Appropriations Committee

Monday, January 22, 2018
3:00 PM – 6:00 PM
212 Knott Building

Meeting Packet

Richard Corcoran
Speaker

Carlos Trujillo
Chair

The Florida House of Representatives

Appropriations Committee

Richard Corcoran
Speaker

Carlos Trujillo
Chair

AGENDA

Monday, January 22, 2018
212 Knott Building
3:00 PM – 6:00 PM

I. Call to Order/Roll Call

II. Opening Remarks by Chair Trujillo

Consideration of the following bill(s):

CS/HB 21 Controlled Substances by Health Quality Subcommittee, Boyd
HB 353 Autonomous Vehicles by Fischer, Brodeur
CS/HB 787 Specialty License Plates by Transportation & Infrastructure Subcommittee, Ingram
HB 1189 Commercial Motor Vehicles by Payne
HB 7033 Trust Funds/Re-creation/Land Acquisition Trust Fund/DOS by Transportation & Tourism Appropriations Subcommittee, Ingram

III. Closing Remarks and Adjournment

221 The Capitol, 402 South Monroe Street, Tallahassee, Florida 32399-1300
(850) 717-4810

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 21 Controlled Substances
SPONSOR(S): Health Quality Subcommittee; Boyd and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 8

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee	15 Y, 0 N, As CS	Siples	McElroy
2) Appropriations Committee		Mielke BW	Leznoff
3) Health & Human Services Committee			

SUMMARY ANALYSIS

Substance abuse affects millions of people in the U.S. each year. Drug overdoses have steadily increased and now represent the leading cause of accidental death in the U.S., the majority of which involve an opioid. In Florida, heroin caused 952 deaths, fentanyl caused 1,390 deaths, oxycodone caused 723 deaths, and hydrocodone caused 245 deaths in 2016. Opioid addiction has been recognized as a public health emergency on both a state and federal level. HB 21 addresses opioid abuse by expanding the use of the Prescription Drug Monitoring Program (PDMP), increasing regulation of prescribers and dispensers, and aligning state criminal statutes with federal law.

HB 21 limits the prescription for a Schedule II opioid to alleviate acute pain to a three-day supply, or a seven-day supply if deemed medically necessary by the prescriber. The bill requires Department of Health (DOH) to adopt rules establishing guidelines for prescribing controlled substances for acute pain, similar to those for chronic pain. The bill also requires a health care practitioner authorized to prescribe controlled substances to complete a board-approved 2-hour continuing education course on safely and effectively prescribing controlled substances, and to review a patient's PDMP history prior to prescribing or dispensing a controlled substance.

Currently, a pain management clinic must register with DOH unless it self-determines it is exempt from registration. The bill requires all pain management clinics that claim an exemption from registration to obtain a certificate of exemption by January 1, 2019.

The PDMP, within DOH, monitors controlled substance prescribing and dispensing. Currently, pharmacies only report dispensing controlled substances listed in Schedule II, III, and IV to the PDMP. The bill expands the reporting requirement to include Schedule V and additional information not currently collected, such as the patient's telephone number, certain information of the person picking up the controlled substance on behalf of the patient, and whether the prescription is new or a refill. The bill authorizes health care employees of the U.S. Department of Defense and the Indian Health Service who prescribe controlled substances to have direct access to the PDMP, and authorizes indirect access to the PDMP for medical examiners under certain conditions. The bill authorizes DOH to share and exchange PDMP data with other states if certain conditions are met, and authorizes the PDMP to interface with a health care practitioner and facility electronic health record systems.

Chapter 893, F.S., the "Florida Comprehensive Drug Abuse Prevention and Control Act," ("Act"), creates criminal offenses related to the manufacture, distribution, preparation, and dispensing of controlled substances. The Act classifies such substances into five schedules, based on the substance's "potential for abuse" and whether the substance has a currently accepted medical use. The bill aligns the state schedule of drugs with the federal schedule of drugs.

The bill has a significant, negative fiscal impact on DOH to implement required upgrades for the PDMP. The House proposed financial plan for Fiscal Year 2018-2019 will provide DOH $873,079 in recurring and $117,700 in nonrecurring General Revenue funds to update the PDMP. The bill will have an insignificant, positive fiscal impact on DOH from cost savings related to the investigation of pain management clinics. The bill has no fiscal impact on local governments.

The bill provides an effective date of July 1, 2018, except as otherwise expressly provided in the bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Substance Abuse

Substance abuse refers to the harmful or hazardous use of psychoactive substances, including alcohol and illicit drugs.[1] Substance abuse disorders occur when the chronic use of alcohol or drugs causes significant impairment, such as health problems, disability, and failure to meet major responsibilities at work, school, or home.[2] Repeated drug use leads to changes in the brain's structure and function that can make a person more susceptible to developing a substance abuse disorder.[3] Brain imaging studies of persons with substance abuse disorders show physical changes in areas of the brain that are critical to judgment, decision making, learning and memory, and behavior control.[4]

According to the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, a diagnosis of substance abuse disorder is based on evidence of impaired control, social impairment, risky use, and pharmacological criteria.[5] The most common substance abuse disorders in the United States are from the use of alcohol, tobacco, cannabis, stimulants, hallucinogens, and opioids.[6]

Opioid Abuse

Opioids are psychoactive substances derived from the opium poppy, or their synthetic analogues.[7] They are commonly used as pain relievers to treat acute and chronic pain. An individual experiences pain as a result of a series of electrical and chemical exchanges among his or her peripheral nerves, spinal cord, and brain.[8] Opioid receptors occur naturally and are distributed widely throughout the central nervous system and in peripheral sensory and autonomic nerves.[9] When an individual experiences pain, the body releases hormones, such as endorphins, which bind with targeted opioid receptors.[10] This disrupts the transmission of pain signals through the central nervous system and reduces the perception of pain.[11] Opioids function in the same way by binding to specific opioid

---

[1] World Health Organization. *Substance Abuse*, available at http://www.who.int/topics/substance_abuse/en/ (last visited October 31, 2017).
[2] Substance Abuse and Mental Health Services Administration, *Substance Use Disorders,* available at http://www.samhsa.gov/disorders/substance-use (last visited October 31, 2017).
[3] National Institute on Drug Abuse, *Drugs, Brains, and Behavior: The Science of Addiction*, available at https://www.drugabuse.gov/publications/drugs-brains-behavior-science-addiction/drug-abuse-addiction (last visited October 31, 2017).
[4] Id.
[5] *Supra* note 2.
[6] Id.
[7] World Health Organization, *Information Sheet on Opioid Overdose*, World Health Organization (Nov. 2014), *available at* http://www.who.int/substance_abuse/information-sheet/en/ (last visited October 31, 2017).
[8] National Institute of Neurological Disorders and Stroke, *Pain: Hope through Research*, (Jan. 2014), *available at* https://www.ninds.nih.gov/Disorders/Patient-Caregiver-Education/Hope-Through-Research/Pain-Hope-Through-Research (last visited October 31, 2017).
[9] Gjermund Henriksen, Frode Willoch; *Brain Imaging of Opioid Receptors in the Central Nervous System,* 131 BRAIN 1171-1196 (2007), available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2367693/ (last visited October 31, 2017).
[10] Id.
[11] Id.

receptors in the brain, spinal cord, and gastrointestinal tract, thereby reducing the perception of pain.[12] Opioids include[13]:

- Buprenorphine (Subutex, Suboxone)
- Codeine
- Fentanyl (Duragesic, Fentora)
- Heroin
- Hydrocodone (Vicodin, Lortab, Norco)
- Hydromorphone (Dilaudid, Exalgo)
- Meperidine
- Methadone
- Morphine
- Oxycodone (OxyContin, Percodan, Percocet)
- Oxymorphone
- Tramadol

Opioids are commonly abused, with an estimated 15 million people worldwide suffering from opioid dependence.[14] Opioids can create a euphoric feeling because they affect the regions of the brain involved with pleasure and reward, which can lead to abuse.[15] Continued use of these drugs can lead to the development of tolerance and psychological and physical dependence.[16] This dependence is characterized by a strong desire to take opioids, impaired control over opioid use, persistent opioid use despite harmful consequences, a higher priority given to opioid use than to other activities and obligations, and a physical withdrawal reaction when opioids are discontinued.[17] Approximately four to six percent of patients who misuse prescription opioids transition to heroin and 80 percent of people who use heroin first misused prescription opioids.[18]

An overabundance of opioids in the body can lead to a fatal overdose. In addition to their presence in major pain pathways, opioid receptors are also located in the respiratory control centers of the brain.[19] Opioids disrupt the transmission of signals for respiration in the identical manner that they disrupt the transmission of pain signals. This leads to a reduction, and potentially cessation, of an individual's respiration. Oxygen starvation will eventually stop vital organs like the heart, then the brain, and can lead to unconsciousness, coma, and possibly death.[20] Within three to five minutes without oxygen, brain damage starts to occur, soon followed by death.[21] However, this does not occur instantaneously as people will commonly stop breathing slowly, minutes to hours after the drug or drugs were used.[22]

---

[12] Department of Health and Human Services- Substance Abuse and Mental Health Services Administration, *SAMHSA Opioid Overdose Prevention Toolkit: Facts for Community Members* (2013, rev. 2014) 3, available at https://www.integration.samhsa.gov/Opioid_Toolkit_Community_Members.pdf (last visited October 31, 2017).
[13] Florida Department of Law Enforcement, Medical Examiners Commission, *Drugs Identified in Deceased Persons by Florida Medical Examiners 2016 Annual Report*, available at http://www.fdle.state.fl.us/MEC/Publications-and-Forms/Documents/Drugs-in-Deceased-Persons/2016-Annual-Drug-Report.aspx (last visited November 20, 2017).
[14] *Supra* note 7.
[15] National Institute on Health, National Institute on Drug Abuse, *Which classes of Prescription Drugs are Commonly Misused?* (rev. Aug. 2016), available at https://www.drugabuse.gov/publications/research-reports/misuse-prescription-drugs/which-classes-prescription-drugs-are-commonly-misused (last visited October 31, 2017).
[16] *Supra* note 9.
[17] *Supra* note 7.
[18] National Institute on Health, National Institute on Drug Abuse, *Opioid Overdose Crisis*, [June 2017], available at https://www.drugabuse.gov/drugs-abuse/opioids/opioid-overdose-crisis (last visited November 20, 2017).
[19] K.T.S. Pattinson, *Opioids and the Control of Respiration*, BRITISH JOURNAL OF ANAESTHESIA, Volume 100, Issue 6, pp. 747-758, *available at* http://bja.oxfordjournals.org/content/100/6/747.full (last visited October 31, 2017).
[20] Harm Reduction Coalition, *Guide to Developing and Managing Overdose Prevention and Take-Home Naloxone Projects* (Fall 2012), http://harmreduction.org/wp-content/uploads/2012/11/od-manual-final-links.pdf (last visited October 31, 2017).
[21] Id. at 9.
[22] Id. at 9.

An opioid overdose can be identified by a combination of three signs and symptoms referred to as the "opioid overdose triad": pinpoint pupils, unconsciousness, and respiratory depression.[23]

The drug overdose death rate involving opioids has increased by 200% since 2000 and has now become the leading cause of accidental deaths in the United States.[24] Nationwide, in 2015, more than there were 33,091 deaths that involved an opioid (licit or illicit),[25] and 15,000 people died from overdoses involving prescription opioids.[26] The most common drugs involved in such deaths were methadone, oxycodone, and hydrocodone. In 2016, in Florida, heroin caused 952 deaths, fentanyl caused 1,390 deaths, oxycodone caused 723 deaths, and hydrocodone caused 245 deaths.[27]

National Public Health Emergency

In March 2017, President Trump established the President's Commission on Combating Drug Addiction and Opioid Crisis (Commission). Its mission is to study the scope and effectiveness of the federal response to the drug and opioid crisis and to make recommendations to the President for improving that response. The members of the Commission include Governor Chris Christie, Governor Charlie Baker, Governor Roy Cooper, Congressman Patrick Kennedy, Professor Bertha Madras, and Florida Attorney General Pam Bondi.

On October 26, 2017, President Donald Trump announced the issuance of a Nationwide Public Health Emergency[28] and a five-point strategy for combating the opioid crisis, including: [29]

- Improving access to prevention, treatment, and recovery services, including the full range of medication-assisted treatments;
- Targeting availability and distribution of overdose-reversing drugs;
- Strengthening our understanding of the crisis through better public health data and reporting;
- Providing support for cutting edge research on pain and addiction; and
- Advancing practices for pain management.

On November 1, 2017, the Commission released its final report and made recommendations for:[30]

- Reducing administrative burdens associated with accessing federal funding for opioid-related and substance use disorder-related activities in the states;
- Developing and providing training related to standards of care for opioid prescribers, alternatives to opioids, and screening for substance use and mental health risks in patients;

---

[23] *Supra* note7.
[24] Centers for Disease Control and Prevention, *Increases in Drug and Opioid Overdose Deaths – United States, 2000-2014,* Morbidity and Mortality Weekly Report (MMWR) 64(50); 1378-82, available at http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6450a3.htm?s_cid=mm6450a3_w (last visited October 31, 2017).
[25] Centers for Disease Control and Prevention, *Increases in Drug and Opioid Overdose Deaths – United States, 2010-2015,* Morbidity and Mortality Weekly Report (MMWR) 65(50-51); 1445-52, available at https://www.cdc.gov/mmwr/volumes/65/wr/mm655051e1.htm?utm_campaign=colorado.ourcommunitynow.com%20website&utm_source=ocn_story&utm_medium=website (last visited November 20, 2017).
[26] Centers for Disease Control and Prevention, *Prescription Opioid Overdose Data*, available at https://www.cdc.gov/drugoverdose/data/overdose.html (last visited November 20, 2017).
[27] Florida Department of Law Enforcement, Medical Examiners Commission, *Drugs Identified in Deceased Persons by Florida Medical Examiners 2016 Annual Report*, available at http://www.fdle.state.fl.us/MEC/Publications-and-Forms/Documents/Drugs-in-Deceased-Persons/2016-Annual-Drug-Report.aspx (last visited November 20, 2017).
[28] The White House, Office of the Press Secretary, "President Donald J. Trump is Taking Action on Drug Addiction and the Opioid Crisis," Oct. 26, 2017, available at https://www.whitehouse.gov/the-press-office/2017/10/26/president-donald-j-trump-taking-action-drug-addiction-and-opioid-crisis (last visited October 31, 2017).
[29] U.S. Dep't of Health and Human Services, *Opioids: The Prescription Drug & Heroin Overdose Epidemic*, available at https://www.hhs.gov/opioids (last visited October 31, 2017).
[30] The President's Commission on Combating Drug Addiction and the Opioid Crisis, *Final* Report, available at https://www.whitehouse.gov/sites/whitehouse.gov/files/images/Final_Report_Draft_11-1-2017.pdf (last visited November 28, 2017).

- Enhancing the use of prescription drug monitoring programs;
- Treating opioid addiction, overdose reversal, and recovery; and
- Research and development.

Florida Public Health Emergency

On May 3, 2017, Governor Scott signed Executive Order 17-146.[31] The executive order directs the State Health Officer and Surgeon General to declare a statewide public health emergency due to the opioid epidemic and to take any action necessary to protect the public health.[32] It additionally directs the State Health Officer and Surgeon General to issue a standing order for opioid antagonists, such as naloxone, to ensure access to emergency responders. On May 2, 2017, the State Surgeon General and Secretary of DOH issued the Declaration of Public Health Emergency and Statewide Standing Order for Naloxone.[33]

Since its initial issuance, the Governor has extended public health emergency declaration several times, the most recent extension was declared with Executive Order 17-285, issued on October 27, 2017, for 60 days.[34]

CDC Guidelines for Prescribing Opioids

In March 2016, the U.S. Centers for Disease Control and Prevention (CDC) released a guideline for prescribing opioids for chronic pain.[35] The guideline includes twelve recommendations focused on three principles:[36]

- Non-opioid therapy is preferred for chronic pain outside of cancer, palliative, and end-of-life care;
- When prescribing opioids, prescribe the lowest possible effective dosage to reduce the risk of opioid use disorder and overdose; and
- Providers should always exercise caution when prescribing opioids and monitor all patients closely.

