apply to motorized wheelchairs.

Section 6. Section 316.20655, Florida Statutes, is created to read:

316.20655 Electric bicycle regulations.—

(1) Except as otherwise provided in this section, an electric bicycle or an operator of an electric bicycle shall be afforded all the rights and privileges, and be subject to all of the duties, of a bicycle or the operator of a bicycle, including s. 316.2065. An electric bicycle is a vehicle to the same extent as a bicycle.

(2) An electric bicycle or an operator of an electric bicycle is not subject to the provisions of law relating to financial responsibility, driver or motor vehicle licenses, vehicle registration, title certificates, off-highway motorcycles, or off-highway vehicles.

(3) Beginning on January 1, 2021, manufacturers and distributors of electric bicycles shall apply a label that is permanently affixed in a prominent location to each electric bicycle. The label must contain the classification number, top assisted speed, and motor wattage of the electric bicycle.

(4) A person may not tamper with or modify an electric bicycle so as to change the motor-powered speed capability or engagement of an electric bicycle, unless the label indicating the classification number required in subsection (3) is replaced after such modification.

(5) An electric bicycle must comply with the equipment and manufacturing requirements for bicycles adopted by the United States Consumer Product Safety Commission under 16 C.F.R. part 1512.

(6) An electric bicycle must operate in a manner so that the electric motor is disengaged or ceases to function when the rider stops pedaling or when the brakes are applied.

(7)(a) An operator may ride an electric bicycle where bicycles are allowed, including, but not limited to, streets, highways, roadways, shoulders, bicycle lanes, and bicycle or multiuse paths.

(b) Following notice and a public hearing, a municipality, county, or agency of the state having jurisdiction over a bicycle or multiuse path may restrict or prohibit the operation of an electric bicycle on the path if the municipality, county, or agency finds that such a restriction is necessary in the interest of public safety or to comply with other laws or legal obligations.

Section 7. Paragraph (e) of subsection (2) of section 316.613, Florida Statutes, is amended to read:

316.613 Child restraint requirements.—

(2) As used in this section, the term "motor vehicle" means a motor vehicle as defined in s. 316.003 that is operated on the roadways, streets, and highways of the state. The term does not include:

(e) A motorcycle, a moped, a ~~or~~ bicycle, or an electric bicycle.

Section 8. 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. 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 ~~or~~ bicycle, or an electric bicycle.

Section 9. Paragraph (a) of subsection (1) of section 320.01, Florida Statutes, is amended to read:

320.01 Definitions, general.—As used in the Florida Statutes, except as otherwise provided, the term:

(1) "Motor vehicle" means:

(a) An automobile, motorcycle, truck, trailer, semitrailer, truck tractor and semitrailer combination, or any other vehicle operated on the roads of this state, used to

transport persons or property, and propelled by power other than muscular power, but the term does not include traction engines, road rollers, motorized scooters, micromobility devices, personal delivery devices and mobile carriers as defined in s. 316.003, special mobile equipment as defined in s. 316.003, vehicles that run only upon a track, bicycles, electric bicycles, swamp buggies, or mopeds.

Section 10. Subsections (27) and (44) of section 322.01, Florida Statutes, are amended to read:

322.01 Definitions.—As used in this chapter:

(27) "Motor vehicle" means any self-propelled vehicle, including a motor vehicle combination, not operated upon rails or guideway, excluding vehicles moved solely by human power, motorized wheelchairs, and electric ~~motorized~~ bicycles as defined in s. 316.003.

(44) "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway or operated upon rails or guideway, except a bicycle, motorized wheelchair, or electric ~~motorized~~ bicycle.

Section 11. Subsection (1) of section 324.021, Florida Statutes, is amended to read:

324.021 Definitions; minimum insurance required.—The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances

where the context clearly indicates a different meaning:

(1) MOTOR VEHICLE.—Every self-propelled vehicle that is designed and required to be licensed for use upon a highway, including trailers and semitrailers designed for use with such vehicles, except traction engines, road rollers, farm tractors, power shovels, and well drillers, and every vehicle that is propelled by electric power obtained from overhead wires but not operated upon rails, but not including any personal delivery device or mobile carrier as defined in s. 316.003, bicycle, electric bicycle, or moped. However, the term "motor vehicle" does not include a motor vehicle as defined in s. 627.732(3) when the owner of such vehicle has complied with the requirements of ss. 627.730-627.7405, inclusive, unless the provisions of s. 324.051 apply; and, in such case, the applicable proof of insurance provisions of s. 320.02 apply.

Section 12. Paragraph (b) of subsection (1) of section 403.717, Florida Statutes, is amended to read:

403.717 Waste tire and lead-acid battery requirements.—

(1) For purposes of this section and ss. 403.718 and 403.7185:

(b) "Motor vehicle" means an automobile, motorcycle, truck, trailer, semitrailer, truck tractor and semitrailer combination, or any other vehicle operated in this state, used to transport persons or property and propelled by power other than muscular power. The term does not include traction engines,

road rollers, vehicles that run only upon a track, bicycles, electric bicycles, mopeds, or farm tractors and trailers.

Section 13. Subsection (14) of section 681.102, Florida Statutes, is amended to read:

681.102 Definitions.—As used in this chapter, the term:

(14) "Motor vehicle" means a new vehicle, propelled by power other than muscular power, which is sold in this state to transport persons or property, and includes a recreational vehicle or a vehicle used as a demonstrator or leased vehicle if a manufacturer's warranty was issued as a condition of sale, or the lessee is responsible for repairs, but does not include vehicles run only upon tracks, off-road vehicles, trucks over 10,000 pounds gross vehicle weight, motorcycles, mopeds, electric bicycles, or the living facilities of recreational vehicles. "Living facilities of recreational vehicles" are those portions designed, used, or maintained primarily as living quarters and include, but are not limited to, the flooring, plumbing system and fixtures, roof air conditioner, furnace, generator, electrical systems other than automotive circuits, the side entrance door, exterior compartments, and windows other than the windshield and driver and front passenger windows.

Section 14. Section 320.08, Florida Statutes, is amended to read:

320.08 License taxes.—Except as otherwise provided herein, there are hereby levied and imposed annual license taxes for the

operation of motor vehicles, mopeds, ~~motorized bicycles as defined in s. 316.003(4),~~ tri-vehicles as defined in s. 316.003, and mobile homes as defined in s. 320.01, which shall be paid to and collected by the department or its agent upon the registration or renewal of registration of the following:

(1) MOTORCYCLES AND MOPEDS.—

(a) Any motorcycle: $10 flat.

(b) Any moped: $5 flat.

(c) Upon registration of a motorcycle, motor-driven cycle, or moped, in addition to the license taxes specified in this subsection, a nonrefundable motorcycle safety education fee in the amount of $2.50 shall be paid. The proceeds of such additional fee shall be deposited in the Highway Safety Operating Trust Fund to fund a motorcycle driver improvement program implemented pursuant to s. 322.025, the Florida Motorcycle Safety Education Program established in s. 322.0255, or the general operations of the department.

(d) An ancient or antique motorcycle: $7.50 flat.

(2) AUTOMOBILES OR TRI-VEHICLES FOR PRIVATE USE.—

(a) An ancient or antique automobile, as defined in s. 320.086, or a street rod, as defined in s. 320.0863: $7.50 flat.

(b) Net weight of less than 2,500 pounds: $14.50 flat.

(c) Net weight of 2,500 pounds or more, but less than 3,500 pounds: $22.50 flat.

(d) Net weight of 3,500 pounds or more: $32.50 flat.

(3) TRUCKS.—

(a) Net weight of less than 2,000 pounds: $14.50 flat.

(b) Net weight of 2,000 pounds or more, but not more than 3,000 pounds: $22.50 flat.

(c) Net weight more than 3,000 pounds, but not more than 5,000 pounds: $32.50 flat.

(d) A truck defined as a "goat," or other vehicle if used in the field by a farmer or in the woods for the purpose of harvesting a crop, including naval stores, during such harvesting operations, and which is not principally operated upon the roads of the state: $7.50 flat. The term "goat" means a motor vehicle designed, constructed, and used principally for the transportation of citrus fruit within citrus groves or for the transportation of crops on farms, and which can also be used for hauling associated equipment or supplies, including required sanitary equipment, and the towing of farm trailers.

(e) An ancient or antique truck, as defined in s. 320.086: $7.50 flat.

(4) HEAVY TRUCKS, TRUCK TRACTORS, FEES ACCORDING TO GROSS VEHICLE WEIGHT.—

(a) Gross vehicle weight of 5,001 pounds or more, but less than 6,000 pounds: $60.75 flat.

(b) Gross vehicle weight of 6,000 pounds or more, but less than 8,000 pounds: $87.75 flat.

(c) Gross vehicle weight of 8,000 pounds or more, but less

than 10,000 pounds: $103 flat.

(d) Gross vehicle weight of 10,000 pounds or more, but less than 15,000 pounds: $118 flat.

(e) Gross vehicle weight of 15,000 pounds or more, but less than 20,000 pounds: $177 flat.

(f) Gross vehicle weight of 20,000 pounds or more, but less than 26,001 pounds: $251 flat.

(g) Gross vehicle weight of 26,001 pounds or more, but less than 35,000: $324 flat.

