

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Transportation Committee

BILL: SB 2296

INTRODUCER: Senator Posey

SUBJECT: Commercial Motor Vehicles

DATE: March 27, 2008

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Eichin</u>	<u>Meyer</u>	<u>TR</u>	<u>Favorable</u>
2.	_____	_____	<u>CM</u>	_____
3.	_____	_____	<u>TA</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

SB 2296 clarifies the definition of the term ‘commercial motor vehicle’ (CMV) as it is used in Florida traffic laws, motor vehicle registration and titling laws, and driver’s licensing law. Through the codification in Florida Statute of a published interpretation of federal regulations relating to the definition of CMV, the bill clarifies vehicles occasionally transporting personal property to or from a closed-course motorsport facility are not CMVs, provided no profit or corporate sponsorship is involved.

This bill substantially amends sections 316.003, 320.01, and 322.01, F.S.

II. Present Situation:

Commercial Motor Vehicles

Section 316.003(66), F.S., defines a CMV as any self-propelled or towed vehicle used on the public highways in commerce to transport passengers or cargo, if such vehicle:

- a) Has a gross vehicle weight rating of 10,000 pounds or more;
- b) Is designed to transport more than 15 passengers, including the driver; or
- c) Is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act, as amended (49 U.S.C. ss. 1801 et seq.).

The regulation of CMVs and their drivers occurs through a combination of federal and state laws. Under the Motor Carrier Safety Improvement Act of 1999, the Federal Motor Carrier Safety Administration (FMCSA) was established within the United States Department of Transportation (USDOT) to reduce crashes, injuries and fatalities involving large trucks and

buses. Federal regulations adopted by the FMCSA provide general applicability, definitions, requirements and information for persons subject to ch. 316, F.S. Specifically, Title 49 Code of Federal Regulations, subsection 390.3 ascribes applicability to “all employers, employees, and commercial motor vehicles, which transport property or passengers in interstate commerce.” A specific exemption is made in subsection 390.3(f)(3) for “the occasional transportation of personal property by individuals not for compensation nor in the furtherance of a commercial enterprise.” The FMCSA in its interpretation of Part 390, has published guidance related to the exemption in §390.3(f)(3) and its application to persons who occasionally use CMVs to transport cars, boats, horses, etc., to races, tournaments, shows or similar events, even if prize money is offered at these events:

The exemption would apply to this kind of transportation, provided: (1) The underlying activities are not undertaken for profit, i.e., (a) prize money is declared as ordinary income for tax purposes, and (b) the cost of the underlying activities is not deducted as a business expense for tax purposes; and, where relevant; (2) corporate sponsorship is not involved. Drivers must confer with their State of licensure to determine the licensing provisions to which they are subject.

The federal regulations (but not the published guidance) have been codified in Florida law, specifically s. 316.302, F.S., which subjects all owners and drivers of CMVs engaged in interstate commerce and operated on public roadways to the rules and regulations contained in 49 Code of Federal Regulations Parts 382, 385, and 390 through 397.

Under s. 316.302, F.S., The Florida Department of Transportation’s (FDOT) Motor Carrier Compliance Office's (MCCO) enforces state and federal laws and agency rules to ensure trucks and buses operating in Florida:

- are mechanically sound,
- are licensed,
- do not exceed size and weight limits, and
- are driven by properly qualified, licensed drivers operating their vehicles in a safe manner.

MCCO staff also verify vehicle owners have properly registered their vehicles and paid applicable fuel taxes.

Vehicle weight and size limits protect the highway system pavement and structures from excessive damage from overweight and oversize vehicles. The state’s weight and size limits were established under federal guidelines to prevent heavy trucks from causing unreasonable damage to highway systems and thereby protect the public's investment in these roadways. The MCCO uses both non-sworn weight inspectors and sworn law enforcement officers to enforce vehicle weight, size, fuel tax, and registration requirements. Weight inspectors weigh trucks and check registration and fuel tax compliance at 21 fixed scale locations along major highways. Most of these weigh stations are located in Northern and Central Florida. Additionally, MCCO officers patrol the state’s highways and use portable scales to weigh trucks not passing fixed scale stations.

Section 316.302, F.S., also authorizes the FDOT to conduct compliance reviews for the purpose of determining whether CMVs are compliant with all safety requirements contained in s. 316.302, F.S. The MCCO officers perform vehicle safety inspections to determine whether commercial drivers are appropriately licensed, are not under the influence of drugs or alcohol, have maintained required logbooks of their hours of service, and are not operating their vehicles in an unsafe manner. Safety inspections can include examination of vehicle parts such as brakes, lights, and safety equipment and, if carried onboard, the packaging and labeling of hazardous materials. The section also requires the display of certain information (placarding) on the side of the power unit of certain commercial vehicles to comply with federal and state hazardous material requirements.