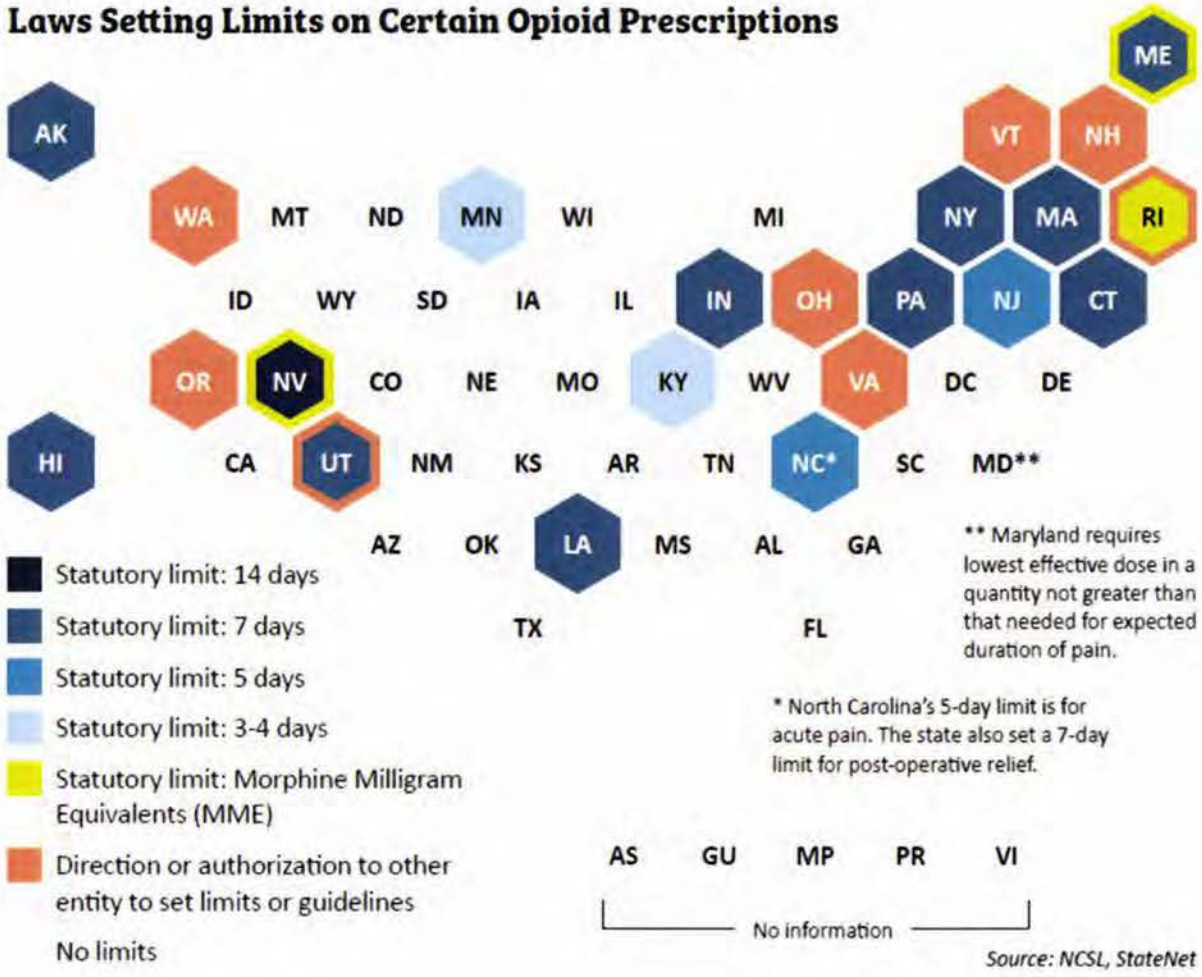
The CDC guideline also addressed acute pain, as long-term opioid use commonly begins with the treatment of acute pain.[37] The CDC recommends that the initial prescription to treat acute pain be for the lowest effective dose of immediate-release (short acting) opioids and the quantity should be no greater than needed for the expected duration of pain severe enough to require opioids.[38] The guideline advises three days or less is often sufficient and that more than seven days will rarely be needed.[39]

---

[31] Office of the Governor, Executive Order no. 17-149 (Opioid Epidemic), May 3, 2017, available at: http://www.flgov.com/wp-content/uploads/2017/05/17146.pdf (last visited October 31, 2017).
[32] Id. *See also*, Department of Health, *Gov. Scott Directs Statewide Public Health Emergency for Opioid Epidemic*, (May 3, 2017), available at http://www.floridahealth.gov/newsroom/2017/05/050317-health-emergency-opioid-epidemic.html (last visited January 2, 2018).
[33] Id.
[34] Office of the Governor, Executive Order no. 17-285 (Opioid Epidemic Extension), October 27, 2017, available at http://www.flgov.com/wp-content/uploads/orders/2017/EO_17-285.pdf (last visited November 20, 2017).
[35] Centers for Disease Control and Prevention, *Guideline for Prescribing Opioids for Chronic Pain*, Morbidity and Mortality Weekly Report (MMWR) 65(1):1-49, (March 18, 2016), available at https://www.cdc.gov/mmwr/volumes/65/rr/rr6501e1.htm (last visited November 10, 2017). Chronic pain is defined as pain that typically lasts for more than three months or past the time of normal tissue healing.
[36] Id at 15.
[37] Id at 24. Acute pain is defined as pain with abrupt onset caused by an injury or other process that is not ongoing.
[38] Centers for Disease Control and Prevention, *Guideline for Prescribing Opioids for Chronic Pain*, Morbidity and Mortality Weekly Report (MMWR) 65(1):1-49, (March 18, 2016), available at https://www.cdc.gov/mmwr/volumes/65/rr/rr6501e1.htm (last visited November 10, 2017). *See also* Centers for Disease Control and Prevention, *Factsheet: CDC Guideline for Prescribing Opioids for Chronic Pain*, available at https://www.cdc.gov/drugoverdose/pdf/guidelines_at-a-glance-a.pdf (last visited November 10, 2017).
[39] Id.

The guideline additionally recommends that a health care practitioner review the patient's history of controlled substance prescriptions using the state prescription drug monitoring program data. The data should be reviewed when starting opioid therapy, and periodically during opioid therapy. The guideline recommends reviews ranging from every prescription to once every three months.[40]

Twenty-four states have enacted laws limiting opioid prescriptions.[41] These limitations vary from a three-day supply to a fourteen-day supply. Other states have directed the establishment of guidelines or limitations on the prescribing of opioids.



Controlled Substance Regulation

Chapter 893, F.S., the Florida Comprehensive Drug Abuse Prevention and Control Act ("the Act"), classifies controlled substances into five categories, called schedules. The Act creates criminal offenses related to the manufacture, distribution, preparation, and dispensing of the substances listed

[40] Id.
[41] National Conference of State Legislatures, *Prescribing Policies: States Confront Opioid Overdose Epidemic*, (Sept. 8, 2017), available at http://www.ncsl.org/research/health/prescribing-policies-states-confront-opioid-overdose-epidemic.aspx (last visited November 20, 2017).

therein. The distinguishing factors between the different drug schedules are the potential for abuse[42] of the substance and whether there is a currently accepted medical use for the substance.[43]

The Controlled Substance Schedules are as follows:

- Schedule I substances have a high potential for abuse and currently have no accepted medical use in the United States, including substances such as cannabis and heroin.[44]
- Schedule II substances have a high potential for abuse and have a currently accepted but severely restricted medical use in the United States, including substances such as raw opium, fentanyl, and codeine.[45]
- Schedule III substances have a potential for abuse less than the substances contained in Schedules I and II and have a currently accepted medical use in the United States, including substances such as stimulants and anabolic steroids.[46]
- Schedule IV substances have a low potential for abuse relative to substances in Schedule III and have a currently accepted medical use in the United States, including substances such as benzodiazepines and barbiturates.[47]
- Schedule V substances have a low potential for abuse relative to the substances in Schedule IV and have a currently accepted medical use in the United States, including substances such as mixtures that contain small quantities of opiates, narcotics, or stimulants.[48]

Under the Act, the unauthorized sale, manufacture, possession, delivery, or purchase of a controlled substance is subject to criminal penalties.[49] The severity of the criminal penalty is dependent on several factors, including the schedule in which the controlled substance is categorized, the amount of controlled substance present and the location at which the illegal activity occurs.[50]

The Federal Controlled Substances Act[51] also classifies certain substances into schedules based on potential for abuse and whether there is a currently accepted medical use for it. In determining into which schedule a drug should be placed or whether a substance should be decontrolled or rescheduled, the Drug Enforcement Agency considers:[52]

- The drug's actual or relative potential for abuse.
- Scientific evidence of the drug's pharmacological effect, if known.
- The state of current scientific knowledge regarding the substance.
- Its history and current pattern of abuse.
- The scope, duration, and significance of abuse.
- What, if any, risk there is to public health.
- The drug's psychic or physiological dependence liability.
- Whether the substance is an immediate precursor of a substance already controlled.

Currently, the schedules in Florida's Act do not align with the schedules in the federal Controlled

---

[42] Section 893.035(3)(a), F.S., defines "potential for abuse" to mean that a substance has properties as a central nervous system stimulant or depressant or a hallucinogen that create a substantial likelihood of its being: 1) used in amounts that create a hazard to the user's health or safety of the community; 2) diverted from legal channels and distributed through illegal channels; or 3) taken on the user's own initiative rather than on the basis of professional medical advice.
[43] *See* s. 893.03, F.S.
[44] Section 893.03(1), F.S.
[45] Section 893.03(2), F.S.
[46] Section 893.03(3), F.S.
[47] Section 893.03(4), F.S.
[48] Section 893.03(5), F.S.
[49] Section 893.13, F.S.
[50] Id.
[51] 21 U.S.C. s. 812. The most up to date schedules are found in 21 C.F.R. s. 1308.
[52] 21 U.S.C. s. 811(c).

Substances Act. Under the federal Controlled Substances Act, drugs have been newly scheduled or rescheduled, creating a situation in which the unauthorized sale, manufacture, possession, delivery, or purchase of a substance may be criminal under federal law but not under state law. Additionally, where there are discrepancies between the schedules, the severity of the criminal penalties may vary between state and federal law.

Controlled Substance Prescribing for Chronic Pain in Florida

As of January 1, 2012, every physician, podiatrist, or dentist, who prescribes controlled substances in the state to treat chronic nonmalignant pain,[53] must register as a controlled substance prescribing practitioner and comply with certain practice standards specified in statute and rule.[54] Before prescribing controlled substances to treat chronic nonmalignant pain, a practitioner must:[55]

- Complete a medical history and a physical examination of the patient which must be documented in the patient's medical record and include:
  - The nature and intensity of the pain;
  - Current and past treatments for pain;
  - Underlying or coexisting diseases or conditions;
  - The effect of the pain on physical and psychological function;
  - A review of previous medical records and diagnostic studies; and
  - A history of alcohol and substance abuse;
- Develop a written plan for assessing the patient's risk for aberrant drug-related behavior and monitor such behavior throughout the course of controlled substance treatment;
- Develop an written individualized treatment plan for each patient stating the objectives that will be used to determine treatment success; and
- Enter into a controlled substance agreement with each patient that must be signed by the patient or their legal representative and by the prescribing practitioner and include:
  - The number and frequency of prescriptions and refills;
  - A statement outlining expectations for patient's compliance and reasons for which the drug therapy may be discontinued; and
  - An agreement that the patient's chronic nonmalignant pain only be treated by a single treating practitioner unless otherwise authorized and documented in the medical record.

A prescribing practitioner must see a patient being treated with controlled substances for chronic nonmalignant pain at least once every three months, and must maintain detailed medical records relating to such treatment.[56] Patients at special risk for drug abuse or diversion may require consultation with or a referral to an addiction medicine physician or a psychiatrist.[57] The prescribing practitioner must immediately refer a patient exhibiting signs or symptoms of substance abuse to a pain-management physician, an addiction medicine specialist, or an addiction medicine facility.[58]

Continuing Education for Controlled Substance Prescribing

Compliance with continuing education (CE) requirements is a condition of renewal of license for health care practitioners. Boards, or DOH when there is no board, require each licensee to demonstrate competence by completing CE hours during each biennial licensure cycle. The number of required CEs varies by profession. The requirements for CEs may be found in ch. 456, F.S., professional practice

[53] "Chronic nonmalignant pain" is defined as pain unrelated to cancer which persists beyond the usual course of disease or the injury that is the cause of the pain or more than 90 days after surgery. Section 456.44(1)(e), F.S.
[54] Chapter 2011-141, s. 3, Laws of Fla. (creating ss. 456.44, F.S., effective July 1, 2011).
[55] Section 456.44(3), F.S.
[56] Section 456.44(3)(d), F.S.
[57] Section 456.44(3)(e), F.S.
[58] Section 456.44(3)(g), F.S.

acts, administrative rules, or a combination of these references. Failure to comply with CE requirements may result in disciplinary action against the licensee, in accordance with the disciplinary guidelines established by the applicable board or DOH, if there is no board.

Although statute and boards may mandate continuing education topics, only two health care practitioner types must complete CEs related to the prescribing of controlled substances. Physician assistants who prescribe controlled substances and advanced registered nurse practitioners must complete three hours of CEs each biennial renewal cycle on the safe and effective prescribing of controlled substances.[59]

Pain Management Clinic Regulation

Section 458.3265, F.S., within the medical practice act and s. 459.0137, F.S., within the osteopathic practice act regulate the registration, management, and inspections of pain-management clinics,[60] and the allopathic and osteopathic physicians employed by such clinics.

Registration

A pain-management clinic must register with DOH unless:

- The clinic is licensed under ch. 395, F.S.;
- The majority of the physicians who provide services in the clinic primarily provide surgical services;
- The clinic is owned by a publicly held corporation whose shares are traded on a national exchange and whose total assets exceed $50 million in the most recent fiscal quarter;
- The clinic is affiliated with an accredited medical school;
- The clinic does not prescribe controlled substances for pain treatment;
- The clinic is owned by a corporate entity exempt from federal taxation under 26 U.S.C. s. 501(c)(3);
- The clinic is wholly owned and operated by one or more board eligible[61] or board-certified anesthesiologists, physiatrists, rheumatologists, or neurologists; or
- The clinic is wholly owned and operated by a physician multispecialty practice where one or more board eligible[62] or board-certified medical specialists have both (1) completed certain fellowships in pain medicine or are board-certified in pain medicine by certain boards, and (2) perform interventional pain procedures of the type routinely billed using surgical codes.[63]

A pain management clinic claiming an exemption from registration is not required to notify DOH that it meets a statutory exemption or demonstrate its eligibility for an exemption. Further, the determination of whether the pain management clinic is exempt from registration is made by the owner or management of the clinic. DOH only investigates the validity of a claimed exemption from registration if it receives a formal complaint.[64]

---

[59] *See* rr. 64B8-30.005(6), and 64B15-6.0035(6), F.A.C., for the CE requirements for a prescribing physician assistant, and s. 464.013(3)(b), F.S., for the CE requirement for advanced registered nurse practitioners.

[60] A pain-management clinic is a publicly or privately owned facility that advertises in any medium for any type of pain-management services or where in any month a majority of patients are prescribed opioids, benzodiazepines, barbiturates, or carisoprodol for the treatment of chronic nonmalignant pain. (Sections 458.3265(1)(a)1.c., F.S., and 459.0137(1)(a)1.c., F.S.

[61] "Board eligible" means successful completion of an anesthesia, physical medicine and rehabilitation, rheumatology, or neurology residency program approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association for a period of 6 years from successful completion of such residency program. Sections 458.3265(1)(a)(1.)(a.), F.S., and 459.0137(1)(a)(1.)(a.), F.S.

[62] *See* note 21, *supra*.

[63] Sections 458.3265(1)(a)(2.), F.S., and 459.0137(1)(a)(2.), F.S.

[64] Florida Department of Health, *Agency Legislative Bill Analysis for House Bill 21*, (Oct. 13, 2017), (on file with the Health Quality Subcommittee).

Registration Requirements

Each location must be registered separately, regardless of whether it is operated under the same name or management as another clinic.[65] Additionally, a change of ownership requires submission of a new registration application.[66]

DOH must deny a pain-management clinic's registration if: [67]

- The clinic is neither fully owned by a physician or group of physicians licensed under ch. 458 or ch. 459, F.S.; nor health care clinic licensed under ch. 400, Part X.[68]
- The clinic is owned by, has a contractual relationship with, or employs a physician:
  - Whose Drug Enforcement Administration number has ever been revoked;
  - Whose application for a license to prescribe, dispense, or administer a controlled substance has been denied by any jurisdiction; or
  - Who has been convicted of or pleaded guilty or nolo contendere to a felony for receipt of illicit and diverted drugs, including any Schedule I-V substance, anywhere in the United States.

DOH must revoke a pain-management clinic's registration if any of the above reasons for denial substantially become applicable to a registered clinic.[69] DOH may also revoke a clinic's registration based on deficiencies discovered during the clinic's annual inspection.[70]

If a clinic's registration is revoked or suspended, the clinic must stop operating, and the clinic must remove all identification that the location is a pain-management clinic.[71] Additionally, the clinic must follow certain procedures to dispose of its medicinal drugs.[72] A required five year cooling-off period prohibits anyone whose registration has been revoked from applying for a permit to operate a pain-management clinic.[73] If a clinic's registration is suspended, that suspension may not exceed one year.[74]

When the pain management clinic registration was first required in 2010, there were 921 pain management clinics.[75] At the end of Fiscal Year 2016-2017, there were 259.[76] It is unknown if the reduction in the number of pain management clinics is attributable to closure or to a self-determination that the pain management clinic was exempt from registration.

Prescription Drug Monitoring Program

Prescription Drug Monitoring Programs (PDMPs) are state-run electronic databases used to track the prescribing and dispensing of certain controlled prescription drugs to patients.[77] PDMPs are designed to monitor this information for suspected abuse or diversion and provide prescribers and pharmacists

[65] Sections 458.3265(1)(b), F.S., and 459.0137(1)(b), F.S.
[66] Sections 458.3265(1)(m), F.S., and 459.0137(1)(m), F.S.
[67] Sections 458.3265(1)(e), F.S., and 459.0137(1)(e), F.S. DOH may grant an exemption to such denial for felony convictions if more than 10 years have elapsed since adjudication.
[68] Sections 458.3265(1)(d), F.S., and 459.0137(1)(d), F.S.
[69] Sections 458.3265(1)(f), F.S., and 459.0137(1)(f), F.S. DOH may grant an exemption to such revocation for felony convictions if more than 10 years have elapsed since adjudication.
[70] Sections 458.3265(1)(g), F.S., and 459.0137(1)(g), F.S.
[71] Sections 458.3265(1)(h), (i), F.S., and 459.0137(1)(h), (i), F.S.
[72] Sections 458.3265(1)(j), F.S., and 459.0137(1)(j), F.S.
[73] Sections 458.3265(1)(k), F.S., and 459.0137(1)(k), F.S.
[74] Sections 458.3265(1)(l), F.S., and 459.0137(1)(l), F.S.
[75] *Supra* note 64.
[76] Id.
[77] Centers for Disease Control and Prevention, *What States Need to Know about PDMPs*, (last rev. Oct. 3, 2017), available at http://www.cdc.gov/drugoverdose/pdmp/ (last visited November 10, 2017).

with critical information regarding a patient's controlled substance prescription history.[78] As of July 2017, 49 states and the District of Columbia have an operational PDMP database.[79]

Chapter 2009-197, Laws of Fla., established Florida's PDMP within the Department of Health (DOH), and is codified in s. 893.055, F.S. The PDMP uses an electronic database system to monitor the prescribing and dispensing of certain controlled substances.[80] The PDMP database became operational in September of 2011, when it began receiving prescription data from pharmacies and dispensing practitioners.[81] Health care practitioners began accessing the PDMP database on October 17, 2011.[82]

From July 1, 2015, to June 30, 2016, in-state prescribers issued 37,048,030 controlled substance prescriptions to 7,387,884 Florida residents.[83] Of those controlled substance prescriptions, 15,372,742 were for opioids.[84]

PDMP Reporting Requirements

Dispensers of controlled substances listed in Schedule II, III, or IV of the Florida Comprehensive Drug Abuse Prevention and Control Act must report specified information to the PDMP database:[85]

- The name of the prescribing practitioner, the practitioner's federal Drug Enforcement Administration (DEA) registration number, the practitioner's National Provider Identification (NPI) or other appropriate identifier, and the date of the prescription;
- The date the prescription was filled and the method of payment, such as cash by an individual or third-party payment;
- The full name, address, and date of birth of the person for whom the prescription was written;
- The name, national drug code, quantity, and strength of the controlled substance dispensed;
- The full name, federal DEA registration number, and address of the pharmacy, other location, or other practitioner from which the controlled substance was dispensed;
- The name of the pharmacy or practitioner, other than a pharmacist, dispensing the controlled substance and the practitioner's NPI; and
- Other appropriate identifying information as determined by DOH rule.[86]

Florida does not require the dispenser Schedule V drugs to the PDMP. Schedule V carry a low risk of physical or psychological dependence and consists primarily of preparations containing limited quantities of certain narcotics, such as cough preparations containing codeine.[87]

---

[78] Id.

[79] National Alliance for Model State Drug Laws, *Established and Operational Prescription Drug Monitoring Programs (PMPs) – Map* (July 21, 2017), available at http://www.namsdl.org/Maps/Status%20of%20PMPs%20-%20Established-Operational%20%20Map%20REV%207-21-17.pdf (last visited November 10, 2017). Missouri is the only state without a statewide PDMP. However, several counties and cities within Missouri participate in a PDMP.

[80] Section 893.055(2)(a), F.S.