(h) Gross vehicle weight of 35,000 pounds or more, but less than 44,000 pounds: $405 flat.

(i) Gross vehicle weight of 44,000 pounds or more, but less than 55,000 pounds: $773 flat.

(j) Gross vehicle weight of 55,000 pounds or more, but less than 62,000 pounds: $916 flat.

(k) Gross vehicle weight of 62,000 pounds or more, but less than 72,000 pounds: $1,080 flat.

(l) Gross vehicle weight of 72,000 pounds or more: $1,322 flat.

(m) Notwithstanding the declared gross vehicle weight, a truck tractor used within the state or within a 150-mile radius of its home address is eligible for a license plate for a fee of $324 flat if:

1. The truck tractor is used exclusively for hauling forestry products; or

2. The truck tractor is used primarily for the hauling of forestry products, and is also used for the hauling of associated forestry harvesting equipment used by the owner of the truck tractor.

(n) A truck tractor or heavy truck, not operated as a for-hire vehicle and which is engaged exclusively in transporting raw, unprocessed, and nonmanufactured agricultural or horticultural products within the state or within a 150-mile radius of its home address is eligible for a restricted license plate for a fee of:

1. If such vehicle's declared gross vehicle weight is less than 44,000 pounds, $87.75 flat.

2. If such vehicle's declared gross vehicle weight is 44,000 pounds or more and such vehicle only transports from the point of production to the point of primary manufacture; to the point of assembling the same; or to a shipping point of a rail, water, or motor transportation company, $324 flat.

Such not-for-hire truck tractors and heavy trucks used exclusively in transporting raw, unprocessed, and nonmanufactured agricultural or horticultural products may be incidentally used to haul farm implements and fertilizers delivered direct to the growers. The department may require any documentation deemed necessary to determine eligibility before issuance of this license plate. For the purpose of this

paragraph, "not-for-hire" means the owner of the motor vehicle must also be the owner of the raw, unprocessed, and nonmanufactured agricultural or horticultural product, or the user of the farm implements and fertilizer being delivered.

(5) SEMITRAILERS, FEES ACCORDING TO GROSS VEHICLE WEIGHT; SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.—

(a)1. A semitrailer drawn by a GVW truck tractor by means of a fifth-wheel arrangement: $13.50 flat per registration year or any part thereof.

2. A semitrailer drawn by a GVW truck tractor by means of a fifth-wheel arrangement: $68 flat per permanent registration.

(b) A motor vehicle equipped with machinery and designed for the exclusive purpose of well drilling, excavation, construction, spraying, or similar activity, and which is not designed or used to transport loads other than the machinery described above over public roads: $44 flat.

(c) A school bus used exclusively to transport pupils to and from school or school or church activities or functions within their own county: $41 flat.

(d) A wrecker, as defined in s. 320.01, which is used to tow a vessel as defined in s. 327.02, a disabled, abandoned, stolen-recovered, or impounded motor vehicle as defined in s. 320.01, or a replacement motor vehicle as defined in s. 320.01: $41 flat.

(e) A wrecker that is used to tow any nondisabled motor

vehicle, a vessel, or any other cargo unless used as defined in paragraph (d), as follows:

1. Gross vehicle weight of 10,000 pounds or more, but less than 15,000 pounds: $118 flat.

2. Gross vehicle weight of 15,000 pounds or more, but less than 20,000 pounds: $177 flat.

3. Gross vehicle weight of 20,000 pounds or more, but less than 26,000 pounds: $251 flat.

4. Gross vehicle weight of 26,000 pounds or more, but less than 35,000 pounds: $324 flat.

5. Gross vehicle weight of 35,000 pounds or more, but less than 44,000 pounds: $405 flat.

6. Gross vehicle weight of 44,000 pounds or more, but less than 55,000 pounds: $772 flat.

7. Gross vehicle weight of 55,000 pounds or more, but less than 62,000 pounds: $915 flat.

8. Gross vehicle weight of 62,000 pounds or more, but less than 72,000 pounds: $1,080 flat.

9. Gross vehicle weight of 72,000 pounds or more: $1,322 flat.

(f) A hearse or ambulance: $40.50 flat.

(6) MOTOR VEHICLES FOR HIRE.—

(a) Under nine passengers: $17 flat plus $1.50 per cwt.

(b) Nine passengers and over: $17 flat plus $2 per cwt.

(7) TRAILERS FOR PRIVATE USE.—

(a) Any trailer weighing 500 pounds or less: $6.75 flat per year or any part thereof.

(b) Net weight over 500 pounds: $3.50 flat plus $1 per cwt.

(8) TRAILERS FOR HIRE.—

(a) Net weight under 2,000 pounds: $3.50 flat plus $1.50 per cwt.

(b) Net weight 2,000 pounds or more: $13.50 flat plus $1.50 per cwt.

(9) RECREATIONAL VEHICLE-TYPE UNITS.—

(a) A travel trailer or fifth-wheel trailer, as defined by s. 320.01(1)(b), that does not exceed 35 feet in length: $27 flat.

(b) A camping trailer, as defined by s. 320.01(1)(b)2.: $13.50 flat.

(c) A motor home, as defined by s. 320.01(1)(b)4.:

1. Net weight of less than 4,500 pounds: $27 flat.

2. Net weight of 4,500 pounds or more: $47.25 flat.

(d) A truck camper as defined by s. 320.01(1)(b)3.:

1. Net weight of less than 4,500 pounds: $27 flat.

2. Net weight of 4,500 pounds or more: $47.25 flat.

(e) A private motor coach as defined by s. 320.01(1)(b)5.:

1. Net weight of less than 4,500 pounds: $27 flat.

2. Net weight of 4,500 pounds or more: $47.25 flat.

(10) PARK TRAILERS; TRAVEL TRAILERS; FIFTH-WHEEL TRAILERS;

35 FEET TO 40 FEET.—

(a) *Park trailers.*—Any park trailer, as defined in s. 320.01(1)(b)7.: $25 flat.

(b) *Travel trailers or fifth-wheel trailers.*—A travel trailer or fifth-wheel trailer, as defined in s. 320.01(1)(b), that exceeds 35 feet: $25 flat.

(11) MOBILE HOMES.—

(a) A mobile home not exceeding 35 feet in length: $20 flat.

(b) A mobile home over 35 feet in length, but not exceeding 40 feet: $25 flat.

(c) A mobile home over 40 feet in length, but not exceeding 45 feet: $30 flat.

(d) A mobile home over 45 feet in length, but not exceeding 50 feet: $35 flat.

(e) A mobile home over 50 feet in length, but not exceeding 55 feet: $40 flat.

(f) A mobile home over 55 feet in length, but not exceeding 60 feet: $45 flat.

(g) A mobile home over 60 feet in length, but not exceeding 65 feet: $50 flat.

(h) A mobile home over 65 feet in length: $80 flat.

(12) DEALER AND MANUFACTURER LICENSE PLATES.—A franchised motor vehicle dealer, independent motor vehicle dealer, marine boat trailer dealer, or mobile home dealer and manufacturer

license plate: $17 flat.

(13) EXEMPT OR OFFICIAL LICENSE PLATES.—Any exempt or official license plate: $4 flat, except that the registration or renewal of a registration of a marine boat trailer exempt under s. 320.102 is not subject to any license tax.

(14) LOCALLY OPERATED MOTOR VEHICLES FOR HIRE.—A motor vehicle for hire operated wholly within a city or within 25 miles thereof: $17 flat plus $2 per cwt.

(15) TRANSPORTER.—Any transporter license plate issued to a transporter pursuant to s. 320.133: $101.25 flat.

Section 15. 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(105) ~~s. 316.003(104)~~. 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 16. 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(84)(a) or (b) ~~s. 316.003(83)(a) or (b)~~, including any adjacent sidewalk, as defined in s. 316.003.

Section 17. This act shall take effect July 1, 2020.

Amendment No.

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: Transportation & Infrastructure Subcommittee
Representative Grant, M. offered the following:

Amendment (with title amendment)

Remove lines 71-185 and insert:

term does not include ~~such a vehicle with a seat height of no more than 25 inches from the ground when the seat is adjusted to its highest position or~~ a scooter or similar device. ~~A person under the age of 16 may not operate or ride upon a motorized bicycle.~~

(22) ELECTRIC BICYCLE.—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:

(a) "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.

(b) "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.

(c) "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.

(42) ~~(41)~~ MOPED.—Any vehicle with pedals to permit propulsion by human power, having a seat or saddle for the use of the rider and designed to travel on not more than three wheels, with a motor rated not in excess of 2 brake horsepower and not capable of propelling the vehicle at a speed greater than 30 miles per hour on level ground and with a power-drive system that functions directly or automatically without clutching or shifting gears by the operator after the drive system is engaged. If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters. The term does not include an electric bicycle.

(44) ~~(43)~~ MOTOR VEHICLE.—Except when used in s. 316.1001, 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. For purposes of s. 316.1001, "motor vehicle" has the same meaning as provided in s. 320.01(1)(a).

(45) ~~(44)~~ MOTORCYCLE.—Any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground. The term includes an autocycle, but does not include a tractor, a moped, an electric bicycle, or any vehicle in which the operator is enclosed by a cabin unless it meets the requirements set forth by the National Highway Traffic Safety Administration for a motorcycle.