The MCCO conducts compliance reviews at truck and bus terminals to examine company vehicles and records. Many CMVs must register under the International Registration Plan (IRP) and International Fuel Tax Agreement (IFTA), which are interstate cooperative agreements for the payment of registration fees and fuel use taxes among various states and other jurisdictions. The IRP is a reciprocal agreement authorizing the proportional registration among the states of CMVs. This means if a truck is operated in multiple states, the owner must annually report mileage driven in each state and taxes are paid proportionately based on the mileage driven. Owners may pay those taxes in one state—referred to as the base state. Owners are required to register under IRP if :

- the vehicle is over 26,000 GVW; or
- has three or more axles, regardless of weight; or
- is a power unit and trailer whose combined GVW is in excess of 26,000 pounds, and
- is part of a declared fleet that operates in Florida and at least one other IRP jurisdiction.

The following vehicles are exempt from IRP registration:

- government owned vehicles;
- city pick-up or delivery vehicles;
- buses used for chartered parties;
- recreational vehicles (a vehicle used for personal pleasure or travel);
- vehicles operating with restricted license plates; and
- vehicles operating intrastate miles only.

Motor Carrier Compliance Officers can impose penalties for violations of CMV laws. If a fine is imposed as part of weight enforcement or safety inspection activities, the penalty must be paid before the driver can proceed on the highway. These fines may be paid by the driver or by a valid surety bond posted by the trucking or bus company (carrier).

Commercial Driver Licenses (CDL)

Drivers of CMVs in excess of 26,000 pounds must obtain a commercial driver's license (CDL), and obey all federal and state regulations relating to commercial drivers, including "hours of service" regulations that set a required amount of non-driving rest time for commercial drivers.

Drivers of recreational vehicles are exempt from the commercial driver's license requirements provided the vehicle is being used for recreation and not commerce.

Registration and Titling of CMVs

For the purposes of titling and registration, s. 320.01(1) (b), F.S., defines "recreational vehicles" as units primarily designed as temporary living quarters for recreational, camping or travel use having either its own motive power or mounted on or drawn by another vehicle. The basic entities are:

- Travel Trailer
- Fifth-Wheel Trailer
- Camping Trailer
- Truck Camper
- Motor Home
- Private Motor Coach
- Van Conversion

Park Trailers, Mobile Homes, and Office Trailers may also be considered RVs.

The term "Heavy Truck" is defined by s. 320.01(10), F.S., as:

any motor vehicle with a net vehicle weight of more than 5,000 pounds, which is registered on the basis of gross vehicle weight in accordance with s. 320.08(4), and which is designed or used for the carriage of goods or designed or equipped with a connecting device for the purpose of drawing a trailer that is attached or coupled thereto by means of such connecting device and includes any such motor vehicle to which has been added a cabinet box, a platform, a rack, or other equipment for the purpose of carrying goods other than the personal effects of the passengers.

According to the Department of Highway Safety and Motor Vehicles' (DHSMV) titling and registration procedures, a heavy truck which has been modified to provide temporary living quarters can be titled and registered as a recreational vehicle if it continues to meet the definition listed in s. 320.01 (10), F.S., and is only used for the purpose of carrying the personal effects of the passengers. If the vehicle meets the definition of s. 320.01(10), F.S., and its purpose is to carry goods other than the personal effects of the passengers, it must be titled and registered as a heavy truck. Heavy truck conversions may have a connecting device (trailer hitch) on the back of the vehicle to tow a vehicle, boat trailer, etc., however, if the connecting device is a fifth-wheel hitch, the vehicle must be titled and registered as a heavy truck.

Section 549.09(1)(a), F.S., defines "Closed-course motorsport facility" as a closed-course speedway or racetrack designed and intended for motor vehicle competition, exhibitions of speed, or other forms of recreation involving the use of motor vehicles, including motorcycles.

III. Effect of Proposed Changes:

Generally, the bill codifies in Florida Statute an exemption from regulation found in the published interpretation of federal regulations relating to CMVs.

The bill amends ss. 316.003, 320.01, and 322.01, F.S., revising the definition of CMV as used in Florida traffic laws, motor vehicle registration and titling laws, and driver's licensing laws respectively. The bill clarifies vehicles occasionally transporting personal property to or from a closed-course motorsport facility are not CMVs provided no profit or corporate sponsorship is involved. Corporate sponsorship is defined as:

“payment, donation, gratuity, in-kind service, or other benefit provided to or derived by a person in relation to the underlying activity, other than the display of product or corporate logos, or other graphic information on the property being transported.”

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Regardless of their status as CMVs, vehicles weighing 55,000 pounds or more remain subject to the Federal Heavy Highway Vehicle Use Tax.

B. Private Sector Impact:

Since the bill codifies existing interpretation of federal regulations, any private sector fiscal impact would consist of corrections to misapplications of existing law, and is therefore indeterminate.

C. Government Sector Impact:

Since the bill codifies existing interpretation of federal regulations, any government sector fiscal impact would consist of corrections to misapplications of existing law, and is therefore indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