[81] Florida Department of Health, *Electronic-Florida Online Reporting of Controlled Substances Evaluation (E-FORCSE), 2015-2016 Prescription Drug Monitoring Program Annual Report*, (Dec. 1, 2016), available at http://www.floridahealth.gov/statistics-and-data/e-forcse/_documents/2016PDMPAnnualReport.pdf (last visited November 17, 2017).

[82] *Supra* note 81 at p. 22.

[83] *Supra* note 81 at p. 14.

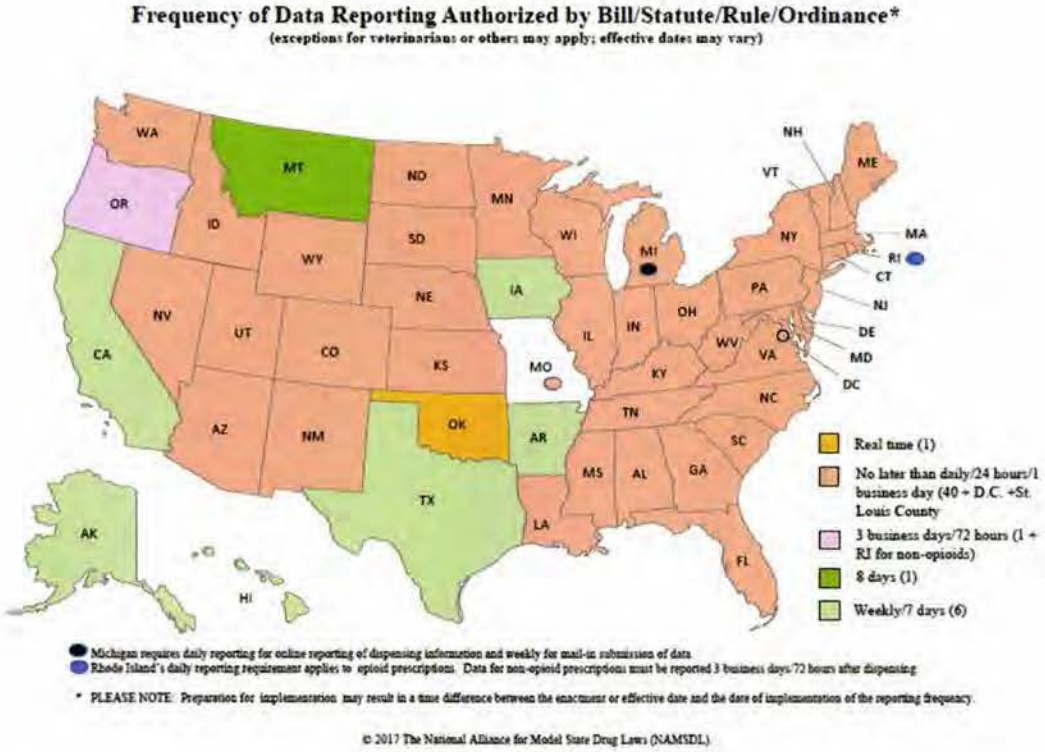
[84] *Supra* note 106.

[85] Section 893.055(3), F.S.; controlled substances listed in Schedule II, III, or IV can be found in s. 893.03(2)-(4), F.S.

[86] Section 893.055(4), F.S. Pursuant to r. 64K-1.004(9), F.A.C., prescribers must submit the telephone number of the person for whom the prescription was written to the PDMP.

[87] U.S. Department of Justice, Drug Enforcement Administration, Diversion Control Division, *Controlled Substance Schedules*, available at https://www.deadiversion.usdoj.gov/schedules/ (last visited January 2, 2018). To qualify as a Schedule V substance, the cough preparation must contain less than 200 milligrams of codeine per 100 grams.

The time in which a dispenser must submit information to the PDMP varies across the nation. Florida requires dispensers to report dispensing a controlled substance to the PDMP by the close of the next business day.[88] As indicated below, some states require the dispenser to submit data within 24 hours or no later than the next business day, others allow three days or more, and Oklahoma requires real-time reporting.[89]



Exemptions from PDMP Reporting Requirements

The purpose of the PDMP is to track the dispensing of prescribed controlled substances to provide information to subsequent prescribing physicians and prevent the overprescribing and diversion of such substances. However, there are some circumstances in which there is inherently a low risk of controlled substances being overprescribed or diverted. The law exempts practitioners from having to report the dispensing of controlled substances in those circumstances. Specifically, the following acts are not required to be reported: [90]

- A health care practitioner administering a controlled substance directly to a patient if the amount of the controlled substance is adequate to treat the patient during that particular treatment session;
- A pharmacist or health care practitioner administering a controlled substance to a patient or resident receiving care as a patient at a hospital, nursing home, ambulatory surgical center, hospice, or intermediate care facility for the developmentally disabled which is licensed in this state;

---

[88] Id.
[89] National Alliance for Model State Drug Laws, *Frequency of Prescription Drug Monitoring Program (PMP) Data Reporting – Map*, (July 20, 2017), available at http://www.namsdl.org/Maps/Frequency%20of%20PMP%20Data%20Reporting%20Map%206-30-17%20(7-21-17).pdf (last visited November 10, 2017).
[90] Section 893.055(5). F.S.

- A practitioner administering or dispensing a controlled substance in the health care system of the Department of Corrections;
- A practitioner administering a controlled substance in the emergency room of a licensed hospital;
- A health care practitioner administering or dispensing a controlled substance to a person under the age of 16;
- A pharmacist or a dispensing practitioner dispensing a one-time, 72-hour emergency resupply of a controlled substance to a patient; and
- A rehabilitative hospital, assisted living facility, or nursing home dispensing a certain dosage of a controlled substance, as needed, to a patient while the patient is present and receiving care as ordered by the patient's treating physician.

Access to PDMP Data

Direct Access

Direct access to the PDMP database is presently limited to a pharmacy, prescriber, or dispenser or the designee of a pharmacy, prescriber, or dispenser.[91] A pharmacy, prescriber, or dispenser has access to information in the PDMP database that relates to a patient of that pharmacy, prescriber, or dispenser, as needed, for reviewing the patient's controlled substance prescription history.[92]

Employees of the United States Department of Veterans Affairs (VA) who are authorized to prescribe controlled substances and hold an active, unrestricted license in another state have direct access to the PDMP.[93] However, health care practitioners authorized to dispense controlled substance pursuant to employment with the VA do not have access to the PDMP unless they have an active, unrestricted Florida license.

The Department of Defense provides health care services to its members, retirees, and their dependents at military treatment facilities, 13 of which are located in Florida.[94] Florida also has 20 major military installations.[95] Military members, retirees, and their families may access health care services at either military treatment facilities, civilian health care providers, or both. Currently, health care practitioners serving military personnel, retirees, and their dependents in military treatment facilities do not have access to Florida's PDMP unless they have an active, unrestricted Florida license.

The Indian Health Service (HIS) is an agency within the U.S. Department of Health and Human Services that is responsible for providing federal health services to American Indians and Alaska Natives.[96] There are at least four locations in Florida that provide health services to this population.[97] IHS employees who prescribe or dispense controlled substances in these facilities do not have access to Florida's PDMP unless they have an active, unrestricted Florida license.

---

[91] Section 893.055(7)(b), F.S.
[92] Id.
[93] Section 893.055(1)(d), F.S., defines health care practitioner for the purpose of the PDMP program as those practitioners who are subject to licensure or regulation by DOH under ch. 458, F.S., (Medicine), ch. 459, F.S., (Osteopathic Medicine), ch. 461, F.S., (Podiatric Medicine), ch. 462, F.S., (Naturopath), ch. 463, F.S., (Optometry), ch. 464, F.S., (Nursing), ch. 465, F.S., (Pharmacy), or ch. 466, F.S., (Dentistry).
[94] *See* https://tricare.mil/mtf (last visited November 10, 2017).
[95] Enterprise Florida, *Florida's Military Profile*, available at http://www.enterpriseflorida.com/wp-content/uploads/Military_Install_Map.pdf (last visited November 21, 2017).
[96] Indian Health Service, *About HIS*, available at https://www.ihs.gov/aboutihs/ (last visited November 21, 2017).
[97] *See* https://www.ihs.gov/locations/includes/themes/newihstheme/display_objects/documents/Federal_Health_Care_Facilities_Map.pdf (last visited November 21, 2017). Facilities are located in Okeechobee, Clewiston, Immokalee, and Hollywood.

The program manager[98] and the program manager's designated staff, may also directly access the PDMP.[99] The program manager access is for program management or for management of the PDMP database and its system in furtherance of the program, which may include responding to requests from those with indirect access to the system.[100]

Indirect Access

In Florida, the following entities may indirectly access PDMP data:

- DOH and its relevant health care regulatory boards;
- The Attorney General to investigate Medicaid fraud cases involving prescribed controlled substances;
- A law enforcement agency during active investigations regarding potential criminal activity, fraud, or theft regarding prescribed controlled substances; and
- A patient, or the legal guardian or designated health care surrogate of an incapacitated patient, for verifying the accuracy of database information.[101]

Entities with indirect access to the PDMP database may request information from the PDMP program manager that is otherwise confidential and exempt from public disclosure under s. 893.0551, F.S.[102] Prior to release, the PDMP program manager must verify that the request is authentic and authorized with the requesting organization.[103]

Department staff is also authorized to indirectly access the database to calculate performance measures in its annual report to the Legislature.[104] Such information must be requested of the program manager, and may not include any identifying information of the patient, prescriber, or dispenser.[105]

Use of PDMP Data

A total of 17,852 health care practitioners or 27.2 percent of licensed health care practitioners who are authorized to prescribe controlled substances, are registered to use the PDMP database.[106] Pharmacists have the highest utilization rate of the PDMP; 59 percent of licensed pharmacists are registered to use the PDMP and 90.6 percent of pharmacists registered to use the PDMP have queried the database.[107] Physicians have a lower utilization rate; 20.6 percent of licensed allopathic physicians and 38.8 percent of licensed osteopathic physicians are registered to use the PDMP and of those registered to use the PDMP, 70.5 percent and 78.4 percent, respectively, have queried the database.[108]

---

[98] The program manager is an employee of DOH who is designated to ensure the integrity of the PDMP in accordance with law (s. 893.055(1)(j), F.S.
[99] Section 893.055(7)(b), F.S.
[100] Id. *See* also 893.055(7)(c), F.S.
[101] Section 893.055(7)(c), F.S.
[102] Id.
[103] Id.
[104] Section 893.055(7)(d), F.S.
[105] Id.
[106] Presentation by Rebecca Poston, PDMP Program Director, "Department of Health, Florida's Prescription Drug Monitoring Program Update" Presentation before the Health Quality Subcommittee (Nov. 8, 2017), available at http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2918&Session=2018&DocumentType=Meeting%20Packets&FileName=hqs%2011-8-17.pdf (last visited Nov. 17, 2017).
[107] Id.
[108] Id.

Thirty-two states require that certain prescribers and/or dispensers register to use the state's PDMP database:[109]

* Exceptions may apply and effective dates may vary. Preparation for implementation may result in a time difference between enactment and effective date(s) and date of implementation of the mandate.

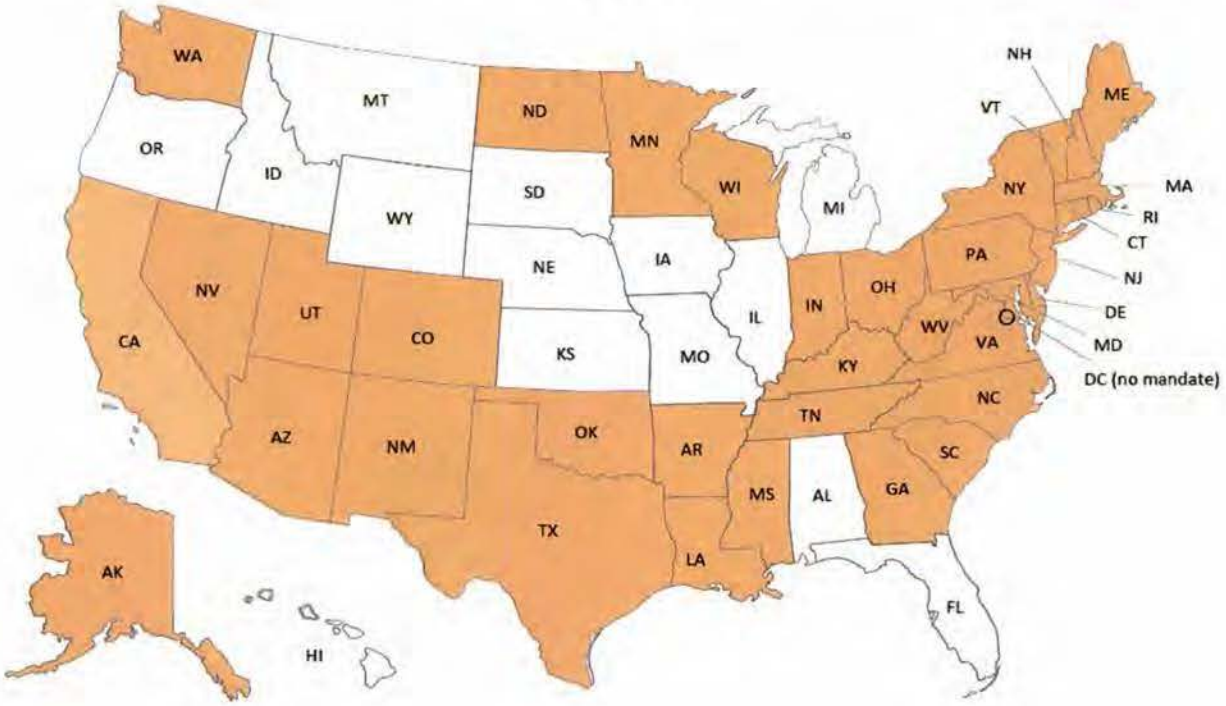
Florida does not require health care practitioners to register to use the PDMP.

Thirty-six states mandate some use of the PDMP for prescribers, but the requirements vary by state.[110] For example, nine states require a health care practitioner to consult the PDMP at each prescribing of a designated substance.[111] Twelve states require a health care practitioner to consult the state's PDMP for the initial prescription of controlled substance for the treatment of pain, and also requires the health care practitioner to subsequently check the PDMP after the initial prescription.[112] Florida does not require prescribers to consult the database to review a patient's prescription drug history prior to prescribing a controlled substance.

---

[109] National Alliance for Model State Drug Laws, *Mandated Registration with PMPs – Map*, (June 30, 2017), available at http://www.namsdl.org/library/03809318-0000-67D5-4FE157678A176DF0/ (last visited November 10, 2017).
[110] National Alliance for Model State Drug Laws, *Mandated Use of Prescription Drug Monitoring Programs (PMPs) – Map,* (June 30, 2017), available at http://www.namsdl.org/library/FE179822-E782-AA56-9E97D5E5D9F19D7B/ (last visited November 10, 2017).
[111] National Alliance for Model State Drug Laws, *Mandated Use of State Prescription Monitoring Programs (PMPs): Highlights of Key State Requirements*, (June 30, 2017), available at http://www.namsdl.org/library/6735895A-CA6C-1D6B-B8064211764D65D0/ (last visited November 20, 2017). Some states require the PDMP be consulted for specific classes of drugs such as opioids, benzodiazepines, barbiturates, and/or carisoprodol and other states specify schedules of drugs (Arkansas, Oklahoma, Pennsylvania, and Texas), such as all drugs in certain schedules (Alaska, Massachusetts, New York, South Carolina, and Wisconsin).
[112] Id. These states include Arkansas, Georgia, Kentucky, Louisiana, Mississippi, New Hampshire, New Jersey, New Mexico, Rhode Island, Tennessee, Vermont, and West Virginia.

Mandated Use of PDMPs: 36 States with Specified Circumstances Requiring Provider Access



* Exceptions may apply and effective dates may vary. Preparation for implementation may result in a time difference between the enactment and effective date(s) and date of implementation of the mandate. For more information about mandated use of PMPs, please see *Mandated Use of Prescription Drug Monitoring Programs (PMPs) – Highlights of Key State Requirements*, www.namsdl.org

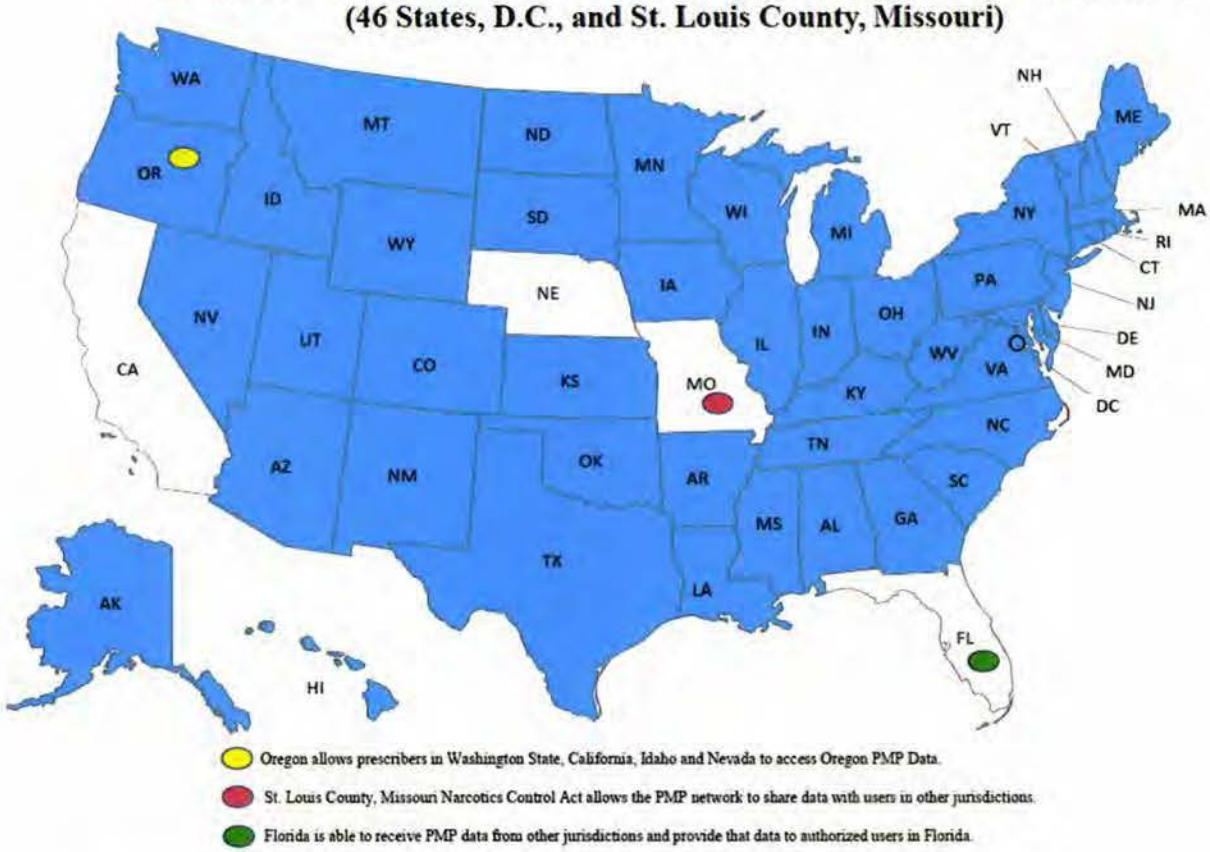
Source: National Alliance for Model State Drug Laws, available at http://www.namsdl.org/library/FE179822-E782-AA56-9E97D5E5D9F19D7B/ (last visited January 4, 2018).