(46) ~~(45)~~ MOTORIZED SCOOTER.—Any vehicle or micromobility device that is powered by a motor with or without a seat or saddle for the use of the rider, which is designed to travel on not more than three wheels, and which is not capable of propelling the vehicle at a speed greater than 20 miles per hour on level ground. The term does not include an electric bicycle.

(62) ~~(61)~~ PRIVATE ROAD OR DRIVEWAY.—Except as otherwise provided in paragraph (84)(b) ~~(83)(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.

Section 3. Paragraph (a) of subsection (7) of section 316.008, Florida Statutes, is amended to read:

316.008 Powers of local authorities.—

(7)(a) A county or municipality may enact an ordinance to permit, control, or regulate the operation of vehicles, golf carts, mopeds, motorized scooters, electric bicycles, and electric personal assistive mobility devices on sidewalks or sidewalk areas when such use is permissible under federal law. The ordinance must restrict such vehicles or devices to a maximum speed of 15 miles per hour in such areas.

Section 4. Paragraph (b) of subsection (1) of section 316.027, Florida Statutes, is amended to read:

316.027 Crash involving death or personal injuries.—

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

(b) "Vulnerable road user" means:

1. A pedestrian, including a person actually engaged in work upon a highway, or in work upon utility facilities along a highway, or engaged in the provision of emergency services within the right-of-way;

2. A person operating a bicycle, an electric bicycle, a motorcycle, a scooter, or a moped lawfully on the roadway;

3. A person riding an animal; or

4. A person lawfully operating on a public right-of-way, crosswalk, or shoulder of the roadway:

a. A farm tractor or similar vehicle designed primarily for farm use;

b. A skateboard, roller skates, or in-line skates;

c. A horse-drawn carriage;

d. An electric personal assistive mobility device; or

e. A wheelchair.

Section 5. Subsection (1) of section 316.083, Florida Statutes, is amended to read:

316.083 Overtaking and passing a vehicle.—The following rules shall govern the overtaking and passing of vehicles 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 shall give an appropriate signal as provided for in s. 316.156, shall pass to the left thereof at a safe distance, and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle. The driver of a vehicle overtaking a bicycle or other nonmotorized vehicle, or an electric bicycle, must pass the bicycle, ~~or~~ other nonmotorized vehicle, or electric bicycle at a safe distance of not less than 3 feet between the vehicle and the bicycle, ~~or~~ other nonmotorized vehicle, or electric bicycle.

Section 6. Section 316.1995, Florida Statutes, is amended to read:

316.1995 Driving upon sidewalk or bicycle path.—

(1) Except as provided in s. 316.008, s. 316.20655, s. 316.212(8), or s. 316.2128, a person may not drive any vehicle other than by human power upon a bicycle path, sidewalk, or

sidewalk area, except upon a permanent or duly authorized temporary driveway.

(2) A violation of this section is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.

(3) This section does not apply to motorized wheelchairs.

Section 7. Paragraph (d) of subsection (2) of section 316.2065, Florida Statutes, is amended to read:

316.2065 Bicycle regulations.—

(3)

(d) A bicycle rider or passenger who is under 16 years of age must wear a bicycle helmet that is properly fitted and is fastened securely upon the passenger's head by a strap and that meets the federal safety standard for bicycle helmets, final rule, 16 C.F.R. part 1203. ~~A helmet purchased before October 1, 2012, which meets the standards of the American National Standards Institute (ANSI Z 90.4 Bicycle Helmet Standards), the standards of the Snell Memorial Foundation (1984 Standard for Protective Headgear for Use in Bicycling), or any other nationally recognized standards for bicycle helmets adopted by the department may continue to be worn by a bicycle rider or passenger until January 1, 2016.~~ As used in this subsection, the term "passenger" includes a child who is riding in a trailer or semitrailer attached to a bicycle.

Section 8. Section 316.20655, Florida Statutes, is created

to read:

316.20655 Electric bicycle regulations.—

(1) Except as otherwise provided in this section, an electric bicycle or an operator of an electric bicycle shall be afforded all the rights and privileges, and be subject to all of the duties, of a bicycle or the operator of a bicycle, including s. 316.2065. An electric bicycle is a vehicle to the same extent as a bicycle. However, this section may not be construed to prevent a local government, through the exercise of its powers under s.316.008, from adopting an ordinance governing the operation of electric bicycles on streets, highways, sidewalks, and sidewalk areas under the local government's jurisdiction.

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

Remove lines 7-14 and insert:

"electric bicycle"; amending s. 316.008, F.S.; authorizing local authorities to regulate the operation of electric bicycles; amending s. 316.027, F.S.; revising the definition of the term "vulnerable road user"; amending s. 316.083, F.S.; requiring the driver of a vehicle overtaking an electric bicycle to pass the electric bicycle at a certain distance; amending s. 316.1995, F.S.; expanding exceptions to a prohibition on persons driving certain vehicles on sidewalks and bicycle paths; amending s.

316.2065, F.S.; removing outdated standards for bicycle helmets; creating s. 316.20655,

HB 1039

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1039 Transportation Network Companies
SPONSOR(S): Rommel
TIED BILLS: **IDEN./SIM. BILLS:** SB 1352

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee		Roth	Vickers
2) Insurance & Banking Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

A transportation network company (TNC) is an entity that uses a digital network to connect a rider to a TNC driver, who provides prearranged rides. With certain exceptions, a "for-hire vehicle" means any motor vehicle used for transporting persons or goods for compensation, or let or rented to another for consideration. There are different regulatory and insurance requirements in place for TNCs and for-hire vehicles.

The bill defines "luxury ground transportation network company" to mean a company that uses its digital network to connect riders exclusively to drivers who operate for-hire vehicles, including limousines and luxury sedans. The bill requires luxury ground TNCs to comply with all of the requirements applicable to a TNC, and requires maintenance of specific insurance coverage at all times.

The bill defines "transportation network company digital advertising device" to mean a device no larger than 20 inches tall and 54 inches long that is fixed to the roof of a TNC vehicle and that displays advertisements on a digital screen only while the TNC vehicle is turned on. The bill provides additional requirements for the use and display of a TNC digital advertising device.

The bill provides that a luxury ground TNC is not considered a for-hire vehicle and that the regulation of luxury ground TNCs, luxury ground TNC drivers, and luxury ground TNC vehicles is preempted to the state.

The bill may have a fiscal impact on the Department of Financial Services. To the extent that local governments currently collect revenue from regulation of digital advertising on vehicles, or fees from regulation of limousines and luxury sedans, that revenue will be negatively impacted. *See* Fiscal Analysis section for details.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Transportation Network Companies

In 2017, the Legislature established a regulatory framework for transportation network companies (TNCs).[1] The law defines a "TNC" as an entity operating in this state that uses a digital network to connect a rider[2] to a TNC driver, who provides prearranged rides. A TNC is not deemed to own, control, operate, direct, or manage the TNC vehicles or TNC drivers that connect to its digital network, except where agreed to by written contract, and is not a taxicab association or for-hire vehicle owner. The term does not include entities arranging nonemergency medical transportation for individuals who qualify for Medicaid or Medicare pursuant to a contract with the state or a managed care organization.

A "TNC vehicle" is defined as a vehicle that is used by a TNC driver to offer or provide a prearranged ride and that is owned, leased, or otherwise authorized to be used by the TNC driver. A vehicle that is let or rented to another for consideration may be used as a TNC vehicle. The law specifies that a taxicab, jitney, limousine, or for-hire vehicle is not a TNC vehicle.

A "prearranged ride" is defined as the provision of transportation by a TNC driver to a rider, beginning when a TNC driver accepts a ride requested by a rider through a digital network[3] controlled by a TNC, continuing while the TNC driver transports the requesting rider, and ending when the last requesting rider departs from the TNC vehicle. The term does not include a taxicab, for-hire vehicle, or street hail[4] service and does not include ridesharing,[5] carpool,[6] or any other type of service in which the driver receives a fee that does not exceed the driver's cost to provide the ride.

A "TNC driver" is defined as an individual who receives connections to potential riders and related services from a TNC and in return for compensation, uses a TNC vehicle to offer or provide a prearranged ride to a rider upon connection through a digital network. The law specifies that a TNC or TNC driver is not a common carrier, contract carrier, or motor carrier and does not provide taxicab or for-hire vehicle service. The law provides that a TNC driver is not required to register a TNC vehicle as a commercial motor vehicle or a for-hire vehicle. It requires the TNC's digital network to display the TNC driver's photograph and the TNC vehicle's license plate number before the rider enters the TNC vehicle.

If a fare is collected from a rider, the law requires the TNC to disclose the fare or fare calculation method on its website or within the online-enabled technology application service before beginning the prearranged ride. If the fare is not disclosed, the rider must have the option to receive an estimated fare before beginning the prearranged ride. In addition, a TNC is required to transmit to the rider an

[1] Section 627.748, F.S.

[2] "Rider" means an individual who uses a digital network to connect with a TNC driver in order to obtain a prearranged ride in the TNC driver's TNC vehicle between points chosen by the rider.

[3] The term "digital network" means any online-enabled technology application service, website, or system offered or used by a TNC that enables the prearrangement of riders with TNC drivers.

[4] The term "street hail" means an immediate arrangement on a street with a driver by a person using any method other than a digital network to seek immediate transportation.