Interstate Sharing of PDMP Information

Interstate sharing of prescription drug information allows health care practitioners and law enforcement to prevent and detect prescription drug abuse that crosses jurisdictional boundaries.[113] Each state that maintains a PDMP database must decide whether it will share the information maintained in its state's PDMP database with other states or jurisdictions, as well as the terms for such access. Florida is one of three states with a PDMP that does not allow other states or jurisdictions to access its database. Florida, however, has one-way access agreements with Alabama and Kentucky to allow authorized Florida PDMP users access to each of these state's PDMP databases.[114] Forty-six states authorize interstate PDMP data sharing.[115]

[113] Bureau of Justice Assistance, *Interstate Data Sharing Becomes a Reality for Prescription Drug Monitoring Programs*, available at https://www.bja.gov/JusticeToday/PMIX.pdf (last visited November 19, 2017).
[114] *Supra* note 64.
[115] National Alliance for Model State Drug Laws, *Interjurisdictional Sharing of Prescription Drug Monitoring Program Data – Map*, (July 10, 2017), available at http://www.namsdl.org/Maps/Interjurisdictional%20Sharing%20of%20Prescription%20Drug%20Monitoring%20Program%20(PMP)%20Data%20-%20Map%20(July%2010%2C%202017).pdf (last visited November 10, 2017).

State/Local Jurisdictions Legally Authorized to Share Their PMP Data with Other State/Local Jurisdictions or Users Located in other State/Local Jurisdictions (46 States, D.C., and St. Louis County, Missouri)



Public Records Exemption for Information in the PDMP Database

Section 893.0551, F.S.,[116] makes personal patient information and certain information concerning health care practitioners contained in the PDMP database confidential and exempt from s. 119.07(1), F.S., and Art. I, Sec. 24 of the Florida Constitution.[117] The statute makes confidential and exempt identifying information, including, but not limited to, the name, address, telephone number, insurance plan number, government-issued identification number, provider number, Drug Enforcement Administration number, or any other unique identifying number of a patient, patient's agent, health care practitioner or practitioner as defined in s. 893.055, F.S., or an employee of the practitioner who is acting on behalf of and at the direction of the practitioner, a pharmacist, or a pharmacy, which is contained in the PDMP database.

Any agency or person that obtains information pursuant to s. 893.0551, F.S., must maintain the confidential and exempt status of that information.[118]

---

[116] The public records exemption was established in 2009 in conjunction with the PDMP. See s. 1, ch. 2009-197, Laws of Fla. Additionally, the public records exemption was reauthorized in 2014. See .s 1 ch. 2014-156, Laws of Fla.
[117] Section 893.0551(2), F.S.
[118] Section 893.0551(6), F.S. However, a law enforcement agency with lawful access to such information is permitted to disclose confidential and exempt information received from DOH to a criminal justice agency as part of an active investigation of a specific violation of law. Section 893.0551(4).

Effect of Proposed Changes

Acute Pain Treatment with Opioids

Prescription Limits for Acute Pain Treatment

The bill limits a prescription of Schedule II opioids to alleviate acute pain to a 3-day supply, codifying the CDC guideline for the treatment of acute pain. However, a health care practitioner may prescribe up to a 7-day supply if the physician determines it is medically necessary, indicates "medically necessary" on the prescription, and documents the justification for deviating from the 3-day supply limit in the patient's medical record. The bill defines acute pain as the normal, predicted, physiological, and time-limited response to an adverse chemical, thermal, or mechanical stimulus associated with surgery, trauma, or acute illness. This definition reflects the definition currently in rule for physicians.[119]

Standards of Practice for Acute Pain Treatment

The bill requires DOH to adopt rules establishing guidelines for prescribing controlled substances for acute pain, similar to guidelines established for the prescribing of controlled substances for chronic pain. Such rules must address:

- Evaluation of the patient;
- Creation of a treatment plan;
- Obtaining informed consent and agreement for treatment;
- Periodic review of the treatment plan;
- Consultation;
- Medical record review; and
- Compliance with controlled substance laws and regulations.

A health care practitioner who fails to follow the guidelines established by DOH is subject to disciplinary action against his or her license.

Continuing Education on Controlled Substance Prescribing

The bill requires a health care practitioner who is authorized to prescribe controlled substances to complete a board-approved 2-hour continuing education course, if not already required to complete such a course under his or her practice act.[120] All health care practitioners registered with the United States Drug Enforcement Agency to prescribe controlled substances must complete the continuing education course by January 31, 2019, and at each subsequent licensure renewal. The course must address:

- Current standards on prescribing controlled substances, particularly opiates;
- Alternatives to the current standards on controlled substance prescribing; and
- Information on the risks of opioid addiction following all stages of treatment in the management of acute pain.

---

[119] *See* rr. 64B8-9.013 and 64B15-14.005, F.A.C.

[120] Pursuant to s. 464.013(3)(b), F.S., an advanced registered nurse practitioner must complete at least 3 hours of continuing education hours on the safe and effective prescribing of controlled substances each biennial renewal cycle. Rules 64B8-30.005(6) and 64B15-6.0035(6), F.A.C., requires physician assistants who prescribe controlled substances to complete 3 hours of continuing education on the safe and effective prescribing of controlled substance medications.

The course may be taken in a long distance format and must be included in the continuing education required for the biennial renewal of a health care practitioner's license. DOH may not renew the individual's license of a prescriber who fails to complete this continuing education requirement.

Pain Management Clinics

The bill requires a pain management clinic that claims an exemption from the requirement to apply to DOH for a certificate of exemption. The bill authorizes DOH to adopt a form by rule that requires an applicant for a certificate of exemption to provide:

- The name or names under which the applicant does business;
- The address at which the pain management clinic is located; and
- The specific exemption that the applicant is claiming, along with supporting documentation.

DOH must approve or deny an application for a certificate of exemption with has 30 days after receipt. Each certificate must be renewed biennially, but the initial certificate may be issued for up to three years to allow DOH to establish renewal cycles.

A pain management clinic must prominently display its certificate of exemption and make it available to DOH or the applicable board upon request. Each certificate of exemption is valid only for the applicant and for the exemption for which the certificate was issued. The certificate is not transferable or movable. A certificateholder must notify DOH at least 60 days before a change of ownership, name change, or if the certificateholder relocates and apply for a new certificate of exemption. The certificateholder must immediately notify DOH and either apply for a new certificate of exemption or register as a pain management clinic if the certificateholder becomes ineligible for the specific exemption claimed for in its certificate of exemption.

All pain management clinics in the state must either be registered with DOH as a pain management clinic or hold a certificate of exemption by January 1, 2019. There is no fee for the certificate of exemption.

Prescription Drug Monitoring Program

The bill makes changes to and reorganizes s. 893.055, F.S., relating to the prescription drug monitoring program. Although many of the substantive provisions remain unchanged, the bill makes several amendments to the section.

Mandatory Consultation

The bill requires a prescriber or dispenser or his or her designee to consult the PDMP to review a patient's controlled substance dispensing history prior to prescribing or dispensing a controlled substance. However, a prescriber or dispenser is not required to consult the PDMP if the system is not operational, as determined by DOH, or cannot be accessed by the health care practitioner due to a temporary technological or electrical failure. In such cases, the health care practitioner must document in the patient's record the reason the PDMP was not consulted and may prescribe or dispense no more than a 3-day supply of a controlled substance. A health care practitioner who fails to consult the system as required is subject to a nondisciplinary citation.

Access to the PDMP Database

The bill expands direct access to the database to employees of the Department of Defense and the Indian Health Service who have authority to prescribe controlled substances, upon verification of such

employment. Currently, only Florida-licensed health care practitioners and prescribers employed by the U.S. Department of Veterans Affairs may directly access the database.

The bill also authorizes a medical examiner to have indirect access to the database when performing an investigation, examination, or autopsy, as deemed necessary or requested by a state attorney to determine the cause of death of individual. Under such circumstances, a medical examiner may request information from the PDMP manager or program staff.

The bill changes access to non-identifying information for the purpose of reporting on performance measures in its annual report from the department to the program manager.

Data Sharing

The bill authorizes DOH to enter into reciprocal agreements to share PDMP information with other states or jurisdiction, as long as the other states' PDMP systems are compatible with Florida's. To determine compatibility, DOH must consider:

- The other state's safeguards for the privacy of patient records and the program's success in protecting patient privacy;
- The individuals authorized to view the information in the database and whether such access is comparable to the persons authorized in this state;
- The schedules of controlled substances that are monitored in the other state's program;
- The data reported to or included in the other state's system;
- Any implementing criteria deemed essential for a thorough comparison; and
- The costs and benefits to Florida of sharing prescription information.

DOH must continue to monitor such compatibility on a periodic basis. Any agreement that DOH enters into for sharing PDMP database information must contain the same restrictions on access as Florida law, including protection of privacy and public disclosure.

The bill authorizes DOH to allow the PDMP database to interface with a health care practitioner's electronic health care recordkeeping system through a secure connection. A health practitioner is responsible for ensuring that only authorized individuals may access information from the PDMP database.

Reporting Requirements

Under current law, when controlled substances listed in Schedule II, III, and IV are dispensed, it must be reported to the PDMP. The bill expands the reporting requirement to include controlled substances listed in Schedule V. The bill also requires the dispenser to report the following additional information that is not currently collected:

- The telephone number of the person for whom the prescription was written, in addition to the demographic information the prescriber currently inputs;[121]
- Whether the prescription is an initial prescription or a refill, and the number of refills prescribed;
- The name of the individual picking up the controlled substance prescription and the type and issuer of the identification provided; and
- For a dispensing practitioner, other than a pharmacist, the practitioner's DOH-issued license number.

[121] The dispenser must currently input the name, address, and date of birth of the person for whom the prescription is written (s. 893.05(3)(c), F.S.

Public Records

The bill retains the public records exemption for certain information held in the PDMP database. The bill does not exempt any additional records from public disclosure or further restrict access to such information. However, the bill expands access to such information to certain individuals. The bill authorizes the PDMP manager and designated staff to have access to such information for administration of the program and to provide information to prescribers, dispensers, and appropriate law enforcement agencies in accordance with state law. The bill also expands access to certain employees of the VA, the Department of Defense, and the Indian Health Service who prescribe controlled substances pursuant to employment with such entity. Finally, the bill authorizes a medical examiner to have indirect access to such information when determining the cause of death of an individual. The bill reorganizes and makes other non-substantive changes to s. 893.0551, F.S., to improve readability.

Identification Requirement for Dispensing of Controlled Substances

The bill relocates from s. 893.055, F.S., to the pharmacy practice act (ch. 465, F.S.), an existing requirement that a pharmacist verifies the identity of an individual prior to dispensing a controlled substances. The bill does not make any substantive changes to this requirement.

Controlled Substance Regulation

The bill amends several sections of the 893.03, F.S., to align the state's Controlled Substance Act with the federal schedules of controlled substances. Specifically, the bill adds the following substances to Schedule II:

- Dihydroetorphine;
- Hydrocodone combination products;
- Oripavine;
- Remifentanil;
- Tapentadol;
- Thiafentanil;
- Lisdexamfetamine; and
- Dronabinol (synthetic THC) in oral solution in a drug approved by the United States Food and Drug Administration.

Similarly, the bill adds the following substances to Schedule III:

- Buprenorphine (which is being rescheduled from Schedule V);
- Embutramide; and
- Perampanel.

The bill adds the following substances to Schedule IV:

- Alfaxalone
- Dexfenfluramine;
- Dichloralphenazone;
- Eluxadoline;
- Eszopiclone;
- Fospropofol;
- Lorcaserin;
- Modafinil;
- Petrichloral;

- Sibutramine;
- Suvorexant;
- Zaleplon;
- Zolpidem; and
- Zopiclone.

Finally, the bill adds the following substances to Schedule V:

- Not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine per dosage unit;
- Brivaracetam;
- Ezogabine;
- Lacosamide; and
- Pregabalin.

With these additions to Florida's Controlled Substance Act, the unauthorized sale, manufacture, possession, delivery, or purchase of these substances is subject to criminal penalties. Additionally, the dispensing of these controlled substances must be entered into the PDMP database.

Finally, the bill makes other conforming changes throughout statutes.

The bill provides an effective date of July 1, 2018, except for provisions related to the certificate of exemption for pain management clinics, which are effective January 1, 2019.

B. SECTION DIRECTORY:

Section 1: Creates s. 456.0301, F.S., relating to requirement for instruction on controlled substance prescribing.
Section 2: Amends s. 456.072, F.S., relating to grounds for discipline; penalties; enforcement.
Section 3: Amends s. 456.44, F.S., relating to controlled substance prescribing.
Section 4: Amends s. 458.3265, F.S., relating to pain-management clinics.
Section 5: Amends s. 459.0137, F.S., relating to pain-management clinics.
Section 6: Amends s. 465.0155, F.S., relating to standards of practice.
Section 7: Amends s. 465.0276, F.S., relating to dispensing practitioner.
Section 8: Amends s. 893.03, F.S., relating to standards and schedules.
Section 9: Amends s. 893.055, F.S., relating to prescription drug monitoring program.
Section 10: Amends s. 893.0551, F.S., relating to public records exemption for the prescription drug monitoring program.
Section 11: Amends s. 458.331, F.S., relating to grounds for disciplinary action; action by the board and department.
Section 12: Amends s. 459.015, F.S., relating to grounds for disciplinary action; action by the board and department.
Section 13: Amends s. 463.0055, F.S., relating to administration and prescription of ocular pharmaceutical agents.
Section 14: Amends s. 782.04, F.S., relating to murder.
Section 15: Amends s. 893.13, F.S., relating to prohibited acts; penalties.
Section 16: Amends s. 893.135, F.S., relating to trafficking; mandatory sentences; suspension or reduction of sentences; conspiracy to engage in trafficking.
Section 17: Amends s. 921.0022, F.S., relating to Criminal Punishment Code; offense severity ranking chart.
Section 18: Provides an effective date of July 1, 2018, except as otherwise provided in the bill.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   Pain Management Clinics

   DOH may realize cost savings associated with a reduction in the unlicensed activity investigations of pain management clinics. The average cost of an investigation is $2,100, and in the last biennium, DOH conducted 6 investigations for a total cost of $12,600.[122] The regulatory costs associated with issuing the certificates of exemption is less than the costs associated with unlicensed activity investigations, resulting in a cost savings.

   The department will incur insignificant, nonrecurring costs associated with rulemaking. DOH will also incur nonrecurring costs associated with updating the Licensing Enforcement and Information Database System. Current resources are adequate to absorb these costs.[123]

   Standards of Practice for the Treatment of Acute Pain

   DOH may incur insignificant, nonrecurring costs associated with rulemaking to establish standards of practice for treating acute pain. Current resources are adequate to absorb these costs.

   PDMP

   DOH will incur costs associated with upgrading the PDMP software to accommodate interstate data sharing, as well as integration with electronic health records systems. The House proposed financial plan for Fiscal Year 2018-2019 will provide DOH $873,079 in recurring and $117,700 in nonrecurring General Revenue funds to update the PDMP to a new prescription monitoring platform and to access additional features offered by the current vendor.[124]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

---

[122] *Supra* note 64.
[123] Id.
[124] DOH, 2018-2019 Legislative Budget Request, Exhibit D-3A, Expenditures by Issue and Appropriation, pp. 216-217, available at http://floridafiscalportal.state.fl.us/Document.aspx?ID=17210&DocType=PDF (last visited November 20, 2017).

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Prescribers may incur additional costs to comply with the continuing education course on prescribing controlled substances. Prescribers may also incur additional labor costs to comply with the requirement to consult the PDMP prior to prescribing a controlled substance. Health practitioner offices that currently do not have the technology needed to consult the system may incur costs associated with obtaining such technology. Additionally, if a health care practitioner decides to integrate the PDMP database information with his or her patient electronic health records, the practitioner may incur costs associated with upgrading the software.

Due to the three-day limit controlled substance prescription for acute pain, some patients may incur additional costs if a health care practitioner requires an additional patient visit prior to issuing a new prescription or a prescription refill.

A pain management clinic that is exempt from registering with the department may incur minimal labor costs associated with applying for a certificate of exemption.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The rule-making authority created by the bill for the continuing education, prescribing guidelines, and certificates of exemption for pain management clinics is sufficient to implement those provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 10, 2018, the Health Quality Subcommittee adopted an amendment that reinstates current law which allows health care regulatory boards indirect access to the PDMP for investigations involving licensees who are authorized to prescribe controlled substances.

The bill was reported favorably as a committee substitute. The analysis is drafted to the committee substitute as passed by the Health Quality Subcommittee.

A bill to be entitled

An act relating to controlled substances; creating s. 456.0301, F.S.; authorizing certain boards to require practitioners to complete a specified board-approved continuing education course to obtain authorization to prescribe controlled substances as part of biennial renewal; providing exceptions; providing course requirements; prohibiting the department from renewing a license of a prescriber under specified circumstances; requiring a licensee to submit confirmation of course completion; providing for each licensing board requiring such continuing education course to include hours of completion with the total hours of continuing education required in certain circumstances; authorizing rulemaking; amending s. 456.072, F.S.; authorizing disciplinary action against practitioners for violating specified provisions relating to controlled substances; amending s. 456.44, F.S.; defining the term "acute pain"; providing for the adoption of standards of practice for the treatment of acute pain; providing that failure of a practitioner to follow specified guidelines is grounds for disciplinary action; limiting opioid prescriptions for the treatment of acute pain to a specified period under certain circumstances; authorizing prescriptions

for such opioids for an extended period if specified requirements are met; amending ss. 458.3265 and 459.0137, F.S.; requiring certain pain management clinic owners to register approved exemptions with the department; requiring certain clinics to obtain certificates of exemption; providing requirements for such certificates; authorizing rulemaking relating to specified exemptions; amending ss. 465.0155 and 465.0276, F.S.; providing requirements for pharmacists and practitioners for the dispensing of controlled substances to persons not known to them; defining the term "proper identification"; amending s. 893.03, F.S.; conforming the state controlled substances schedule to the federal controlled substances schedule; amending s. 893.055, F.S.; revising and providing definitions; revising requirements for the prescription drug monitoring program; authorizing rulemaking; requiring the department to maintain an electronic system for certain purposes to meet specified requirements; requiring certain information to be reported to the system by a specified time; specifying direct access to system information; authorizing department to enter into reciprocal agreements or contracts to share prescription drug monitoring information with certain entities;

providing requirements for such agreements; authorizing the department to enter into agreements or contracts for secure connections with practitioner electronic systems; requiring specified persons to consult the system for certain purposes within a specified time; providing exceptions to the duty of specified persons to consult the system under certain circumstances; authorizing the department to issue nondisciplinary citations to specified entities for failing to meet certain requirements; prohibiting the failure to report the dispensing of a controlled substance when required to do so; providing penalties; authorizing the department to enter into agreements or contracts for specified purposes; providing for the release of information obtained by the system; allowing specified persons to have direct access to information for the purpose of reviewing the controlled drug prescription history of a patient; providing prescriber or dispenser immunity from liability for review of patient history when acting in good faith; providing construction; prohibiting the department from specified uses of funds; authorizing the department to conduct or participate in studies for specified purposes; requiring an annual report to be submitted to the Governor and Legislature by a

specified date; providing report requirements; providing exemptions; establishing direct-support organizations for specified purposes; defining the term "direct-support organization"; requiring a direct-support organization to operate under written contract with the department; providing contract requirements; requiring the direct-support organization to obtain written approval from the department for specified purposes; authorizing rulemaking; providing for an independent annual financial audit by the direct-support organization; providing that copies of such audit be provided to specified entities; providing for future repeal of provisions relating to the direct-support organization; amending s. 893.0551, F.S.; revising provisions concerning release of information held by the prescription drug monitoring program; amending ss. 458.331, 459.015, 463.0055, 782.04, 893.13, 893.135, and 921.0022, F.S.; correcting cross-references; conforming provisions to changes made by the act; providing effective dates.