[5] Section 341.031(9)(a), F.S., defines "ridesharing" as an "arrangement between persons with a common destination, or destinations, within the same proximity, to share the use of a motor vehicle on a recurring basis for round-trip transportation to and from their place of employment or other common destination. For purposes of ridesharing, employment shall be deemed to commence when an employee arrives at the employer's place of employment to report for work and shall be deemed to terminate when the employee leaves the employer's place of employment, excluding areas not under the control of the employer. However, an employee shall be deemed to be within the course of employment when the employee is engaged in the performance of duties assigned or directed by the employer, or acting in the furtherance of the business of the employer, irrespective of location."

[6] Section 450.28(3), F.S., defines "carpool" as "an arrangement made by the workers using one worker's own vehicle for transportation to and from work and for which the driver or owner of the vehicle is not paid by any third person other than the members of the carpool."

electronic receipt within a reasonable period of time after the completion of a ride. The receipt must list the origin and destination of the ride, total time and distance of the ride, and total fare paid.

A TNC is required to designate and maintain an agent for service of process in this state.[7]

A TNC or TNC driver is not a common carrier, contract carrier, or motor carrier and does not provide taxicab or for-hire vehicle service. As a result, a TNC driver is not required to register the TNC vehicle as a commercial motor vehicle or a for-hire vehicle.[8]

While a TNC driver is logged on to the digital network but is not engaged in a prearranged ride, the TNC or TNC driver must have automobile insurance that provides:[9]

- Primary automobile liability coverage of at least $50,000 for death and bodily injury per person, $100,000 for death and bodily injury per incident, and $25,000 for property damage; and
- Personal injury protection benefits that meet the minimum coverage amounts required under the Florida Motor Vehicle No-Fault Law.[10]

When a TNC driver is engaged in a prearranged ride, the automobile insurance must provide:[11]

- Primary automobile liability coverage of at least $1 million for death, bodily injury, and property damage; and
- Personal injury protection benefits that meet the minimum coverage amounts required of a limousine under the Florida Motor Vehicle No-Fault Law.

The coverage requirements may be satisfied by automobile insurance maintained by the TNC driver, an automobile insurance policy maintained by the TNC, or a combination of automobile insurance policies maintained by the TNC driver and the TNC.[12]

The law preempts to the state the regulation of TNCs and specifies that a county, municipality, special district, airport authority, port authority, or other local governmental entity or subdivision may not:

- Impose a tax on or require a license for a TNC, TNC driver, or TNC vehicle if such tax or license relates to providing prearranged rides;
- Subject a TNC, TNC driver, or TNC vehicle to any rate, entry, operation, or other requirement of the county, municipality, special district, airport authority, port authority, or other local governmental entity or subdivision; or
- Require a TNC or TNC driver to obtain a business license or any other type of similar authorization to operate within the local governmental entity's jurisdiction.[13]

<u>For-Hire Vehicles</u>

With certain exceptions, offering for lease or rent any motor vehicle in the State of Florida qualifies the vehicle as a “for-hire vehicle.” A “for-hire vehicle” is a motor vehicle used for transporting persons or goods for compensation. When goods or passengers are transported for compensation in a motor vehicle outside a municipal corporation of this state, or when goods are transported in a motor vehicle not owned by the person owning the goods, such transportation is considered “for hire”. The carriage of goods and other personal property in a motor vehicle by a corporation or association for its stockholders, shareholders, and members, cooperative or otherwise, is transportation “for hire”.[14]

Florida law provides specific financial responsibility requirements to for-hire vehicles. For-hire vehicles, such as taxis and limousines must maintain a motor vehicle liability policy with minimum limits of $125,000 per person for bodily injury, $250,000 per incident for bodily injury, and $50,000 for property

[7] Section 48.091, F.S., requires any corporation doing business in the state to have a registered agent and registered office in the state.
[8] Section 627.748(2), F.S.
[9] Section 627.748(7)(b), F.S.
[10] Sections 627.730-627.7405, F.S. The amount of insurance required is $10,000 for emergency medical disability, $2,500 non-emergency medical, and $5,000 for death.
[11] Section 627.748(7)(c), F.S.
[12] Section 627.748(7)(b) & (c), F.S.
[13] Section 627.748(15), F.S.
[14] Section 320.01(15)(a), F.S.

damage.[15] The owner or operator of a for-hire vehicle may also prove financial responsibility by providing satisfactory evidence of holding a motor vehicle liability policy issued by an insurance carrier, which is a member of the Florida Insurance Guaranty Association, or by providing a certificate of self-insurance.[16]

Digital Advertising Device

Certain companies allow taxi and TNC drivers to generate revenue through digital advertising via a digital smart screen on top of the taxi or TNC vehicle. The digital screen allows advertisers to run targeted, geofenced campaigns.[17] There are currently digital advertising screens in use on vehicles in New York, Los Angeles, San Francisco, Chicago, and Dallas.[18]

Digital advertising screens are installed on the roofs of motor vehicles owned or operated by individuals who commit to drive a minimum number of hours per week in certain urban markets. Drivers with digital advertising screens report earning an average of $300 a month, depending on how many hours are driven.[19] One startup company reported that over a 12-month period its ads were responsible for 430 million impressions a month, with over 650,000 hours of content played over 40,000 square miles of coverage. This company also reserves ten percent of unsold ad inventory for nonprofits and local government, such as Amber Alerts.

Prohibition Against Certain Lights

Section 316.2397, F.S., provides that a person may not drive any vehicle or equipment upon any highway in this state with any lamp or device thereon showing or displaying a red, red and white, or blue light visible from directly in front of the vehicle, except for certain exceptions, such as fire department vehicles and road maintenance equipment. This section expressly prohibits any vehicle or equipment, except police vehicles, from showing or displaying blue lights, except for Department of Corrections vehicles or county correctional agency vehicles when responding to emergencies. Flashing lights are prohibited on vehicles except:

- As a means of indicating a right or left turn, to change lanes, or to indicate that the vehicle is lawfully stopped or disabled upon the highway;
- When a motorist intermittently flashes his or her vehicle's headlamps at an oncoming vehicle notwithstanding the motorist's intent for doing so; and
- Flashing lamps authorized for bicycle riders and deceleration lighting systems on buses.

Proposed Changes

The bill defines a "luxury ground transportation network company" or "luxury ground TNC", to mean a company that uses its digital network to connect riders exclusively to drivers who operate for-hire vehicles as defined in s. 320.01(15), F.S., including limousines and luxury sedans and excluding taxicabs. The entity may elect, upon written notification to the Department of Financial Services (DFS), to be regulated as a luxury ground TNC. A luxury ground TNC must comply with all of the requirements of s. 627.748 that are applicable to a TNC, including the preemption requirements, but is not required to comply with any requirements that prohibit the company from connecting riders to drivers who operate for-hire vehicles. At all times a luxury ground TNC must maintain insurance coverage at the levels at least equal to the greater of those required in s. 627.748, F.S., and those required of for-hire vehicles, regardless of whether the driver is operating as a for-hire vehicle driver or luxury ground TNC driver. However, a prospective luxury ground TNC that satisfies minimum financial responsibility requirements at the time of written notification to DFS by using self-insurance may continue to use self-insurance to satisfy the insurance requirements for a luxury ground TNC.

[15] Section 324.032(1), F.S.
[16] Section 324.031, F.S.
[17] Anthony Ha, *Rideshare Advertising Startup Firefly Launches with $21.5M in Funding,* Techcrunch.com (December 6, 2018), available at https://techcrunch.com/2018/12/06/firefly-launch/ (last visited January 22, 2020).
[18] See Firefly.com, available at https://fireflyon.com/ (last visited January 22, 2020).
[19] Sarah Holder, *Car-Mounted Ads Take a New Direction: Data Collection*, Citylab.com (November 20, 2019), available at https://www.citylab.com/transportation/2019/11/firefly-digital-advertising-driver-pay-uber-lyft-cars-data/602077/ (last visited January 22, 2020).

A luxury ground transportation network company is not considered a for-hire vehicle for purposes of Ch. 627, F.S. In order for the bill's definition of "luxury ground transportation network company" to be compatible with current law, the bill makes conforming changes to the definitions of "prearranged ride", "transportation network company', and "transportation network company vehicle", by removing references to "for-hire vehicle", "for-hire vehicle owner", and "limousine". Additionally, the reference to "for-hire vehicle" is removed from the provision of law that states that a TNC or TNC driver is not considered a common carrier and does not have to register a TNC vehicle as a commercial motor vehicle or vehicle for-hire.

Lastly, the bill preempts to the state the regulation of luxury ground TNCs, luxury ground TNC drivers, and luxury ground TNC vehicles.

The bill also defines a "transportation network company digital advertising device" or "TNC digital advertising device" to mean a device no larger than 20 inches tall and 54 inches long that is fixed to the roof of a TNC vehicle and that displays advertisements on a digital screen only while the TNC vehicle is turned on.

The bill provides the following requirements for a TNC digital advertising device:

- A TNC driver may contract with an individual or company to install a TNC digital advertising device on a TNC vehicle.
- A TNC digital advertising device must be enabled with wireless Internet access and equipped with GPS.
- A TNC digital advertising device may not display advertisements when the TNC vehicle is parked or turned off.
- A TNC digital advertising device must follow the lighting requirements of s. 316.2397, F.S.
- No portion of the TNC digital advertising device may extend beyond the front or rear windshield of the vehicle, nor may it impact the TNC driver's vision.
- A TNC digital advertising device must display advertisements only on the sides of the device and not to the front or rear of the vehicle. Identification of the provider does not constitute advertising.
- A TNC digital advertising device must meet the requirements of the MIL-STD-810G standard,[20] as determined through independent safety and durability testing under the review of a licensed professional engineer, before being installed on a TNC vehicle.
- A TNC digital advertising device may not display advertisements for illegal products or services or advertisements that include nudity, violent images, or disparaging or false advertisements.
- An individual or company operating a TNC digital advertisement device shall allocate 10 percent of all advertisement inventory for government, not-for-profit, or charitable organizations at no cost.
- For the purposes of chapter 627, F.S., a TNC advertising device shall be deemed part of a TNC vehicle.

As a result of the inclusion of a TNC digital advertising device as part of a TNC vehicle, the regulation of a TNC digital advertising device is preempted to the state.

B. SECTION DIRECTORY:

Section 1: Amends s. 627.748, F.S., relating to transportation network companies.

Section 2: Provides that the act will take effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

[20] MIL-STD-810G is a U.S. military specification that guarantees a level of durability for a piece of technology. Specifically, it means the equipment has gone through a series of 29 tests, including shock tests, vibration tests, and more.

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill will likely have no impact on state government revenues.

2. Expenditures:

The bill may have a fiscal impact on DFS, but the impact is unknown at this time.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill preempts to the state the regulation of luxury ground TNCs and TNC digital advertising devices. To the extent municipalities, counties, and other governmental entities are imposing fees on luxury ground TNCs and TNC digital advertising devices, they will experience an indeterminate fiscal impact.

2. Expenditures:

The bill will likely have no impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill authorizes the use of TNC digital advertising devices thus enabling TNC drivers to install the devices and earn additional monthly revenue.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply because this bill reduces the ability of a county or municipality to raise revenue; however, an exception may apply since the bill is expected to have an insignificant fiscal impact.

2. Other:

None.

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:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to transportation network companies; amending s. 627.748, F.S.; revising and providing definitions; deleting for-hire vehicles from the list of vehicles that are not considered TNC carriers or are not exempt from certain registration; authorizing TNC drivers to contract for installment of TNC digital advertising devices; providing requirements for such devices; requiring operators of such devices to allocate a specified percentage of advertisement inventory to certain organizations; providing construction; authorizing entities to be regulated as luxury ground TNCs; providing requirements; providing that luxury ground TNCs, luxury ground TNC drivers, and luxury ground TNC vehicles are governed by state law; providing an effective date.

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

Section 1. Paragraph (f) of subsection (1), subsections (11) through (14), and subsection (15) of section 627.748, Florida Statutes, are redesignated as paragraph (g) of subsection (1), subsections (12) through (15), and subsection (17), respectively, paragraphs (b) and (e) and present paragraph (g) of subsection (1), subsection (2), and paragraph (a) of

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

present subsection (15) are amended, and a new subsection (11) and subsection (16) are added to that section, to read:

627.748 Transportation network companies.—

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

(b) "Prearranged ride" means the provision of transportation by a TNC driver to a rider, beginning when a TNC driver accepts a ride requested by a rider through a digital network controlled by a transportation network company, continuing while the TNC driver transports the rider, and ending when the last rider exits from and is no longer occupying the TNC vehicle. The term does not include a taxicab~~, for-hire vehicle,~~ or street hail service and does not include ridesharing as defined in s. 341.031, carpool as defined in s. 450.28, or any other type of service in which the driver receives a fee that does not exceed the driver's cost to provide the ride.

(e) "Transportation network company" or "TNC" means an entity operating in this state pursuant to this section using a digital network to connect a rider to a TNC driver, who provides prearranged rides. A TNC is not deemed to own, control, operate, direct, or manage the TNC vehicles or TNC drivers that connect to its digital network, except where agreed to by written contract, and is not a taxicab association ~~or for-hire vehicle owner~~. An individual, corporation, partnership, sole proprietorship, or other entity that arranges medical transportation for individuals qualifying for Medicaid or

Medicare pursuant to a contract with the state or a managed care organization is not a TNC. This section does not prohibit a TNC from providing prearranged rides to individuals who qualify for Medicaid or Medicare if it meets the requirements of this section.

(f) "Transportation network company digital advertising device" or "TNC digital advertising device" means a device no larger than 20 inches tall and 54 inches long that is fixed to the roof of a TNC vehicle and that displays advertisements on a digital screen only while the TNC vehicle is turned on.

(h) ~~(g)~~ "Transportation network company vehicle" or "TNC vehicle" means a vehicle that is not a taxicab or~~,~~ jitney~~, limousine, or for-hire vehicle as defined in s. 320.01(15)~~ and that is:

1. Used by a TNC driver to offer or provide a prearranged ride; and

2. Owned, leased, or otherwise authorized to be used by the TNC driver.

Notwithstanding any other provision of law, a vehicle that is let or rented to another for consideration may be used as a TNC vehicle.

(2) NOT OTHER CARRIERS.—A TNC or TNC driver is not a common carrier, contract carrier, or motor carrier and does not provide taxicab ~~or for-hire vehicle~~ service. In addition, a TNC

driver is not required to register the vehicle that the TNC driver uses to provide prearranged rides as a commercial motor vehicle ~~or a for-hire vehicle~~.

(11) TRANSPORTATION NETWORK COMPANY DIGITAL ADVERTISING DEVICE.—

(a) A TNC driver may contract with an individual or company to install a TNC digital advertising device on a TNC vehicle.

(b) A TNC digital advertising device must be enabled with wireless Internet access and equipped with GPS.

(c) A TNC digital advertising device may not display advertisements when the TNC vehicle is parked or turned off.

(d) A TNC digital advertising device must follow the lighting requirements of s. 316.2397.

(e) No portion of the TNC digital advertising device may extend beyond the front or rear windshield of the vehicle, nor may it impact the TNC driver's vision.

(f) A TNC digital advertising device must display advertisements only on the sides of the device and not to the front or rear of the vehicle. Identification of the provider does not constitute advertising under this paragraph.

(g) A TNC digital advertising device must meet the requirements of the MIL-STD-810G standard, as determined through independent safety and durability testing under the review of a licensed professional engineer, before being installed on a TNC

vehicle.

(h) A TNC digital advertising device may not display advertisements for illegal products or services or advertisements that include nudity, violent images, or disparaging or false advertisements.

(i) An individual or company operating a TNC digital advertisement device shall allocate 10 percent of all advertisement inventory for government, not-for-profit, or charitable organizations at no cost.

(j) For the purposes of this chapter, a TNC advertising device shall be deemed part of a TNC vehicle.

(16) LUXURY GROUND TRANSPORTATION NETWORK COMPANIES.—

(a) As used in this subsection, the term "luxury ground transportation network company" or "luxury ground TNC" means a company that:

1. Meets the requirements of paragraph (b).

2. Notwithstanding other provisions of this section, uses its digital network to connect riders exclusively to drivers who operate for-hire vehicles as defined in s. 320.01(15), including limousines and luxury sedans and excluding taxicabs.

(b) An entity may elect, upon written notification to the department, to be regulated as a luxury ground TNC. A luxury ground TNC must:

1. Comply with all of the requirements of this section applicable to a TNC, including subsection (17), that do not

conflict with subparagraph 2. or that prohibit the company from connecting riders to drivers who operate for-hire vehicles as defined in 320.01(15), including limousines and luxury sedans and excluding taxicabs.

2. Maintain at all times insurance coverage at the levels at least equal to the greater of those required in this section and those required of for-hire vehicles, regardless of whether the driver is operating as a for-hire vehicle driver or luxury ground TNC driver. However, a prospective luxury ground TNC that satisfies minimum financial responsibility at the time of written notification to the department through compliance with s. 324.032(2) by using self-insurance may continue to use self-insurance to satisfy the requirements of this subparagraph.

(17) ~~(15)~~ PREEMPTION.—

(a) It is the intent of the Legislature to provide for uniformity of laws governing TNCs, TNC drivers, ~~and~~ TNC vehicles, luxury ground TNCs, luxury ground TNC drivers, and luxury ground TNC vehicles throughout the state. TNCs, TNC drivers, ~~and~~ TNC vehicles, luxury ground TNCs, luxury ground TNC drivers, and luxury ground TNC vehicles are governed exclusively by state law, including in any locality or other jurisdiction that enacted a law or created rules governing TNCs, TNC drivers, ~~or~~ TNC vehicles, luxury ground TNCs, luxury ground TNC drivers, or luxury ground TNC vehicles before July 1, 2017. A county, municipality, special district, airport authority, port

authority, or other local governmental entity or subdivision may not:

1. Impose a tax on, or require a license for, a TNC, a TNC driver, ~~or~~ a TNC vehicle, a luxury ground TNC, a luxury ground TNC driver, or a luxury ground TNC vehicle if such tax or license relates to providing prearranged rides;

2. Subject a TNC, a TNC driver, ~~or~~ a TNC vehicle, a luxury ground TNC, a luxury ground TNC driver, or a luxury ground TNC vehicle to any rate, entry, operation, or other requirement of the county, municipality, special district, airport authority, port authority, or other local governmental entity or subdivision; or

3. Require a TNC, ~~or~~ a TNC driver, a luxury ground TNC, or a luxury ground TNC driver to obtain a business license or any other type of similar authorization to operate within the local governmental entity's jurisdiction.