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

Section 1. Section 456.0301, Florida Statutes, is created to read:

456.0301 Requirement for instruction on controlled substance prescribing.-

(1)(a) If not already required by the licensee's practice act, the appropriate board shall require each person registered with the United States Drug Enforcement Administration and authorized to prescribe controlled substances pursuant to 21 U.S.C. s. 822 to complete a board-approved 2-hour continuing education course on prescribing controlled substances as part of biennial renewal. The course must include information on the current standards regarding for prescribing controlled substances, particularly opiates, alternatives to these standards, and information on the risks of opioid addiction following all stages of treatment in the management of acute pain. The course may be offered in a distance learning format and must be included within the number of continuing education hours required by law. The department may not renew the license of any prescriber registered with the United States Drug Enforcement Administration to prescribe controlled substances that has failed to complete the course. When required by this paragraph, the course shall be completed by January 31, 2019, and at each subsequent renewal.

(b) Each such licensee shall submit confirmation of having completed such course when applying for biennial renewal.

(c) Each licensing board that requires a licensee to complete an educational course pursuant to this subsection may include the hours required for completion of the course in the total hours of continuing education required by law for such profession unless the continuing education requirements for such profession consist of fewer than 30 hours biennially.

(2) Each board may adopt rules to administer this section.

Section 2. Paragraph (gg) of subsection (1) of section 456.072, Florida Statutes, is amended to read:

456.072 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(gg) Engaging in a pattern of practice when prescribing medicinal drugs or controlled substances which demonstrates a lack of reasonable skill or safety to patients, a violation of any provision of this chapter or ss. 893.055 and 893.0551, a violation of the applicable practice act, or a violation of any rules adopted under this chapter or the applicable practice act of the prescribing practitioner. Notwithstanding s. 456.073(13), the department may initiate an investigation and establish such a pattern from billing records, data, or any other information obtained by the department.

Section 3. Paragraphs (a) through (g) of subsection (1) of section 456.44, Florida Statutes, are redesignated as paragraphs

(b) through (h), respectively, a new paragraph (a) is added to that subsection, subsection (3) is amended, and subsections (4) and (5) are added to that section, to read:

456.44 Controlled substance prescribing.—

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

(a) "Acute pain" means the normal, predicted, physiological, and time-limited response to an adverse chemical, thermal, or mechanical stimulus associated with surgery, trauma, or acute illness.

(3) STANDARDS OF PRACTICE FOR TREATMENT OF CHRONIC NONMALIGNANT PAIN.—The standards of practice in this section do not supersede the level of care, skill, and treatment recognized in general law related to health care licensure.

(a) A complete medical history and a physical examination must be conducted before beginning any treatment and must be documented in the medical record. The exact components of the physical examination shall be left to the judgment of the registrant who is expected to perform a physical examination proportionate to the diagnosis that justifies a treatment. The medical record must, at a minimum, document the nature and intensity of the pain, current and past treatments for pain, underlying or coexisting diseases or conditions, the effect of the pain on physical and psychological function, a review of previous medical records, previous diagnostic studies, and history of alcohol and substance abuse. The medical record shall

also document the presence of one or more recognized medical indications for the use of a controlled substance. Each registrant must develop a written plan for assessing each patient's risk of aberrant drug-related behavior, which may include patient drug testing. Registrants must assess each patient's risk for aberrant drug-related behavior and monitor that risk on an ongoing basis in accordance with the plan.

(b) Each registrant must develop a written individualized treatment plan for each patient. The treatment plan shall state objectives that will be used to determine treatment success, such as pain relief and improved physical and psychosocial function, and shall indicate if any further diagnostic evaluations or other treatments are planned. After treatment begins, the registrant shall adjust drug therapy to the individual medical needs of each patient. Other treatment modalities, including a rehabilitation program, shall be considered depending on the etiology of the pain and the extent to which the pain is associated with physical and psychosocial impairment. The interdisciplinary nature of the treatment plan shall be documented.

(c) The registrant shall discuss the risks and benefits of the use of controlled substances, including the risks of abuse and addiction, as well as physical dependence and its consequences, with the patient, persons designated by the patient, or the patient's surrogate or guardian if the patient

is incompetent. The registrant shall use a written controlled substance agreement between the registrant and the patient outlining the patient's responsibilities, including, but not limited to:

1. Number and frequency of controlled substance prescriptions and refills.

2. Patient compliance and reasons for which drug therapy may be discontinued, such as a violation of the agreement.

3. An agreement that controlled substances for the treatment of chronic nonmalignant pain shall be prescribed by a single treating registrant unless otherwise authorized by the treating registrant and documented in the medical record.

(d) The patient shall be seen by the registrant at regular intervals, not to exceed 3 months, to assess the efficacy of treatment, ensure that controlled substance therapy remains indicated, evaluate the patient's progress toward treatment objectives, consider adverse drug effects, and review the etiology of the pain. Continuation or modification of therapy shall depend on the registrant's evaluation of the patient's progress. If treatment goals are not being achieved, despite medication adjustments, the registrant shall reevaluate the appropriateness of continued treatment. The registrant shall monitor patient compliance in medication usage, related treatment plans, controlled substance agreements, and indications of substance abuse or diversion at a minimum of 3-

month intervals.

(e) The registrant shall refer the patient as necessary for additional evaluation and treatment in order to achieve treatment objectives. Special attention shall be given to those patients who are at risk for misusing their medications and those whose living arrangements pose a risk for medication misuse or diversion. The management of pain in patients with a history of substance abuse or with a comorbid psychiatric disorder requires extra care, monitoring, and documentation and requires consultation with or referral to an addiction medicine specialist or a psychiatrist.

(f) A registrant must maintain accurate, current, and complete records that are accessible and readily available for review and comply with the requirements of this section, the applicable practice act, and applicable board rules. The medical records must include, but are not limited to:

1. The complete medical history and a physical examination, including history of drug abuse or dependence.

2. Diagnostic, therapeutic, and laboratory results.

3. Evaluations and consultations.

4. Treatment objectives.

5. Discussion of risks and benefits.

6. Treatments.

7. Medications, including date, type, dosage, and quantity prescribed.

8. Instructions and agreements.

9. Periodic reviews.

10. Results of any drug testing.

11. A photocopy of the patient's government-issued photo identification.

12. If a written prescription for a controlled substance is given to the patient, a duplicate of the prescription.

13. The registrant's full name presented in a legible manner.

(g) A registrant shall immediately refer patients with signs or symptoms of substance abuse to a board-certified pain management physician, an addiction medicine specialist, or a mental health addiction facility as it pertains to drug abuse or addiction unless the registrant is a physician who is board-certified or board-eligible in pain management. Throughout the period of time before receiving the consultant's report, a prescribing registrant shall clearly and completely document medical justification for continued treatment with controlled substances and those steps taken to ensure medically appropriate use of controlled substances by the patient. Upon receipt of the consultant's written report, the prescribing registrant shall incorporate the consultant's recommendations for continuing, modifying, or discontinuing controlled substance therapy. The resulting changes in treatment shall be specifically documented in the patient's medical record. Evidence or behavioral

indications of diversion shall be followed by discontinuation of controlled substance therapy, and the patient shall be discharged, and all results of testing and actions taken by the registrant shall be documented in the patient's medical record.

This subsection does not apply to a board-eligible or board-certified anesthesiologist, physiatrist, rheumatologist, or neurologist, or to a board-certified physician who has surgical privileges at a hospital or ambulatory surgery center and primarily provides surgical services. This subsection does not apply to a board-eligible or board-certified medical specialist who has also completed a fellowship in pain medicine approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, or who is board eligible or board certified in pain medicine by the American Board of Pain Medicine, the American Board of Interventional Pain Physicians, the American Association of Physician Specialists, or a board approved by the American Board of Medical Specialties or the American Osteopathic Association and performs interventional pain procedures of the type routinely billed using surgical codes. This subsection does not apply to a registrant who prescribes medically necessary controlled substances for a patient during an inpatient stay in a hospital licensed under chapter 395.

(4) STANDARDS OF PRACTICE FOR TREATMENT OF ACUTE PAIN.—The department shall adopt rules establishing guidelines for prescribing controlled substances for acute pain, including evaluation of the patient, creation of a treatment plan, obtaining informed consent and agreement for treatment, periodic review of the treatment plan, consultation, medical record review, and compliance with controlled substance laws and regulations. Failure of a prescriber to follow such guidelines constitutes grounds for disciplinary action pursuant to s. 456.072(1)(gg), punishable as provided in s. 456.072(2).

(5) PRESCRIPTION SUPPLY.-

(a) Except as provided in paragraph (b), a prescription for a Schedule II opioid, as defined in s. 893.03 or 21 U.S.C. s. 812, for the treatment of acute pain must not exceed a 3-day supply.

(b) An up to 7-day supply of an opioid described in paragraph (a) may be prescribed if:

1. The practitioner, in his or her professional judgment, believes that more than a 3-day supply of such an opioid is medically necessary to treat the patient's pain as an acute medical condition.

2. The practitioner indicates "MEDICALLY NECESSARY" on the prescription.

3. The prescriber adequately documents in the patient's medical records the acute medical condition and lack of

alternative treatment options that justify deviation from the 3-day supply limit established in this subsection.

Section 4. Effective January 1, 2019, subsections (2) through (5) of section 458.3265, Florida Statutes, are renumbered as subsections (3) through (6), respectively, paragraphs (a) and (g) of subsection (1), paragraph (a) of present subsection (2), paragraph (a) of present subsection (3), and paragraph (a) of present subsection (4) are amended, and a new subsection (2) is added to that section, to read:

458.3265 Pain-management clinics.—

(1) REGISTRATION.—

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

a. "Board eligible" means successful completion of an anesthesia, physical medicine and rehabilitation, rheumatology, or neurology residency program approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association for a period of 6 years from successful completion of such residency program.

b. "Chronic nonmalignant pain" means pain unrelated to cancer which persists beyond the usual course of disease or the injury that is the cause of the pain or more than 90 days after surgery.

c. "Pain-management clinic" or "clinic" means any publicly or privately owned facility:

(I) That advertises in any medium for any type of pain-

management services; or

(II) Where in any month a majority of patients are prescribed opioids, benzodiazepines, barbiturates, or carisoprodol for the treatment of chronic nonmalignant pain.

2. Each pain-management clinic must register with the department or hold a valid certificate of exemption pursuant to subsection (2). ~~unless:~~

3. The following clinics are exempt from the registration requirement of paragraphs (c)-(m), and must apply to the department for a certificate of exemption:

a. A ~~That~~ clinic ~~is~~ licensed as a facility pursuant to chapter 395;

b. A clinic in which the majority of the physicians who provide services in the clinic primarily provide surgical services;

c. A ~~The~~ clinic ~~is~~ owned by a publicly held corporation whose shares are traded on a national exchange or on the over-the-counter market and whose total assets at the end of the corporation's most recent fiscal quarter exceeded $50 million;

d. A ~~The~~ clinic ~~is~~ affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows;

e. A ~~The~~ clinic that does not prescribe controlled substances for the treatment of pain;

f. A ~~The~~ clinic ~~is~~ owned by a corporate entity exempt from

federal taxation under 26 U.S.C. s. 501(c)(3);

g. A ~~The~~ clinic ~~is~~ wholly owned and operated by one or more board-eligible or board-certified anesthesiologists, physiatrists, rheumatologists, or neurologists; or

h. A ~~The~~ clinic ~~is~~ wholly owned and operated by a physician multispecialty practice where one or more board-eligible or board-certified medical specialists, who have also completed fellowships in pain medicine approved by the Accreditation Council for Graduate Medical Education or who are also board-certified in pain medicine by the American Board of Pain Medicine or a board approved by the American Board of Medical Specialties, the American Association of Physician Specialists, or the American Osteopathic Association, perform interventional pain procedures of the type routinely billed using surgical codes.

(g) The department may revoke the clinic's certificate of registration and prohibit all physicians associated with that pain-management clinic from practicing at that clinic location based upon an annual inspection and evaluation of the factors described in subsection (4)~~(3)~~.

(2) CERTIFICATE OF EXEMPTION.-

(a) A pain management clinic claiming an exemption from the registration requirements of subsection (1), must apply for a certificate of exemption on a form adopted in rule by the department. The form shall require the applicant to provide:

1. The name or names under which the applicant does business.

2. The address at which the pain management clinic is located.

3. The specific exemption the applicant is claiming with supporting documentation.

4. Any other information deemed necessary by the department.

(b) Within 30 days after the receipt of a complete application, the department must approve or deny the application.

(c) The certificate of exemption must be renewed biennially, except that the department may issue the initial certificates of exemption for up to 3 years in order to stagger renewal dates.

(d) A certificateholder must prominently display the certificate of exemption and make it available to the department or the board upon request.

(e) A certificate of exemption is not movable or transferable. A certificate of exemption is valid only for the applicant, qualifying owners, licenses, registrations, certifications, and services provided under a specific statutory exemption and is valid only to the specific exemption claimed and granted.

(f) A certificateholder must notify the department at

least 60 days before any anticipated relocation or name change of the pain management clinic or a change of ownership.

(g) If a pain management clinic no longer qualifies for a certificate of exemption, the certificateholder must immediately notify the department and register as a pain management clinic under subsection (1).

(3)~~(2)~~ PHYSICIAN RESPONSIBILITIES.—These responsibilities apply to any physician who provides professional services in a pain-management clinic that is required to be registered in subsection (1).

(a) A physician may not practice medicine in a pain-management clinic, as described in subsection (5)~~(4)~~, if the pain-management clinic is not registered with the department as required by this section. Any physician who qualifies to practice medicine in a pain-management clinic pursuant to rules adopted by the Board of Medicine as of July 1, 2012, may continue to practice medicine in a pain-management clinic as long as the physician continues to meet the qualifications set forth in the board rules. A physician who violates this paragraph is subject to disciplinary action by his or her appropriate medical regulatory board.

(4)~~(3)~~ INSPECTION.—

(a) The department shall inspect the pain-management clinic annually, including a review of the patient records, to ensure that it complies with this section and the rules of the

Board of Medicine adopted pursuant to subsection (5)~~(4)~~ unless the clinic is accredited by a nationally recognized accrediting agency approved by the Board of Medicine.

(5)~~(4)~~ RULEMAKING.—

(a) The department shall adopt rules necessary to administer the registration, exemption, and inspection of pain-management clinics which establish the specific requirements, procedures, forms, and fees.

Section 5. Effective January 1, 2019, subsections (2) through (5) of section 459.0137, Florida Statutes, are renumbered as subsections (3) through (6), respectively, paragraphs (a) and (g) of subsection (1), paragraph (a) of present subsection (2), paragraph (a) of present subsection (3), and paragraph (a) of present subsection (4) are amended, and a new subsection (2) is added to that section, to read:

459.0137 Pain-management clinics.—

(1) REGISTRATION.—

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

a. "Board eligible" means successful completion of an anesthesia, physical medicine and rehabilitation, rheumatology, or neurology residency program approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association for a period of 6 years from successful completion of such residency program.

b. "Chronic nonmalignant pain" means pain unrelated to

cancer which persists beyond the usual course of disease or the injury that is the cause of the pain or more than 90 days after surgery.

c. "Pain-management clinic" or "clinic" means any publicly or privately owned facility:

(I) That advertises in any medium for any type of pain-management services; or

(II) Where in any month a majority of patients are prescribed opioids, benzodiazepines, barbiturates, or carisoprodol for the treatment of chronic nonmalignant pain.

2. Each pain-management clinic must register with the department or hold a valid certificate of exemption pursuant to subsection (2). ~~unless:~~

3. The following clinics are exempt from the registration requirement of paragraphs (c)-(m), and must apply to the department for a certificate of exemption:

a. A ~~That~~ clinic ~~is~~ licensed as a facility pursuant to chapter 395;

b. A clinic in which the majority of the physicians who provide services in the clinic primarily provide surgical services;

c. A ~~The~~ clinic ~~is~~ owned by a publicly held corporation whose shares are traded on a national exchange or on the over-the-counter market and whose total assets at the end of the corporation's most recent fiscal quarter exceeded $50 million;

d. A ~~The~~ clinic ~~is~~ affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows;

e. A ~~The~~ clinic that does not prescribe controlled substances for the treatment of pain;

f. A ~~The~~ clinic ~~is~~ owned by a corporate entity exempt from federal taxation under 26 U.S.C. s. 501(c)(3);

g. A ~~The~~ clinic ~~is~~ wholly owned and operated by one or more board-eligible or board-certified anesthesiologists, physiatrists, rheumatologists, or neurologists; or

h. A ~~The~~ clinic ~~is~~ wholly owned and operated by a physician multispecialty practice where one or more board-eligible or board-certified medical specialists, who have also completed fellowships in pain medicine approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association or who are also board-certified in pain medicine by the American Board of Pain Medicine or a board approved by the American Board of Medical Specialties, the American Association of Physician Specialists, or the American Osteopathic Association, perform interventional pain procedures of the type routinely billed using surgical codes.

(g) The department may revoke the clinic's certificate of registration and prohibit all physicians associated with that pain-management clinic from practicing at that clinic location based upon an annual inspection and evaluation of the factors

described in subsection (4) ~~(3)~~.

(2) CERTIFICATE OF EXEMPTION.-

(a) A pain management clinic claiming an exemption from the registration requirements of subsection (1), must apply for a certificate of exemption on a form adopted in rule by the department. The form shall require the applicant to provide:

1. The name or names under which the applicant does business.

2. The address at which the pain management clinic is located.

3. The specific exemption the applicant is claiming with supporting documentation.

4. Any other information deemed necessary by the department.

(b) Within 30 days after the receipt of a complete application, the department must approve or deny the application.

(c) The certificate of exemption must be renewed biennially, except that the department may issue the initial certificates of exemption for up to 3 years in order to stagger renewal dates.

(d) A certificateholder must prominently display the certificate of exemption and make it available to the department or the board upon request.

(e) A certificate of exemption is not movable or

transferable. A certificate of exemption is valid only for the applicant, qualifying owners, licenses, registrations, certifications, and services provided under a specific statutory exemption and is valid only to the specific exemption claimed and granted.

(f) A certificateholder must notify the department at least 60 days before any anticipated relocation or name change of the pain management clinic or a change of ownership.

(g) If a pain management clinic no longer qualifies for a certificate of exemption, the certificateholder must immediately notify the department and register as a pain management clinic under subsection (1).

(3)~~(2)~~ PHYSICIAN RESPONSIBILITIES.—These responsibilities apply to any osteopathic physician who provides professional services in a pain-management clinic that is required to be registered in subsection (1).

(a) An osteopathic physician may not practice medicine in a pain-management clinic, as described in subsection (5)~~(4)~~, if the pain-management clinic is not registered with the department as required by this section. Any physician who qualifies to practice medicine in a pain-management clinic pursuant to rules adopted by the Board of Osteopathic Medicine as of July 1, 2012, may continue to practice medicine in a pain-management clinic as long as the physician continues to meet the qualifications set forth in the board rules. An osteopathic physician who violates

this paragraph is subject to disciplinary action by his or her appropriate medical regulatory board.

(4)~~(3)~~ INSPECTION.—

(a) The department shall inspect the pain-management clinic annually, including a review of the patient records, to ensure that it complies with this section and the rules of the Board of Osteopathic Medicine adopted pursuant to subsection (5)~~(4)~~ unless the clinic is accredited by a nationally recognized accrediting agency approved by the Board of Osteopathic Medicine.

(5)~~(4)~~ RULEMAKING.—

(a) The department shall adopt rules necessary to administer the registration, exemption, and inspection of pain-management clinics which establish the specific requirements, procedures, forms, and fees.

Section 6. Section 465.0155, Florida Statutes, is amended to read:

465.0155 Standards of practice.—

(1) Consistent with the provisions of this act, the board shall adopt by rule standards of practice relating to the practice of pharmacy which shall be binding on every state agency and shall be applied by such agencies when enforcing or implementing any authority granted by any applicable statute, rule, or regulation, whether federal or state.

(2)(a) Before dispensing a controlled substance to a

person not known to the pharmacist, the pharmacist must require the person purchasing, receiving, or otherwise acquiring the controlled substance to present valid photographic identification or other verification of his or her identity. If the person does not have proper identification, the pharmacist may verify the validity of the prescription and the identity of the patient with the prescriber or his or her authorized agent. Verification of health plan eligibility through a real-time inquiry or adjudication system is considered to be proper identification.

(b) This subsection does not apply in an institutional setting or to a long-term care facility, including, but not limited to, an assisted living facility or a hospital to which patients are admitted.

(c) As used in this subsection, the term "proper identification" means an identification that is issued by a state or the Federal Government containing the person's photograph, printed name, and signature or a document considered acceptable under 8 C.F.R. s. 274a.2(b)(1)(v)(A) and (B).

Section 7. Paragraph (d) is added to subsection (2) of section 465.0276, Florida Statutes, to read:

465.0276 Dispensing practitioner.—

(2) A practitioner who dispenses medicinal drugs for human consumption for fee or remuneration of any kind, whether direct or indirect, must:

(d)1. Before dispensing a controlled substance to a person not known to the dispenser, require the person purchasing, receiving, or otherwise acquiring the controlled substance to present valid photographic identification or other verification of his or her identity. If the person does not have proper identification, the dispenser may verify the validity of the prescription and the identity of the patient with the prescriber or his or her authorized agent. Verification of health plan eligibility through a real-time inquiry or adjudication system is considered to be proper identification.

2. This paragraph does not apply in an institutional setting or to a long-term care facility, including, but not limited to, an assisted living facility or a hospital to which patients are admitted.

3. As used in this paragraph, the term "proper identification" means an identification that is issued by a state or the Federal Government containing the person's photograph, printed name, and signature or a document considered acceptable under 8 C.F.R. s. 274a.2(b)(1)(v)(A) and (B).

Section 8. Subsections (2), (3), (4), and (5) of section 893.03, Florida Statutes, are amended to read:

893.03 Standards and schedules.—The substances enumerated in this section are controlled by this chapter. The controlled substances listed or to be listed in Schedules I, II, III, IV, and V are included by whatever official, common, usual,

chemical, trade name, or class designated. The provisions of this section shall not be construed to include within any of the schedules contained in this section any excluded drugs listed within the purview of 21 C.F.R. s. 1308.22, styled "Excluded Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt Anabolic Steroid Products."

(2) SCHEDULE II.—A substance in Schedule II has a high potential for abuse and has a currently accepted but severely restricted medical use in treatment in the United States, and abuse of the substance may lead to severe psychological or physical dependence. The following substances are controlled in Schedule II:

(a) Unless specifically excepted or unless listed in another schedule, any of the following substances, whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis:

1. Opium and any salt, compound, derivative, or preparation of opium, except nalmefene or isoquinoline alkaloids of opium, including, but not limited to the following:

a. Raw opium.

b. Opium extracts.

c. Opium fluid extracts.

d. Powdered opium.

e. Granulated opium.

f. Tincture of opium.

g. Codeine.

h. Dihydroetorphine.

i.~~h.~~ Ethylmorphine.

j.~~i.~~ Etorphine hydrochloride.

k.~~j.~~ Hydrocodone and hydrocodone combination products.

l.~~k.~~ Hydromorphone.

m.~~l.~~ Levo-alphacetylmethadol (also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM).

n.~~m.~~ Metopon (methyldihydromorphinone).

o.~~n.~~ Morphine.

p. Oripavine.

q.~~o.~~ Oxycodone.

r.~~p.~~ Oxymorphone.

s.~~q.~~ Thebaine.

2. Any salt, compound, derivative, or preparation of a substance which is chemically equivalent to or identical with any of the substances referred to in subparagraph 1., except that these substances shall not include the isoquinoline alkaloids of opium.

3. Any part of the plant of the species Papaver somniferum, L.

4. Cocaine or ecgonine, including any of their

stereoisomers, and any salt, compound, derivative, or preparation of cocaine or ecgonine, except that these substances shall not include ioflupane I 123.

(b) Unless specifically excepted or unless listed in another schedule, any of the following substances, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

1. Alfentanil.
2. Alphaprodine.
3. Anileridine.
4. Bezitramide.
5. Bulk propoxyphene (nondosage forms).
6. Carfentanil.
7. Dihydrocodeine.
8. Diphenoxylate.
9. Fentanyl.
10. Isomethadone.
11. Levomethorphan.
12. Levorphanol.
13. Metazocine.
14. Methadone.
15. Methadone-Intermediate,4-cyano-2-dimethylamino-4,4-diphenylbutane.

16. Moramide-Intermediate,2-methyl-3-morpholoino-1,1-diphenylpropane-carboxylic acid.

17. Nabilone.

18. Pethidine (meperidine).

19. Pethidine-Intermediate-A,4-cyano-1-methyl-4-phenylpiperidine.

20. Pethidine-Intermediate-B,ethyl-4-phenylpiperidine-4-carboxylate.

21. Pethidine-Intermediate-C,1-methyl-4- phenylpiperidine-4-carboxylic acid.

22. Phenazocine.

23. Phencyclidine.

24. 1-Phenylcyclohexylamine.

25. Piminodine.

26. 1-Piperidinocyclohexanecarbonitrile.

27. Racemethorphan.

28. Racemorphan.

29. Remifentanil.

30.~~29.~~ Sufentanil.

31. Tapentadol.

32. Thiafentanil.

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including their salts, isomers, optical isomers,

salts of their isomers, and salts of their optical isomers:

1. Amobarbital.

2. Amphetamine.

3. Glutethimide.

4. Lisdexamfetamine.

5.~~4.~~ Methamphetamine.

6.~~5.~~ Methylphenidate.

7.~~6.~~ Pentobarbital.

8.~~7.~~ Phenmetrazine.

9.~~8.~~ Phenylacetone.

10.~~9.~~ Secobarbital.

(d) Dronabinol (synthetic THC) in oral solution in a drug product approved by the United States Food and Drug Administration.

(3) SCHEDULE III.—A substance in Schedule III has a potential for abuse less than the substances contained in Schedules I and II and has a currently accepted medical use in treatment in the United States, and abuse of the substance may lead to moderate or low physical dependence or high psychological dependence or, in the case of anabolic steroids, may lead to physical damage. The following substances are controlled in Schedule III:

(a) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following

substances having a depressant or stimulant effect on the nervous system:

1. Any substance which contains any quantity of a derivative of barbituric acid, including thiobarbituric acid, or any salt of a derivative of barbituric acid or thiobarbituric acid, including, but not limited to, butabarbital and butalbital.

2. Benzphetamine.

3. Buprenorphine.

4.~~3.~~ Chlorhexadol.

5.~~4.~~ Chlorphentermine.

6.~~5.~~ Clortermine.

7. Embutramide.

8.~~6.~~ Lysergic acid.

9.~~7.~~ Lysergic acid amide.

10.~~8.~~ Methyprylon.

11. Perampanel.

12.~~9.~~ Phendimetrazine.

13.~~10.~~ Sulfondiethylmethane.

14.~~11.~~ Sulfonethylmethane.

15.~~12.~~ Sulfonmethane.

16.~~13.~~ Tiletamine and zolazepam or any salt thereof.

(b) Nalorphine.

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or

preparation containing limited quantities of any of the following controlled substances or any salts thereof:

1. Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

2. Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with recognized therapeutic amounts of one or more active ingredients which are not controlled substances.

3. Not more than 300 milligrams of hydrocodone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

4. Not more than 300 milligrams of hydrocodone per 100 milliliters or not more than 15 milligrams per dosage unit, with recognized therapeutic amounts of one or more active ingredients that are not controlled substances.

5. Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with recognized therapeutic amounts of one or more active ingredients which are not controlled substances.

6. Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

7. Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams, with recognized therapeutic amounts of one or more active ingredients which are not controlled substances.

For purposes of charging a person with a violation of s. 893.135 involving any controlled substance described in subparagraph 3. or subparagraph 4., the controlled substance is a Schedule III controlled substance pursuant to this paragraph but the weight of the controlled substance per milliliters or per dosage unit is not relevant to the charging of a violation of s. 893.135. The weight of the controlled substance shall be determined pursuant to s. 893.135(6).

(d) Anabolic steroids.

1. The term "anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, and corticosteroids, that promotes muscle growth and includes:

a. Androsterone.

b. Androsterone acetate.

c. Boldenone.

d. Boldenone acetate.

e. Boldenone benzoate.

f. Boldenone undecylenate.

g. Chlorotestosterone (Clostebol).

h. Dehydrochlormethyltestosterone.
i. Dihydrotestosterone (Stanolone).
j. Drostanolone.
k. Ethylestrenol.
l. Fluoxymesterone.
m. Formebulone (Formebolone).
n. Mesterolone.
o. Methandrostenolone (Methandienone).
p. Methandranone.
q. Methandriol.
r. Methenolone.
s. Methyltestosterone.
t. Mibolerone.
u. Nortestosterone (Nandrolone).
v. Norethandrolone.
w. Nortestosterone decanoate.
x. Nortestosterone phenylpropionate.
y. Nortestosterone propionate.
z. Oxandrolone.
aa. Oxymesterone.
bb. Oxymetholone.
cc. Stanozolol.
dd. Testolactone.
ee. Testosterone.
ff. Testosterone acetate.

gg. Testosterone benzoate.
hh. Testosterone cypionate.
ii. Testosterone decanoate.
jj. Testosterone enanthate.
kk. Testosterone isocaproate.
ll. Testosterone oleate.
mm. Testosterone phenylpropionate.
nn. Testosterone propionate.
oo. Testosterone undecanoate.
pp. Trenbolone.
qq. Trenbolone acetate.
rr. Any salt, ester, or isomer of a drug or substance described or listed in this subparagraph if that salt, ester, or isomer promotes muscle growth.

2. The term does not include an anabolic steroid that is expressly intended for administration through implants to cattle or other nonhuman species and that has been approved by the United States Secretary of Health and Human Services for such administration. However, any person who prescribes, dispenses, or distributes such a steroid for human use is considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this paragraph.

(e) Ketamine, including any isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible

within the specific chemical designation.

(f) Dronabinol (synthetic THC) in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the United States Food and Drug Administration.

(g) Any drug product containing gamma-hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under s. 505 of the Federal Food, Drug, and Cosmetic Act.

(4)(a) SCHEDULE IV.—A substance in Schedule IV has a low potential for abuse relative to the substances in Schedule III and has a currently accepted medical use in treatment in the United States, and abuse of the substance may lead to limited physical or psychological dependence relative to the substances in Schedule III.

(b) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, are controlled in Schedule IV:

1. Alfaxalone.

2.~~(a)~~ Alprazolam.

3.~~(b)~~ Barbital.

4.~~(c)~~ Bromazepam.

5.~~(iii)~~ Butorphanol tartrate.

6.~~(d)~~ Camazepam.

7.~~(jjj)~~ Carisoprodol.

8.~~(e)~~ Cathine.

9.~~(f)~~ Chloral betaine.

10.~~(g)~~ Chloral hydrate.

11.~~(h)~~ Chlordiazepoxide.

12.~~(i)~~ Clobazam.

13.~~(j)~~ Clonazepam.

14.~~(k)~~ Clorazepate.

15.~~(l)~~ Clotiazepam.

16.~~(m)~~ Cloxazolam.

17. Dexfenfluramine.

18.~~(n)~~ Delorazepam.

19. Dichloralphenazone.

20.~~(p)~~ Diazepam.

21.~~(q)~~ Diethylpropion.

22. Eluxadoline.

23.~~(r)~~ Estazolam.

24. Eszopiclone.

25.~~(s)~~ Ethchlorvynol.

26.~~(t)~~ Ethinamate.

27.~~(u)~~ Ethyl loflazepate.

28.~~(v)~~ Fencamfamin.

29.~~(w)~~ Fenfluramine.

30.~~(x)~~ Fenproporex.

31.~~(y)~~ Fludiazepam.

32.~~(z)~~ Flurazepam.

33. Fospropofol.

34.~~(aa)~~ Halazepam.

35.~~(bb)~~ Haloxazolam.

36.~~(cc)~~ Ketazolam.

37.~~(dd)~~ Loprazolam.

38.~~(ee)~~ Lorazepam.

39. Lorcaserin.

40.~~(ff)~~ Lormetazepam.

41.~~(gg)~~ Mazindol.

42.~~(hh)~~ Mebutamate.

43.~~(ii)~~ Medazepam.

44.~~(jj)~~ Mefenorex.

45.~~(kk)~~ Meprobamate.

46.~~(ll)~~ Methohexital.

47.~~(mm)~~ Methylphenobarbital.

48.~~(nn)~~ Midazolam.

49. Modafinil.

50.~~(oo)~~ Nimetazepam.

51.~~(pp)~~ Nitrazepam.

52.~~(qq)~~ Nordiazepam.

53.~~(rr)~~ Oxazepam.

54.~~(ss)~~ Oxazolam.

55.~~(tt)~~ Paraldehyde.

56.~~(uu)~~ Pemoline.

57.~~(vv)~~ Pentazocine.

58. Petrichloral.

59.~~(ww)~~ Phenobarbital.

60.~~(xx)~~ Phentermine.

61.~~(yy)~~ Pinazepam.

62.~~(zz)~~ Pipradrol.

63.~~(aaa)~~ Prazepam.

64.~~(o)~~ Propoxyphene (dosage forms).

65.~~(bbb)~~ Propylhexedrine, excluding any patent or proprietary preparation containing propylhexedrine, unless otherwise provided by federal law.

66.~~(ccc)~~ Quazepam.

67. Sibutramine.

68.~~(eee)~~ SPA[(-)-1 dimethylamino-1, 2 diphenylethane].

69. Suvorexant.

70.~~(fff)~~ Temazepam.

71.~~(ddd)~~ Tetrazepam.

72. Tramadol.

73.~~(ggg)~~ Triazolam.

74. Zaleplon.

75. Zolpidem.

76. Zopiclone.

77.~~(hhh)~~ Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(5) SCHEDULE V.—A substance, compound, mixture, or preparation of a substance in Schedule V has a low potential for abuse relative to the substances in Schedule IV and has a currently accepted medical use in treatment in the United States, and abuse of such compound, mixture, or preparation may lead to limited physical or psychological dependence relative to the substances in Schedule IV.

(a) Substances controlled in Schedule V include any compound, mixture, or preparation containing any of the following limited quantities of controlled substances, which shall include one or more active medicinal ingredients which are not controlled substances in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the controlled substance alone:

1. Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.

2. Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.

3. Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.

4. Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.

5. Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

6. Not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

7. Brivaracetam.

8. Ezogabine.

9. Lacosamide.

10. Pregabalin.

~~(b) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs and their salts: Buprenorphine.~~

(b) ~~(c)~~ Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers: Pyrovalerone.

Section 9. Section 893.055, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 893.055, F.S., for present text.)

893.055 Prescription drug monitoring program.—

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

(a) "Administration" means the obtaining and giving of a

single dose of medicinal drugs by a legally authorized person to a patient for her or his consumption.

(b) "Active investigation" means an investigation that is being conducted with a reasonable, good faith belief that it could lead to the filing of administrative, civil, or criminal proceedings, or that is ongoing and continuing and for which there is a reasonable, good faith anticipation of securing an arrest or prosecution in the foreseeable future.

(c) "Controlled substance" means a controlled substance listed in Schedule II, Schedule III, Schedule IV, or Schedule V of s. 893.03 or 21 U.S.C. s. 812.

(d) "Dispense" means the transfer of possession of one or more doses of a medicinal drug by a health care practitioner to the ultimate consumer or to his or her agent.

(e) "Dispenser" means a dispensing health care practitioner or pharmacist licensed to dispense medicinal drugs in this state.

(f) "Health care practitioner" or "practitioner" means any practitioner licensed under chapter 458, chapter 459, chapter 461, chapter 463, chapter 464, chapter 465, or chapter 466.

(g) "Health care regulatory board" means any board or commission as defined in s. 456.001(1).

(h) "Law enforcement agency" means the Department of Law Enforcement, a sheriff's office in this state, a police department in this state, or a law enforcement agency of the

Federal Government which enforces the laws of this state or the United States relating to controlled substances, and which its agents and officers are empowered by law to conduct criminal investigations and make arrests.

(i) "Pharmacy" includes a community pharmacy, an institutional pharmacy, a nuclear pharmacy, a special pharmacy, or an Internet pharmacy that is licensed by the department under chapter 465 and that dispenses or delivers medicinal drugs, including controlled substances to an individual or address in this state.