Section 2. This act shall take effect upon becoming a law.

Amendment No.

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: Transportation & Infrastructure Subcommittee
Representative Rommel offered the following:

Amendment (with directory and title amendments)

Remove lines 79-134 and insert:

(7) TRANSPORTATION NETWORK COMPANY AND TNC DRIVER INSURANCE REQUIREMENTS.—

(b) The following automobile insurance requirements apply while a participating TNC driver is logged on to the digital network but is not engaged in a prearranged ride:

1. Automobile insurance that provides:

a. A primary automobile liability coverage of at least $50,000 for death and bodily injury per person, $100,000 for death and bodily injury per incident, and $25,000 for property damage;

b. Personal injury protection benefits that meet the minimum coverage amounts required under ss. 627.730-627.7405; and

c. Uninsured and underinsured vehicle coverage as required by s. 627.727.

2. The coverage requirements of this paragraph may be satisfied by any of the following:

a. Automobile insurance maintained by the TNC driver or the TNC vehicle owner;

b. Automobile insurance maintained by the TNC; or

c. A combination of sub-subparagraphs a. and b.

(c) The following automobile insurance requirements apply while a TNC driver is engaged in a prearranged ride:

1. Automobile insurance that provides:

a. A primary automobile liability coverage of at least $1 million for death, bodily injury, and property damage;

b. Personal injury protection benefits that meet the minimum coverage amounts required of a limousine under ss. 627.730-627.7405; and

c. Uninsured and underinsured vehicle coverage as required by s. 627.727.

2. The coverage requirements of this paragraph may be satisfied by any of the following:

a. Automobile insurance maintained by the TNC driver or the TNC vehicle owner;

b. Automobile insurance maintained by the TNC; or

c. A combination of sub-subparagraphs a. and b.

(11) TRANSPORTATION NETWORK COMPANY DIGITAL ADVERTISING DEVICE.—

(a) A TNC driver or his or her designee may contract with a company to install a TNC digital advertising device on a TNC vehicle.

(b) A TNC digital advertising device may be enabled with cellular or WiFi-enabled data transmission and equipped with GPS.

(c) A TNC digital advertising device may display advertisements only when the TNC vehicle is turned on.

(d) A TNC digital advertising device must follow the lighting requirements of s. 316.2397.

(e) No portion of the TNC digital advertising device may extend beyond the front or rear windshield of the vehicle, nor may it impact the TNC driver's vision.

(f) A TNC digital advertising device must display advertisements only to the sides of the vehicle and not to the front or rear of the vehicle. Identification of the provider does not constitute advertising under this paragraph.

(g) A TNC digital advertising device must, at a minimum, meet the requirements of the MIL-STD-810G standard or other reasonable environmental and safety industry standard before being installed on a TNC vehicle.

(h) A TNC digital advertising device may not display advertisements for illegal products or services or advertisements that include nudity or violent images. All advertisements displayed on a TNC digital advertising device are subject to the Florida Deceptive and Unfair Trade Practices Act.

(i)1. A TNC driver is immune from liability for the display of an advertisement that violates this section or the Florida Deceptive and Unfair Trade Practices Act unless the TNC driver is the advertiser.

2. The owner or operator of a TNC digital advertising device that displays an advertisement that is in violation of this section or the Florida Deceptive and Unfair Trade Practices Act is immune from liability under this section and the Florida Deceptive and Unfair Trade Practices Act for the violation if the advertisement was displayed in good faith and without actual knowledge of the violation, unless the advertiser is the same person as the owner or operator.

(j) For the purposes of this chapter, a TNC advertising device shall be deemed part of a TNC vehicle.

(16) LUXURY GROUND TRANSPORTATION NETWORK COMPANIES.—

(a) As used in this subsection, the term "luxury ground transportation network company" or "luxury ground TNC" means a company that:

1. Meets the requirements of paragraph (b).

2. Notwithstanding other provisions of this section, uses a digital network to connect riders exclusively to drivers who operate for-hire vehicles as defined in s. 320.01(15), including limousines and luxury sedans and excluding taxicabs.

(b) An entity may elect, upon written notification to the department, to be regulated as a luxury ground TNC. A luxury ground TNC must:

1. Comply with all of the requirements of this section applicable to a TNC, including subsection (17), that do not conflict with subparagraph 2. or that do not prohibit the company from connecting riders to drivers who operate for-hire vehicles as defined in 320.01(15), including limousines and luxury sedans and excluding taxicabs.

2. Maintain insurance coverage required in this section when the luxury ground TNC driver is logged on to a digital network or while the luxury ground TNC driver is engaged in a prearranged ride. However, a prospective luxury ground TNC that

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D I R E C T O R Y A M E N D M E N T

Remove line 25 and insert:

(g) of subsection (1), subsection (2), paragraphs (b) and (c) of subsection (7), and paragraph (a) of

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

Remove lines 6-11 and insert:
are not exempt from certain registration; revising automobile insurance coverage requirements for TNCs and TNC drivers; authorizing TNC drivers to contract for installment of TNC digital advertising devices; providing requirements for such devices; providing that TNC drivers and owners and operators of TNC digital advertising devices are immune from specified liabilities under certain circumstances; providing

HB 1281

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1281 Police Vehicles
SPONSOR(S): McGhee
TIED BILLS: **IDEN./SIM. BILLS:** SB 1508

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee		Roth	Vickers
2) Criminal Justice Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

In order for a person to knowingly offer for sale, sell, or exchange any vehicle that has been licensed, registered, or used as a taxicab, police vehicle, or short-term-lease vehicle, the Department of Highway Safety and Motor Vehicles must stamp, in a conspicuous place on the certificate of title of the vehicle, or its duplicate, words stating the nature of the previous use of the vehicle.

While most law enforcement agencies have adopted policies relating to the removal of police markings before selling their vehicles to the public, there are no statutory requirements for the removal of police markings.

The bill requires that before a person knowingly sells, exchanges, or transfers a police vehicle, a person must remove any police markings from the vehicle and certify in writing to the purchaser, customer, or transferee the fact that the vehicle has had the police markings removed.

The bill defines the term “police markings” to mean decals, stickers, or other markings attached or applied to a police vehicle.

The bill will have an indeterminate but likely insignificant fiscal impact to state and local government expenditures.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Once police vehicles reach a certain age or mile limit, many law enforcement agencies find it more cost effective to purchase new vehicles than continue to utilize older vehicles.[1] Law enforcement agencies sometimes transition older vehicles to become administrative or training vehicles,[2] or in many cases, they sell them.[3] When Florida Highway Patrol decommissions its vehicles, it removes all emergency vehicle equipment and decals, and then paints over the tan portion of the marked vehicle using a protective enamel black paint that cannot be removed.[4] While most law enforcement agencies have adopted policies relating to the removal of police markings before selling their vehicles to the public, there are no statutory requirements for the removal of police markings.

In order for a person to knowingly offer for sale, sell, or exchange any vehicle that has been licensed, registered, or used as a taxicab, police vehicle,[5] or short-term-lease vehicle, DHSMV must stamp, in a conspicuous place on the certificate of title of the vehicle, or its duplicate, words stating the nature of the previous use of the vehicle.[6] A person (including any officer, agent, or employee of a person) who knowingly sells, exchanges, or offers to sell or exchange a taxicab, police vehicle, or short-term-lease vehicle contrary to the law specified above commits a misdemeanor of the second degree.[7]

It is a first-degree misdemeanor for a person to falsely mislead or cause another person to believe that a vehicle is an official vehicle of a law enforcement or first responder agency.[8] It is also a first-degree misdemeanor for any person to replicate a sheriff or sheriff deputy vehicle by using the color combination forest green and white or replicate an FHP vehicle by using the color combination black and tan in the same or similar color combination as law enforcement.[9]

Effect of Proposed Changes

The bill requires that before a person knowingly sells, exchanges, or transfers a police vehicle, a person must remove any police markings from the vehicle and certify in writing to the purchaser, customer, or transferee the fact that the vehicle has had the police markings removed.

The bill defines the term “police markings” to mean decals, stickers, or other markings attached or applied to a police vehicle.

B. SECTION DIRECTORY:

[1] Tom Kanewske, *What to do With Old Police Vehicles?*, Officer.com, (February 15, 2017), available at https://www.officer.com/on-the-street/vehicles-equipment/article/12291284/what-to-do-with-old-police-vehicles (last visited January 20, 2020).
[2] *Id*.
[3] Thi Dao, *How to Remarket Patrol Vehicles*, Policemag.com (February 7, 2018), available at https://www.policemag.com/342406/how-to-remarket-patrol-vehicles (last visited January 20, 2020).
[4] Email from Kevin Jacobs, Deputy Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, RE: HB 1281 (January 21, 2020).
[5] Section 319.14(1)(c)1., F.S., defines the term “police vehicle” to mean a motor vehicle owned or leased by the state or a county or municipality and used in law enforcement.
[6] Section 319.14(1)(a), F.S.
[7] Section 319.14(5), F.S.
[8] Section 843.085(2)&(5), F.S.
[9] Sections 30.46 and 321.03, F.S.

Section 1: Amends s. 319.14, F.S., relating to sale of motor vehicles registered or used as taxicabs, police vehicles, lease vehicles, rebuilt vehicles, nonconforming vehicles, custom vehicles, or street rod vehicles; conversion of low-speed vehicles.

Section 2: Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill does not appear to impact state government revenues.

2. Expenditures:

   The bill may increase expenditures of state law enforcement agencies that are not currently removing police markings from police vehicles. However, the impact is indeterminate and likely insignificant, as most law enforcement agencies have already adopted policies relating to the removal of police markings before selling their vehicles.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill does not appear to impact local government revenues.

2. Expenditures:

   The bill may increase expenditures of local law enforcement agencies that are not currently removing police markings from police vehicles. However, the impact is indeterminate and likely insignificant, as most law enforcement agencies have already adopted policies relating to the removal of police markings before selling their vehicles.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply because this bill may increase the expenditures of a county or municipality; however, an exception may apply since the bill is expected to have an insignificant fiscal impact.

2. Other:

   None.

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:

Oher Comments: Law Enforcement Concerns

Law enforcement representatives have expressed concerns with the vagueness of the definition of terms “police markings” and “other markings” and requested clarification on the intent of the written certification. Additionally, law enforcement representatives requested that there be an exception to the removal of police markings when the sale or transfer of the police vehicle is from one law enforcement agency to another.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to police vehicles; amending s. 319.14, F.S.; prohibiting a person from knowingly selling, exchanging, or transferring a police vehicle without removing any police markings from the vehicle and certifying that the police markings have been removed; defining the term "police markings"; providing an effective date.

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

Section 1. Present subsections (5) through (10) of section 319.14, Florida Statutes, are redesignated as subsections (6) through (11), respectively, a new subsection (5) is added to that section, and present subsection (5) of that section is republished, to read:

319.14 Sale of motor vehicles registered or used as taxicabs, police vehicles, lease vehicles, rebuilt vehicles, nonconforming vehicles, custom vehicles, or street rod vehicles; conversion of low-speed vehicles.—

(5) A person may not knowingly sell, exchange, or transfer a police vehicle without, before consummating the sale, exchange, or transfer, removing any police markings from the vehicle and certifying in writing to the purchaser, customer, or transferee the fact that the vehicle has had the police markings

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

removed. For purposes of this subsection, the term "police markings" means decals, stickers, or other markings attached or applied to a police vehicle.

(6) ~~(5)~~ A person who knowingly sells, exchanges, or offers to sell or exchange a motor vehicle or mobile home contrary to this section or any officer, agent, or employee of a person who knowingly authorizes, directs, aids in, or consents to the sale, exchange, or offer to sell or exchange a motor vehicle or mobile home contrary to this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 2. This act shall take effect July 1, 2020.

Amendment No.

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: Transportation & Infrastructure Subcommittee

Representative McGhee offered the following:

Amendment (with title amendment)

Remove lines 24-28 and insert:

vehicle and providing an official letter of notification from the agency to the purchaser, customer, or transferee confirming the fact that the vehicle has had the police markings removed. For purposes of this subsection, the term "police markings" means decals, stickers, distinctive paint schemes, or other markings attached or applied to a police vehicle that identify the vehicle as a police vehicle. Sales, exchanges, or transfers of police vehicles between law enforcement agencies are exempt from the requirements of this subsection.

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

Remove line 6 and insert:
and confirming that the police markings have been

HB 1371

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1371 Traffic and Pedestrian Safety
SPONSOR(S): Fine and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1000

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee		Roth	Vickers
2) Transportation & Tourism Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Florida law provides the driver of a vehicle must stop for a pedestrian who is walking in the crosswalk at the instruction of a traffic control signal or where signage indicates the driver must stop. If there are no traffic control signals or signage in place at a crosswalk, the driver of a vehicle must yield to a pedestrian who is on the half of the roadway on which the vehicle is traveling. If traffic control signals are in operation, pedestrians may not cross at any place except in a marked crosswalk. If there is no crosswalk, pedestrians crossing a roadway must yield to vehicles.

The Department of Transportation and local governments utilize various types of signals to indicate when pedestrians may safely cross midblock crosswalks (crosswalks that are not at an intersection). Two types of signals commonly used are a rectangular rapid flash beacon and a pedestrian hybrid beacon. The rectangular rapid flash beacon consists of two rapidly and alternately flashing yellow rectangular LED lights that function as a warning beacon. Pedestrians press the call button to activate the flashing lights, but should wait for motorists to clear the intersection before they cross. The pedestrian hybrid beacon consists of three signal sections with a circular yellow signal indication centered below two horizontally aligned circular red signal indications. The pedestrian hybrid beacon is not illuminated until a pedestrian activates it and triggers the warning flashing yellow lens on the major street. After a set amount of time, the indication changes to a solid yellow light to inform drivers to prepare to stop. The beacon then displays a dual solid red light to drivers and a walking person symbol to pedestrians on the crosswalk.

The bill requires that by October 1, 2024, an entity with jurisdiction over a public highway, street, or road must install pedestrian hybrid beacons at any midblock crosswalk or must remove the midblock crosswalk in its entirety. As of October 1, 2024, midblock crosswalks will no longer be authorized to use rectangular rapid flash beacons. The state, county, city, or municipality with jurisdiction over the roadway with the midblock crosswalk will be responsible for the cost.

The bill will likely have a significant fiscal impact to state and local governments. *See* Fiscal Analysis for details.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. *See* Section III.A.1 of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Unless directed otherwise by a law enforcement officer, pedestrians are required to obey the instructions of official traffic control devices that are specifically applicable to pedestrians.[1] If a sidewalk is provided, and no circumstances prevent a pedestrian's use of the sidewalk, a pedestrian is prohibited from walking on a roadway that is paved for vehicular traffic.[2] If a sidewalk is not provided, a pedestrian, when practicable, must walk only on the shoulder on the left side of the roadway in relation to the pedestrian's direction of travel, facing traffic that may approach from the opposite direction.[3]

The driver of a vehicle must stop for a pedestrian who is walking in the crosswalk at the instruction of a traffic control signal or where signage indicates the driver to stop. If there are no traffic control signals or signage in place at a crosswalk, the driver of a vehicle must yield to a pedestrian who is on the half of the roadway on which the vehicle is traveling.[4] If traffic control signals are in operation, pedestrians cannot cross at any place except in a marked crosswalk.[5] If there are no crosswalks, pedestrians crossing a roadway must yield to vehicles.[6]

When pedestrian traffic control signals or signage is installed, such indicators must conform to the requirements of the most recent Manual on Uniform Traffic Control Devices (MUTCD).[7] The MUTCD defines the standards used by road managers nationwide to install and maintain traffic control devices on all public streets, highways, bikeways, and private roads open to public travel. The Federal Highway Administration (FHWA) publishes the MUTCD.[8]

The Florida Department of Transportation (DOT) and local governments utilize various types of signals to indicate when pedestrians may safely cross midblock crosswalks.[9] Two types of signals commonly used by DOT and local governments are a rectangular rapid flash beacon (RRFB) and a pedestrian hybrid beacon.[10] The RRFB consists of two rapidly and alternately flashing yellow rectangular LED lights that function as a warning beacon.[11] Pedestrians press the call button to activate the flashing lights, but should wait for motorists to clear the intersection before they cross.[12] The pedestrian hybrid beacon consists of three signal sections with a circular yellow signal indication centered below two horizontally aligned circular red signal indications.[13] The pedestrian hybrid beacon is not illuminated until a pedestrian activates it and triggers the warning flashing yellow lens facing the street.[14] After a set amount of time, the indication changes to a solid yellow light to inform drivers to prepare to stop.[15] The beacon then displays a dual solid red light to drivers on the street and a walking person symbol to pedestrians on the crosswalk.[16] At the conclusion of the walk phase, the beacon displays an alternating

[1] Section 316.130(1), F.S.
[2] Section 316.130(3), F.S.
[3] Section 316.130(4), F.S.
[4] Section 316.130(7), F.S.
[5] Section 316.130(11), F.S.
[6] Section 316.130(10), F.S.
[7] Section 316.0755, F.S.
[8] US Department of Transportation, *Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD)*, (updated December 11, 2019), available at https://mutcd.fhwa.dot.gov/ (last visited January 23, 2020).
[9] Florida Department of Transportation, *Pedestrian Facilities*, available at https://www.fdot.gov/roadway/bikeped/bikepedpf.shtm (last visited January 23, 2020).
[10] *Id.*
[11] *Id.*
[12] *Id.*
[13] US Department of Transportation, *Safety Effectiveness of the HAWK Pedestrian Crossing Treatment* (July 2010), available at https://www.fhwa.dot.gov/publications/research/safety/10045/index.cfm (last visited January 23, 2020).
[14] *Id.*
[15] *Id.*
[16] *Id.*

flashing red light, and pedestrians are shown an upraised hand symbol with a countdown display informing them of the time remaining to cross the street.[17]