(j) "Prescriber" means a prescribing physician, prescribing practitioner, or other prescribing health care practitioner authorized by the laws of this state to order medicinal drugs.

(k) "Program manager" means an employee of or a person contracted by the department who is designated to ensure the integrity of the prescription drug monitoring program in accordance with the requirements established in this section.

(2)(a) The department shall maintain an electronic system to collect and store controlled substance dispensing information and shall release the information as authorized in s. 893.0551. The electronic system must:

1. Not infringe upon the legitimate prescribing or dispensing of a controlled substance by a prescriber or dispenser acting in good faith and in the course of professional

practice.

2. Be consistent with standards of the American Society for Automation in Pharmacy (ASAP).

3. Comply with the Health Insurance Portability and Accountability Act (HIPAA) as it pertains to protected health information (PHI), electronic protected health information (EPHI), and all other relevant state and federal privacy and security laws and regulations.

(b) The department may collaborate with professional health care regulatory boards, appropriate organizations, and other state agencies to identify indicators of controlled substance abuse.

(c) The department shall adopt rules necessary to implement this subsection.

(3) For each controlled substance dispensed to a patient in the state, the following information must be reported by the dispenser to the system as soon thereafter as possible but no later than the close of the next business day after the day the controlled substance is dispensed unless an extension or exemption is approved by the department:

(a) The name of the prescribing practitioner, the practitioner's federal Drug Enforcement Administration registration number, the practitioner's National Provider Identification (NPI) or other appropriate identifier, and the date of the prescription.

(b) The date the prescription was filled and the method of payment, such as cash by an individual, insurance coverage through a third party, or Medicaid payment. This paragraph does not authorize the department to include individual credit card numbers or other account numbers in the system.

(c) The full name, address, telephone number, and date of birth of the person for whom the prescription was written.

(d) The name, national drug code, quantity, and strength of the controlled substance dispensed.

(e) The full name, federal Drug Enforcement Administration registration number, State of Florida Department of Health issued pharmacy permit number, and address of the pharmacy or other location from which the controlled substance was dispensed. If the controlled substance was dispensed by a practitioner other than a pharmacist, the practitioner's full name, address, federal Drug Enforcement Administration registration number, State of Florida Department of Health issued license number, and National Provider Identification (NPI).

(f) Whether the drug was dispensed as an initial prescription or a refill, and the number of refills ordered.

(g) The name of the individual picking up the controlled substance prescription and type and issuer of the identification provided.

(h) Other appropriate identifying information as

determined by department rule.

(i) All acts of administration of controlled substances are exempt from the reporting requirements of this section.

(4) The following shall have direct access to information in the system:

(a) An authorized prescriber or dispenser or his or her designee.

(b) An employee of the United States Department of Veterans Affairs, United States Department of Defense, or the Indian Health Service who provides health care services pursuant to such employment and who has the authority to prescribe controlled substances shall have access to the information in the program's system upon verification of employment.

(c) The program manager or designated program and support staff may have access to administer the system.

1. The program manager or designated program and support staff must complete a level II background screening.

2. In order to calculate performance measures pursuant to subsection (14), the program manager or program and support staff members who have been directed by the program manager to calculate performance measures may have direct access to information that contains no identifying information of any patient, physician, health care practitioner, prescriber, or dispenser.

3. The program manager or designated program and support

staff must provide the department, upon request, data that does not contain patient, physician, health care practitioner, prescriber, or dispenser identifying information for public health care and safety initiatives purposes.

4. The program manager, upon determining a pattern consistent with the department's rules established under paragraph (2)(b) may provide relevant information to the prescriber and dispenser.

5. The program manager, upon determining a pattern consistent with the rules established under paragraph (2)(b) and having cause to believe a violation of s. 893.13(7)(a)8., (8)(a), or (8)(b) has occurred, may provide relevant information to the applicable law enforcement agency.

(5) The following entities may not directly access information in the system, but may request information from the program manager or designated program and support staff:

(a) The department or the relevant health care regulatory board for investigations involving licensees authorized to prescribe or dispense controlled substances.

(b) The Attorney General for Medicaid fraud cases involving prescribed controlled substances.

(c) A law enforcement agency during active investigations of potential criminal activity, fraud, or theft regarding prescribed controlled substances.

(d) A medical examiner when conducting an authorized

investigation under s. 406.11, to determine the cause of death of an individual.

(e) An impaired practitioner consultant who is retained by the department under s. 456.076 to review the system information of an impaired practitioner program participant or a referral who has agreed to be evaluated or monitored through the program and who has separately agreed in writing to the consultant's access to and review of such information.

(f) A patient or the legal guardian or designated health care surrogate of an incapacitated patient who submits a written and notarized request that includes the patient's full name, address, phone number, date of birth, and a copy of a government-issued photo identification. A legal guardian or health care surrogate must provide the same information if he or she submits the request.

(6) The department may enter into a reciprocal agreement or contract to share prescription drug monitoring information with another state, district, or territory if the prescription drug monitoring programs of other states, districts, or territories are compatible with the Florida program.

(a) In determining compatibility, the department shall consider:

1. The safeguards for privacy of patient records and the success of the program in protecting patient privacy.

2. The persons authorized to view the data collected by

the program. Comparable entities and licensed health care practitioners in other states, districts, or territories of the United States, law enforcement agencies, the Attorney General's Medicaid Fraud Control Unit, medical regulatory boards, and, as needed, management staff that have similar duties as management staff who work with the prescription drug monitoring program as authorized in s. 893.0551 are authorized access upon approval by the department.

3. The schedules of the controlled substances that are monitored by the program.

4. The data reported to or included in the program's system.

5. Any implementing criteria deemed essential for a thorough comparison.

6. The costs and benefits to the state of sharing prescription information.

(b) The department must assess the prescription drug monitoring program's continued compatibility with the other state's, district's, or territory's program periodically.

(c) Any agreement or contract for sharing of prescription drug monitoring information between the department and another state, district, or territory shall contain the same restrictions and requirements as this section or s. 893.0551, and the information must be provided according to the department's determination of compatibility.

(7) The department may enter into agreements or contracts to establish secure connections between the system and a prescribing or dispensing health care practitioner's electronic health recordkeeping system. The electronic health recordkeeping system owner or license holder will be responsible for ensuring that only authorized individuals have access to prescription drug monitoring program information.

(8) A prescriber or dispenser or a designee of a prescriber or dispenser must consult the system to review a patient's controlled substance dispensing history before prescribing or dispensing a controlled substance.

(a) The duty to consult the system does not apply to a prescriber or dispenser or designee of a prescriber or dispenser if the system is not operational, as determined by the department, or when it cannot be accessed by a health care practitioner because of a temporary technological or electrical failure.

(b) A prescriber or dispenser or designee of a prescriber or dispenser who does not consult the system under this subsection shall document the reason he or she did not consult the system in the patient's medical record or prescription record, and shall not prescribe or dispense greater than a 3-day supply of a controlled substance to the patient.

(c) The department shall issue a nondisciplinary citation to any prescriber or dispenser who fails to consult the system

as required by this subsection.

(9) A person who willfully and knowingly fails to report the dispensing of a controlled substance as required by this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(10) Information in the prescription drug monitoring program's system may be released only as provided in this subsection and s. 893.0551. The content of the system is intended to be informational only and imposes no obligations of any nature or any legal duty on a prescriber, dispenser, pharmacy, or patient. Information in the system shall be provided in accordance with s. 893.13(7)(a)8. and is not subject to discovery or introduction into evidence in any civil or administrative action against a prescriber, dispenser, pharmacy, or patient arising out of matters that are the subject of information in the system. The program manager and authorized persons who participate in preparing, reviewing, issuing, or any other activity related to management of the system may not be permitted or required to testify in any such civil or administrative action as to any findings, recommendations, evaluations, opinions, or other actions taken in connection with management of the system.

(11) A prescriber or dispenser, or his or her designee, may have access to the information under this section which relates to a patient of that prescriber or dispenser as needed

for the purpose of reviewing the patient's controlled drug prescription history. A prescriber or dispenser acting in good faith is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for receiving or using information from the prescription drug monitoring program. This subsection does not create a private cause of action, and a person may not recover damages against a prescriber or dispenser authorized to access information under this subsection for accessing or failing to access such information.

(12)(a) All costs incurred by the department in administering the prescription drug monitoring program shall be funded through federal grants, private funding applied for or received by the state, or state funds appropriated in the General Appropriations Act. The department may not:

1. Commit funds for the monitoring program without ensuring funding is available; or

2. Use funds provided, directly or indirectly by prescription drug manufacturers to implement the program.

(b) The department shall cooperate with the direct-support organization established under subsection (15) in seeking federal grant funds, other nonstate grant funds, gifts, donations, or other private moneys for the department if the costs of doing so are immaterial. Immaterial costs include, but are not limited to, the costs of mailing and personnel assigned

to research or apply for a grant. The department may competitively procure and contract pursuant to s. 287.057 for any goods and services required be this section.

(13) The department shall conduct or participate in studies to examine the feasibility of enhancing the prescription drug monitoring program for the purposes of public health initiatives and statistical reporting. Such studies shall respect the privacy of the patient, the prescriber, and the dispenser. Such studies may be conducted by the department or a contracted vendor in order to:

(a) Improve the quality of health care services and safety by improving the prescribing and dispensing practices for prescription drugs;

(b) Take advantage of advances in technology;

(c) Reduce duplicative prescriptions and the overprescribing of prescription drugs; and

(d) Reduce drug abuse.

(14) The department shall annually report on performance measures to the Governor, the President of the Senate, and the Speaker of the House of Representatives by the department each December 1. Performance measures may include, but are not limited to, the following outcomes:

(a) Reduction of the rate of inappropriate use of prescription drugs through department education and safety efforts.

(b) Reduction of the quantity of pharmaceutical controlled substances obtained by individuals attempting to engage in fraud and deceit.

(c) Increased coordination among partners participating in the prescription drug monitoring program.

(d) Involvement of stakeholders in achieving improved patient health care and safety and reduction of prescription drug abuse and prescription drug diversion.

(15) The department may establish a direct-support organization to provide assistance, funding, and promotional support for the activities authorized for the prescription drug monitoring program.

(a) As used in this subsection, the term "direct-support organization" means an organization that is:

1. A Florida corporation not for profit incorporated under chapter 617, exempted from filing fees, and approved by the Department of State.

2. Organized and operated to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, and invest, in its own name, securities, funds, objects of value, or other property, either real or personal; and make expenditures or provide funding to or for the direct or indirect benefit of the department in the furtherance of the prescription drug monitoring program.

(b) The State Surgeon General shall appoint a board of directors for the direct-support organization.

1. The board of directors shall consist of no fewer than five members who shall serve at the pleasure of the State Surgeon General.

2. The State Surgeon General shall provide guidance to members of the board to ensure that moneys received by the direct-support organization are not received from inappropriate sources. Inappropriate sources include, but are not limited to, donors, grantors, persons, or organizations that may monetarily or substantively benefit from the purchase of goods or services by the department in furtherance of the prescription drug monitoring program.

(c) The direct-support organization shall operate under written contract with the department. The contract must, at a minimum, provide for:

1. Approval of the articles of incorporation and bylaws of the direct-support organization by the department.

2. Submission of an annual budget for the approval of the department.

3. The reversion, without penalty, to the department's grants and donations trust fund for the administration of the prescription drug monitoring program of all moneys and property held in trust by the direct-support organization for the benefit of the prescription drug monitoring program if the direct-

support organization ceases to exist or if the contract is terminated.

4. The fiscal year of the direct-support organization, which must begin July 1 of each year and end June 30 of the following year.

5. The disclosure of the material provisions of the contract to donors of gifts, contributions, or bequests, including such disclosure on all promotional and fundraising publications, and an explanation to such donors of the distinction between the department and the direct-support organization.

6. The direct-support organization's collecting, expending, and providing of funds to the department for the development, implementation, and operation of the prescription drug monitoring program as described in this section. The direct-support organization may collect and expend funds to be used for the functions of the direct-support organization's board of directors, as necessary and approved by the department. In addition, the direct-support organization may collect and provide funding to the department in furtherance of the prescription drug monitoring program by:

a. Establishing and administering the prescription drug monitoring program's electronic system, including hardware and software.

b. Conducting studies on the efficiency and effectiveness

of the program to include feasibility studies as described in subsection (13).

c. Providing funds for future enhancements of the program within the intent of this section.

d. Providing user training of the prescription drug monitoring program, including distribution of materials to promote public awareness and education and conducting workshops or other meetings, for health care practitioners, pharmacists, and others as appropriate.

e. Providing funds for travel expenses.

f. Providing funds for administrative costs, including personnel, audits, facilities, and equipment.

g. Fulfilling all other requirements necessary to implement and operate the program as outlined in this section.

7. Certification by the department that the direct-support organization is complying with the terms of the contract in a manner consistent with and in furtherance of the goals and purposes of the prescription drug monitoring program and in the best interests of the state. Such certification must be made annually and reported in the official minutes of a meeting of the direct-support organization.

(d) The activities of the direct-support organization must be consistent with the goals and mission of the department, as determined by the department, and in the best interests of the state. The direct-support organization must obtain written

approval from the department for any activities in support of the prescription drug monitoring program before undertaking those activities.

(e) The direct-support organization shall provide for an independent annual financial audit in accordance with s. 215.981. Copies of the audit shall be provided to the department and the Office of Policy and Budget in the Executive Office of the Governor.

(f) The direct-support organization may not exercise any power under s. 617.0302(12) or (16).

(g) The direct-support organization is not considered a lobbying firm within the meaning of s.11.045.

(h) The department may permit, without charge, appropriate use of administrative services, property, and facilities of the department by the direct-support organization, subject to this section. The use must be directly in keeping with the approved purposes of the direct-support organization and may not be made at times or places that would unreasonably interfere with opportunities for the public to use such facilities for established purposes. Any moneys received from rentals of facilities and properties managed by the department may be held in a separate depository account in the name of the direct-support organization and subject to the provisions of the letter of agreement with the department. The letter of agreement must provide that any funds held in the separate depository account

in the name of the direct-support organization must revert to the department if the direct-support organization is no longer approved by the department to operate in the best interests of the state.

(i) The department may adopt rules under s. 120.54 to govern the use of administrative services, property, or facilities of the department or office by the direct-support organization.

(j) The department may not permit the use of any administrative services, property, or facilities of the state by a direct-support organization if that organization does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, gender, age, or national origin.

(k) This subsection is repealed October 1, 2027, unless reviewed and saved from repeal by the Legislature.

Section 10. Section 893.0551, Florida Statutes, is amended to read:

893.0551 Public records exemption for the prescription drug monitoring program.—

(1) For purposes of this section, the terms used in this section have the same meanings as provided in s. 893.055.

(2) The following information of a patient or patient's agent, a health care practitioner, a dispenser, an employee of the practitioner who is acting on behalf of and at the direction

of the practitioner, a pharmacist, or a pharmacy that is contained in records held by the department under s. 893.055 is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

(a) Name.

(b) Address.

(c) Telephone number.

(d) Insurance plan number.

(e) Government-issued identification number.

(f) Provider number.

(g) Drug Enforcement Administration number.

(h) Any other unique identifying information or number.

(3) The department shall disclose such ~~confidential and exempt~~ information to the following persons or entities upon request and after using a verification process to ensure the legitimacy of the request as provided in s. 893.055:

(a) A health care practitioner, or his or her designee, who certifies that the information is necessary to provide medical treatment to a current patient in accordance with ss. 893.05 and 893.055.

(b) An employee of the United States Department of Veterans Affairs, United States Department of Defense, or the Indian Health Service who provides health care services pursuant to such employment and who has the authority to prescribe controlled substances shall have access to the information in

the program's system upon verification of such employment.

(c) The program manager and designated support staff for administration of the program, and to provide relevant information to the prescriber, dispenser, and appropriate law enforcement agencies, in accordance with s. 893.055.

(d) The department or the relevant health care regulatory board for investigations involving licensees authorized to prescribe or dispense controlled substances. The department may request information from the program but may not have direct access to its system. The department may provide to a law enforcement agency pursuant to ss. 456.066 and 456.073 only information that is relevant to the specific controlled substances investigation that prompted the request for the information.

(e) ~~(a)~~ The Attorney General or his or her designee when working on Medicaid fraud cases involving prescribed controlled substances ~~prescription drugs~~ or when the Attorney General has initiated a review of specific identifiers of Medicaid fraud or specific identifiers that warrant a Medicaid investigation regarding prescribed controlled substances ~~prescription drugs~~. The Attorney General's Medicaid fraud investigators may not have direct access to the department's system ~~database~~. The Attorney General or his or her designee may disclose to a criminal justice agency, as defined in s. 119.011, only the ~~confidential and exempt~~ information received from the department that is

relevant to an identified active investigation that prompted the request for the information.

~~(b) The department's relevant health care regulatory boards responsible for the licensure, regulation, or discipline of a practitioner, pharmacist, or other person who is authorized to prescribe, administer, or dispense controlled substances and who is involved in a specific controlled substances investigation for prescription drugs involving a designated person. The health care regulatory boards may request information from the department but may not have direct access to its database. The health care regulatory boards may provide to a law enforcement agency pursuant to ss. 456.066 and 456.073 only information that is relevant to the specific controlled substances investigation that prompted the request for the information.~~

(f) ~~(c)~~ A law enforcement agency that has initiated an active investigation involving a specific violation of law regarding prescription drug abuse or diversion of prescribed controlled substances and that has entered into a user agreement with the department. A law enforcement agency may request information from the department but may not have direct access to its system ~~database~~. The law enforcement agency may disclose to a criminal justice agency, as defined in s. 119.011, only ~~confidential and exempt~~ information received from the department that is relevant to an identified active investigation that

prompted the request for such information.

(g) A medical examiner or associate medical examiner, as defined in s 406.06, pursuant to his or her official duties, as required by s. 406.11, to determine the cause of death of an individual. A medical examiner may request information from the department but may not have direct access to the system.

~~(f) A patient or the legal guardian or designated health care surrogate for an incapacitated patient, if applicable, making a request as provided in s. 893.055(7)(e)4.~~

(h) An impaired practitioner consultant who has been authorized in writing by a participant in, or by a referral to, the impaired practitioner program to access and review information as provided in s. 893.055(6)(e) ~~893.055(7)(e)5.~~

(i)~~(f)~~ A patient or the legal guardian or designated health care surrogate for an incapacitated patient, if applicable, making a request as provided in s. 893.055(6)(f) ~~893.055(7)(e)4~~.

(4) If the department determines consistent with its rules that a pattern of controlled substance abuse exists, the department may disclose such confidential and exempt information to the applicable law enforcement agency in accordance with s. 893.055. The law enforcement agency may disclose to a criminal justice agency, as defined in s. 119.011, only ~~confidential and exempt~~ information received from the department that is relevant to an identified active investigation that is specific to a

violation of s. 893.13(7)(a)8., s. 893.13(8)(a), or s. 893.13(8)(b).