In July 2008, the MUTCD was updated to provide interim approval via a memorandum[18] to RRFBs for optional use in limited circumstances. The interim approval allows RRFBs usage as a warning beacon to supplement standard pedestrian crossing warning signs and markings at either a pedestrian or school crossing.[19] The cost is approximately $10,000 to $15,000 for purchase and installation of two RRFB units (one on either side of a street).[20] The FHWA will grant interim approval for the optional use of the RRFB as a warning beacon in addition to standard pedestrian crossing or school crossing signs at crosswalks to any jurisdiction that submits a written request to the Office of Transportation Operations.[21] A state may request interim approval for all jurisdictions in that state.[22]

As of October 2019, DOT reported at least 219 midblock crosswalks with RRFBs on the state highway system.[23] It is unknown how many midblock crosswalks are in use statewide.[24]

The process for installing a pedestrian hybrid beacon is set out in the MUTCD.[25] A pedestrian hybrid beacon may be considered for installation to facilitate pedestrian crossings at a location that does not meet the requirements of a traffic signal need study,[26] or at a location that meets the requirements of a traffic signal need study, but a decision is made not to install a traffic control signal.[27] If certain traffic and pedestrian patterns exist,[28] the need for a pedestrian hybrid beacon should be considered based on an engineering study of major-street volumes, speeds, widths, and gaps in conjunction with pedestrian volumes, walking speeds, and delay.[29] The results of the engineering study will determine the necessity of the pedestrian hybrid beacon.[30] If installed, the pedestrian hybrid beacon must be used in conjunction with signs and pavement markings to warn and control traffic at locations where pedestrians enter or cross a street or highway.[31] A pedestrian hybrid beacon can only be installed at a marked crosswalk.[32] When an engineering study finds that installation of a pedestrian hybrid beacon is justified, then at least two pedestrian hybrid beacon lights must be installed for each approach of the major street; a stop line must be installed for each approach to the crosswalk; and a pedestrian signal light must be installed at each end of the marked crosswalk.[33] DOT reports that the conversion of five RRFBs to pedestrian hybrid beacons at midblock crosswalks in Destin cost $1,035,661.[34]

Pedestrians who cross the street at midblock crosswalks are likely more susceptible to injury from contact with a motor vehicle than crosswalks at an intersection. As a result, many local and state governments are utilizing RRFBs to alert motor vehicle drivers that a pedestrian is crossing at a midblock crosswalk. However, some drivers do not stop at the crosswalk when the yellow lights are

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[17] *Id.*
[18] *See Memorandum of Interim Approval for Optional Use of Rectangular Rapid Flashing Beacons (IA-11)* (July 16, 2008), available at https://mutcd.fhwa.dot.gov/resources/interim_approval/ia11/fhwamemo.htm (last visited January 23, 2020).
[19] US Department of Transportation, *Rectangular Rapid Flash Beacon (RRFB)*, available at https://safety.fhwa.dot.gov/intersection/conventional/unsignalized/tech_sum/fhwasa09009/ (last visited January 23, 2020).
[20] *Id.*
[21] Memorandum of Interim Approval for Optional Use of Rectangular Rapid Flashing Beacons (IA-11), *supra*, at FN 18.
[22] *Id.*
[23] Email from Amanda Marsh, Legislative Specialist, Department of Transportation, RE: Midblock crosswalks, (October 18, 2019).
[24] *Id.*
[25] US Department of Transportation Federal Highway Administration, *Manual on Uniform Traffic Control Devices for Streets and Highways (2009 edition), Chapter 4F. Pedestrian Hybrid Beacons*, p. 509 - 512, available at https://mutcd.fhwa.dot.gov/pdfs/2009/mutcd2009edition.pdf (last visited January 23, 2020).
[26] *See* MUTCD Chapter 4C.
[27] *Id.* at p. 509.
[28] Such as gaps in traffic that are not adequate to permit pedestrians to cross, or if the speed for vehicles approaching on the major street is too high to permit pedestrians to cross, or if pedestrian delay is excessive.
[29] *Id.*
[30] *Id.*
[31] *Id.*
[32] *Id.*
[33] *Id.*
[34] Email from Amanda Marsh, Legislative Specialist, Department of Transportation, RE: Midblock crosswalks, (October 22, 2019).

flashing, and pedestrians are left in a vulnerable position in the middle of the road. This occurrence has led to multiple injuries and deaths across the state, especially at locations near college campuses and along beaches.

Injury or Death to Non-Motorists at Midblock Crossings[35]

Injury Level	2017	2018	2019
Midblock - Marked Crosswalk	**263**	**262**	**247**
Pedestrian	**164**	**157**	**157**
Fatal (within 30 days)	12	6	5
Incapacitating	30	22	16
Non-incapacitating	61	57	78
Possible	56	65	50
None	5	7	8
Bicyclist	**99**	**105**	**90**
Fatal (within 30 days)	0	2	0
Incapacitating	15	12	9
Non-incapacitating	33	44	40
Possible	45	39	36
None	6	8	5
As of 01/24/2020. 2019 statistics is preliminary and may change.			

Proposed Changes

The bill creates s. 316.0756, F.S., and requires that by October 1, 2024, an entity with jurisdiction over a public highway, street, or road must install pedestrian hybrid beacons at any midblock crosswalk or must remove the midblock crosswalk in its entirety. As of October 1, 2024, midblock crosswalks will no longer be authorized to use RRFBs. The state, county, city, or municipality with jurisdiction over the roadway with the midblock crosswalk will be responsible for the cost.

B. SECTION DIRECTORY:

Section 1: Creates s. 316.0756, F.S., relating to traffic control signal devices and pedestrian control signals at crosswalks other than at intersections.

Section 2: Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill will likely have no impact on state government revenues.

2. Expenditures:

   The fiscal impact to DOT is indeterminate, but is likely significant.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

[35] Email from Kevin Jacobs, Deputy Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, RE: non/motorists/midblock crosswalk stats, (January 24, 2020).

The bill will likely have no impact on local government revenues.

2. Expenditures:

The fiscal impact to cities and counties is indeterminate, but is likely significant.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will likely have no fiscal impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill requires cities/counties to install specified traffic and pedestrian signals on roadways. This bill does not appear to qualify under any exemption or exception. If the bill does qualify as a mandate, the law must fulfill an important state interest and final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

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:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to traffic and pedestrian safety; creating s. 316.0756, F.S.; requiring a pedestrian crosswalk on a public highway, street, or road which is located at any point other than at an intersection with another public highway, street, or road to be controlled by traffic control signal devices and pedestrian control signals that conform to specified requirements; providing coordination requirements for such devices and signals; requiring, by a specified date, the entity with jurisdiction over a public highway, street, or road with a certain pedestrian crosswalk to ensure that the crosswalk is controlled by coordinated traffic control signal devices and pedestrian control signals; authorizing such entity to alternatively remove any such crosswalk; providing an effective date.

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

Section 1. Section 316.0756, Florida Statutes, is created to read:

316.0756 Traffic control signal devices and pedestrian control signals at crosswalks other than at intersections.—

(1) Notwithstanding any law to the contrary, a pedestrian

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

crosswalk on a public highway, street, or road which is located at any point other than at an intersection with another public highway, street, or road must be controlled by coordinated traffic control signal devices and pedestrian control signals that conform to the requirements of the most recent Manual on Uniform Traffic Control Devices and other applicable Department of Transportation specifications. Traffic control signal devices and pedestrian control signals at crosswalk locations described in this section must be coordinated according to all of the following requirements:

(a) Vehicular traffic approaching the crosswalk is required to come to a complete stop before pedestrians are permitted to enter the crosswalk.

(b) Traffic control signal devices at intersections adjacent to the crosswalk are taken into consideration as provided in the most recent Manual on Uniform Traffic Control Devices and other applicable Department of Transportation specifications.

(2) By October 1, 2024, the entity with jurisdiction over a public highway, street, or road with a crosswalk described in subsection (1) which is in existence on July 1, 2020, shall ensure that such crosswalk is controlled by coordinated traffic control signal devices and pedestrian control signals as required under subsection (1). The entity with jurisdiction may alternatively remove any such existing crosswalk.

Section 2. This act shall take effect July 1, 2020.

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

Amendment No.

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: Transportation & Infrastructure Subcommittee
Representative Fine offered the following:

Amendment (with title amendment)

Remove lines 30-50 and insert:

that conform to the requirements of Chapters 4D and 4E of the most recent Manual on Uniform Traffic Control Devices and other applicable Department of Transportation specifications. Traffic control signal devices and pedestrian control signals at crosswalk locations described in this section must be coordinated according to all of the following requirements:

(a) Vehicular traffic approaching the crosswalk is required to come to a complete stop before pedestrians are permitted to enter the crosswalk.

(b) Traffic control signal devices at intersections

adjacent to the crosswalk are taken into consideration as provided in the most recent Manual on Uniform Traffic Control Devices and other applicable Department of Transportation specifications.

(2) By October 1, 2024, the entity with jurisdiction over a public highway, street, or road with a crosswalk described in subsection (1) which is in existence on July 1, 2020, shall ensure that such crosswalk is controlled by coordinated traffic control signal devices and pedestrian control signals as required under subsection (1). The entity with jurisdiction may alternatively remove any such existing crosswalk.

Section 2. The Legislature finds and declares that this act fulfills an important state interest.

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

Remove line 16 and insert:

alternatively remove any such crosswalk; providing a declaration of important state interest; providing an