(5) Before disclosing ~~confidential and exempt~~ information to a criminal justice agency or a law enforcement agency pursuant to this section, the disclosing person or entity must take steps to ensure the continued confidentiality of all ~~confidential and exempt~~ information. At a minimum, these steps must include redacting any nonrelevant information.

(6) An agency or person who obtains any ~~confidential and exempt~~ information pursuant to this section must maintain the confidential and exempt status of that information and may not disclose such information unless authorized by law. Information shared with a state attorney pursuant to paragraph (3)(e) ~~(3)(a)~~ or paragraph (3)(f) ~~(3)(c)~~ may be released only in response to a discovery demand if such information is directly related to the criminal case for which the information was requested. Unrelated information may be released only upon an order of a court of competent jurisdiction.

(7) A person who willfully and knowingly violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 11. Paragraphs (pp) and (qq) of subsection (1) of section 458.331, Florida Statutes, are amended to read:

458.331 Grounds for disciplinary action; action by the board and department.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(pp) Applicable to a licensee who serves as the designated physician of a pain-management clinic as defined in s. 458.3265 or s. 459.0137:

1. Registering a pain-management clinic through misrepresentation or fraud;

2. Procuring, or attempting to procure, the registration of a pain-management clinic for any other person by making or causing to be made, any false representation;

3. Failing to comply with any requirement of chapter 499, the Florida Drug and Cosmetic Act; 21 U.S.C. ss. 301-392, the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq., the Drug Abuse Prevention and Control Act; or chapter 893, the Florida Comprehensive Drug Abuse Prevention and Control Act;

4. Being convicted or found guilty of, regardless of adjudication to, a felony or any other crime involving moral turpitude, fraud, dishonesty, or deceit in any jurisdiction of the courts of this state, of any other state, or of the United States;

5. Being convicted of, or disciplined by a regulatory agency of the Federal Government or a regulatory agency of another state for, any offense that would constitute a violation of this chapter;

6. Being convicted of, or entering a plea of guilty or

nolo contendere to, regardless of adjudication, a crime in any jurisdiction of the courts of this state, of any other state, or of the United States which relates to the practice of, or the ability to practice, a licensed health care profession;

7. Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction of the courts of this state, of any other state, or of the United States which relates to health care fraud;

8. Dispensing any medicinal drug based upon a communication that purports to be a prescription as defined in s. 465.003(14) or s. 893.02 if the dispensing practitioner knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship; or

9. Failing to timely notify the board of the date of his or her termination from a pain-management clinic as required by s. 458.3265(3) ~~458.3265(2)~~.

(qq) Failing to timely notify the department of the theft of prescription blanks from a pain-management clinic or a breach of other methods for prescribing within 24 hours as required by s. 458.3265(3) ~~458.3265(2)~~.

Section 12. Paragraphs (rr) and (ss) of subsection (1) of section 459.015, Florida Statutes, are amended to read:

459.015 Grounds for disciplinary action; action by the board and department.—

(1) The following acts constitute grounds for denial of a

license or disciplinary action, as specified in s. 456.072(2):

(rr) Applicable to a licensee who serves as the designated physician of a pain-management clinic as defined in s. 458.3265 or s. 459.0137:

1. Registering a pain-management clinic through misrepresentation or fraud;

2. Procuring, or attempting to procure, the registration of a pain-management clinic for any other person by making or causing to be made, any false representation;

3. Failing to comply with any requirement of chapter 499, the Florida Drug and Cosmetic Act; 21 U.S.C. ss. 301-392, the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq., the Drug Abuse Prevention and Control Act; or chapter 893, the Florida Comprehensive Drug Abuse Prevention and Control Act;

4. Being convicted or found guilty of, regardless of adjudication to, a felony or any other crime involving moral turpitude, fraud, dishonesty, or deceit in any jurisdiction of the courts of this state, of any other state, or of the United States;

5. Being convicted of, or disciplined by a regulatory agency of the Federal Government or a regulatory agency of another state for, any offense that would constitute a violation of this chapter;

6. Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any

jurisdiction of the courts of this state, of any other state, or of the United States which relates to the practice of, or the ability to practice, a licensed health care profession;

7. Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction of the courts of this state, of any other state, or of the United States which relates to health care fraud;

8. Dispensing any medicinal drug based upon a communication that purports to be a prescription as defined in s. 465.003(14) or s. 893.02 if the dispensing practitioner knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship; or

9. Failing to timely notify the board of the date of his or her termination from a pain-management clinic as required by s. 459.0137(3) ~~459.0137(2)~~.

(ss) Failing to timely notify the department of the theft of prescription blanks from a pain-management clinic or a breach of other methods for prescribing within 24 hours as required by s. 459.0137(3) ~~459.0137(2)~~.

Section 13. Paragraph (b) of subsection (4) of section 463.0055, Florida Statutes, is amended to read:

463.0055 Administration and prescription of ocular pharmaceutical agents.—

(4) A certified optometrist shall be issued a prescriber number by the board. Any prescription written by a certified

optometrist for an ocular pharmaceutical agent pursuant to this section shall have the prescriber number printed thereon. A certified optometrist may not administer or prescribe:

(b) A controlled substance for the treatment of chronic nonmalignant pain as defined in s. 456.44(1)(f) ~~456.44(1)(e)~~.

Section 14. Paragraph (a) of subsection (1) of section 782.04, Florida Statutes, is amended to read:

782.04 Murder.—

(1)(a) The unlawful killing of a human being:

1. When perpetrated from a premeditated design to effect the death of the person killed or any human being;

2. When committed by a person engaged in the perpetration of, or in the attempt to perpetrate, any:

a. Trafficking offense prohibited by s. 893.135(1),

b. Arson,

c. Sexual battery,

d. Robbery,

e. Burglary,

f. Kidnapping,

g. Escape,

h. Aggravated child abuse,

i. Aggravated abuse of an elderly person or disabled adult,

j. Aircraft piracy,

k. Unlawful throwing, placing, or discharging of a

destructive device or bomb,

l. Carjacking,

m. Home-invasion robbery,

n. Aggravated stalking,

o. Murder of another human being,

p. Resisting an officer with violence to his or her person,

q. Aggravated fleeing or eluding with serious bodily injury or death,

r. Felony that is an act of terrorism or is in furtherance of an act of terrorism, including a felony under s. 775.30, s. 775.32, s. 775.33, s. 775.34, or s. 775.35, or

s. Human trafficking; or

3. Which resulted from the unlawful distribution by a person 18 years of age or older of any of the following substances, or mixture containing any of the following substances, when such substance or mixture is proven to be the proximate cause of the death of the user:

a. A substance controlled under s. 893.03(1);

b. Cocaine, as described in s. 893.03(2)(a)4.;

c. Opium or any synthetic or natural salt, compound, derivative, or preparation of opium;

d. Methadone;

e. Alfentanil, as described in s. 893.03(2)(b)1.;

f. Carfentanil, as described in s. 893.03(2)(b)6.;

g. Fentanyl, as described in s. 893.03(2)(b)9.;

h. Sufentanil, as described in s. 893.03(2)(b)30. ~~893.03(2)(b)29.~~; or

i. A controlled substance analog, as described in s. 893.0356, of any substance specified in sub-subparagraphs a.-h.,

is murder in the first degree and constitutes a capital felony, punishable as provided in s. 775.082.

Section 15. Paragraphs (a), (c), (d), (e), (f), and (h) of subsection (1), subsection (2), paragraphs (a) and (b) of subsection (4), and subsection (5) of section 893.13, Florida Statutes, are amended to read:

893.13 Prohibited acts; penalties.—

(1)(a) Except as authorized by this chapter and chapter 499, a person may not sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance. A person who violates this provision with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. ~~(2)(c)4.~~ commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., ~~(2)(c)5.,~~ (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of the third degree, punishable as provided in s.

775.082, s. 775.083, or s. 775.084.

3. A controlled substance named or described in s. 893.03(5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) Except as authorized by this chapter, a person may not sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 1,000 feet of the real property comprising a child care facility as defined in s. 402.302 or a public or private elementary, middle, or secondary school between the hours of 6 a.m. and 12 midnight, or at any time in, on, or within 1,000 feet of real property comprising a state, county, or municipal park, a community center, or a publicly owned recreational facility. As used in this paragraph, the term "community center" means a facility operated by a nonprofit community-based organization for the provision of recreational, social, or educational services to the public. A person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. ~~(2)(c)4.~~ commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. The defendant must be sentenced to a minimum term of imprisonment of 3 calendar years unless the offense was committed within 1,000 feet of the real property comprising a child care facility as

defined in s. 402.302.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., ~~(2)(c)5.,~~ (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, must be sentenced to pay a $500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

This paragraph does not apply to a child care facility unless the owner or operator of the facility posts a sign that is not less than 2 square feet in size with a word legend identifying the facility as a licensed child care facility and that is posted on the property of the child care facility in a conspicuous place where the sign is reasonably visible to the public.

(d) Except as authorized by this chapter, a person may not sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 1,000 feet of the real property comprising a public or private college, university, or other postsecondary educational institution. A person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. ~~(2)(c)4.~~ commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., ~~(2)(c)5.,~~ (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, must be sentenced to pay a $500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

(e) Except as authorized by this chapter, a person may not sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance not authorized by law in, on, or within 1,000 feet of a physical place for worship at which a church or religious organization regularly conducts religious services or within 1,000 feet of a convenience business as defined in s. 812.171. A person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. ~~(2)(c)4.~~ commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., ~~(2)(c)5.,~~ (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, must be sentenced to pay a $500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

(f) Except as authorized by this chapter, a person may not sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 1,000 feet of the real property comprising a public housing facility at any time. As used in this section, the term "real property comprising a public housing facility" means real property, as defined in s. 421.03(12), of a public corporation created as a housing authority pursuant to part I of chapter 421. A person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. ~~(2)(c)4.~~ commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., ~~(2)(c)5.,~~ (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a

felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, must be sentenced to pay a $500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

(h) Except as authorized by this chapter, a person may not sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, a controlled substance in, on, or within 1,000 feet of the real property comprising an assisted living facility, as that term is used in chapter 429. A person who violates this paragraph with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. ~~(2)(c)4.~~ commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., ~~(2)(c)5.,~~ (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. Any other controlled substance, except as lawfully sold, manufactured, or delivered, must be sentenced to pay a $500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law.

(2)(a) Except as authorized by this chapter and chapter 499, a person may not purchase, or possess with intent to purchase, a controlled substance. A person who violates this provision with respect to:

1. A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. ~~(2)(c)4.~~ commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., ~~(2)(c)5.,~~ (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. A controlled substance named or described in s. 893.03(5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Except as provided in this chapter, a person may not purchase more than 10 grams of any substance named or described in s. 893.03(1)(a) or (1)(b), or any combination thereof, or any mixture containing any such substance. A person who violates this paragraph commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) Except as authorized by this chapter, a person 18 years of age or older may not deliver any controlled substance to a person younger than 18 years of age, use or hire a person

younger than 18 years of age as an agent or employee in the sale or delivery of such a substance, or use such person to assist in avoiding detection or apprehension for a violation of this chapter. A person who violates this subsection with respect to:

(a) A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. ~~(2)(c)4.~~ commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., ~~(2)(c)5.,~~ (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Imposition of sentence may not be suspended or deferred, and the person so convicted may not be placed on probation.

(5) A person may not bring into this state any controlled substance unless the possession of such controlled substance is authorized by this chapter or unless such person is licensed to do so by the appropriate federal agency. A person who violates this provision with respect to:

(a) A controlled substance named or described in s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. ~~(2)(c)4.~~ commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A controlled substance named or described in s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., ~~(2)(c)5.,~~ (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) A controlled substance named or described in s. 893.03(5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 16. Paragraphs (c) and (f) of subsection (1) of section 893.135, Florida Statutes, are amended to read:

893.135 Trafficking; mandatory sentences; suspension or reduction of sentences; conspiracy to engage in trafficking.—

(1) Except as authorized in this chapter or in chapter 499 and notwithstanding the provisions of s. 893.13:

(c)1. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of any morphine, opium, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 4 grams or more of any mixture containing any such substance, but less than 30 kilograms of such substance or mixture, commits a felony of the first degree, which felony shall be known as "trafficking in illegal drugs," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the

quantity involved:

a. Is 4 grams or more, but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years and shall be ordered to pay a fine of $50,000.

b. Is 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall be ordered to pay a fine of $100,000.

c. Is 28 grams or more, but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall be ordered to pay a fine of $500,000.

2. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 14 grams or more of hydrocodone, as described in s. 893.03(2)(a)1.k. ~~893.03(2)(a)1.j.~~, codeine, as described in s. 893.03(2)(a)1.g., or any salt thereof, or 14 grams or more of any mixture containing any such substance, commits a felony of the first degree, which felony shall be known as "trafficking in hydrocodone," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years and shall be ordered to pay a fine of

$50,000.

b. Is 28 grams or more, but less than 50 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years and shall be ordered to pay a fine of $100,000.

c. Is 50 grams or more, but less than 200 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall be ordered to pay a fine of $500,000.

d. Is 200 grams or more, but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall be ordered to pay a fine of $750,000.

3. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 7 grams or more of oxycodone, as described in s. 893.03(2)(a)1.q. ~~893.03(2)(a)1.o.~~, or any salt thereof, or 7 grams or more of any mixture containing any such substance, commits a felony of the first degree, which felony shall be known as "trafficking in oxycodone," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 7 grams or more, but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years and shall be ordered to pay a fine of $50,000.

b. Is 14 grams or more, but less than 25 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years and shall be ordered to pay a fine of $100,000.

c. Is 25 grams or more, but less than 100 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall be ordered to pay a fine of $500,000.

d. Is 100 grams or more, but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall be ordered to pay a fine of $750,000.

4.a. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of:

(I) Alfentanil, as described in s. 893.03(2)(b)1.;

(II) Carfentanil, as described in s. 893.03(2)(b)6.;

(III) Fentanyl, as described in s. 893.03(2)(b)9.;

(IV) Sufentanil, as described in s. 893.03(2)(b)30. ~~893.03(2)(b)29.~~;

(V) A fentanyl derivative, as described in s. 893.03(1)(a)62.;

(VI) A controlled substance analog, as described in s. 893.0356, of any substance described in sub-sub-subparagraphs

(I)-(V); or

(VII) A mixture containing any substance described in sub-sub-subparagraphs (I)-(VI),

commits a felony of the first degree, which felony shall be known as "trafficking in fentanyl," punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

b. If the quantity involved under sub-subparagraph a.:

(I) Is 4 grams or more, but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and shall be ordered to pay a fine of $50,000.

(II) Is 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years, and shall be ordered to pay a fine of $100,000.

(III) Is 28 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 years, and shall be ordered to pay a fine of $500,000.

5. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 30 kilograms or more of any morphine, opium, oxycodone, hydrocodone, codeine, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s.

893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or more of any mixture containing any such substance, commits the first degree felony of trafficking in illegal drugs. A person who has been convicted of the first degree felony of trafficking in illegal drugs under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except pardon or executive clemency or conditional medical release under s. 947.149. However, if the court determines that, in addition to committing any act specified in this paragraph:

a. The person intentionally killed an individual or counseled, commanded, induced, procured, or caused the intentional killing of an individual and such killing was the result; or

b. The person's conduct in committing that act led to a natural, though not inevitable, lethal result,

such person commits the capital felony of trafficking in illegal drugs, punishable as provided in ss. 775.082 and 921.142. A person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

6. A person who knowingly brings into this state 60 kilograms or more of any morphine, opium, oxycodone, hydrocodone, codeine, hydromorphone, or any salt, derivative,

isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 60 kilograms or more of any mixture containing any such substance, and who knows that the probable result of such importation would be the death of a person, commits capital importation of illegal drugs, a capital felony punishable as provided in ss. 775.082 and 921.142. A person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(f)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 14 grams or more of amphetamine, as described in s. 893.03(2)(c)2., or methamphetamine, as described in s. 893.03(2)(c)5. ~~893.03(2)(c)4.~~, or of any mixture containing amphetamine or methamphetamine, or phenylacetone, phenylacetic acid, pseudoephedrine, or ephedrine in conjunction with other chemicals and equipment utilized in the manufacture of amphetamine or methamphetamine, commits a felony of the first degree, which felony shall be known as "trafficking in amphetamine," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to

pay a fine of $50,000.

b. Is 28 grams or more, but less than 200 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of $100,000.

c. Is 200 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of $250,000.

2. Any person who knowingly manufactures or brings into this state 400 grams or more of amphetamine, as described in s. 893.03(2)(c)2., or methamphetamine, as described in s. 893.03(2)(c)5. ~~893.03(2)(c)4.~~, or of any mixture containing amphetamine or methamphetamine, or phenylacetone, phenylacetic acid, pseudoephedrine, or ephedrine in conjunction with other chemicals and equipment used in the manufacture of amphetamine or methamphetamine, and who knows that the probable result of such manufacture or importation would be the death of any person commits capital manufacture or importation of amphetamine, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

Section 17. Paragraphs (b), (c), and (e) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity

ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(b) LEVEL 2

Florida Statute	Felony Degree	Description
379.2431 (1)(e)3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
379.2431 (1)(e)4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
403.413(6)(c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
517.07(2)	3rd	Failure to furnish a prospectus meeting requirements.

590.28(1)	3rd	Intentional burning of lands.
784.05(3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
787.04(1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.
806.13(1)(b)3.	3rd	Criminal mischief; damage $1,000 or more to public communication or any other public service.
810.061(2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.
810.09(2)(e)	3rd	Trespassing on posted commercial horticulture property.

812.014(2)(c)1.	3rd	Grand theft, 3rd degree; $300 or more but less than $5,000.
812.014(2)(d)	3rd	Grand theft, 3rd degree; $100 or more but less than $300, taken from unenclosed curtilage of dwelling.
812.015(7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
817.234(1)(a)2.	3rd	False statement in support of insurance claim.
817.481(3)(a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over $300.
817.52(3)	3rd	Failure to redeliver hired vehicle.

817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
817.60(5)	3rd	Dealing in credit cards of another.
817.60(6)(a)	3rd	Forgery; purchase goods, services with false card.
817.61	3rd	Fraudulent use of credit cards over $100 or more within 6 months.
826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
831.01	3rd	Forgery.
831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
831.07	3rd	Forging bank bills, checks,

		drafts, or promissory notes.
831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.
832.05(3)(a)	3rd	Cashing or depositing item with intent to defraud.
843.08	3rd	False personation.
893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., ~~(2)(c)5.,~~ (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., <u>(2)(c)10.,</u> (3), or (4) drugs other than cannabis.

Florida Statute	Felony Degree	Description
893.147(2)	3rd	Manufacture or delivery of drug paraphernalia.

(c) LEVEL 3

Florida Statute	Felony Degree	Description
119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
316.066 (3)(b)-(d)	3rd	Unlawfully obtaining or using confidential crash reports.
316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification

			number plate removed.
2217			
	319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
2218			
	319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
2219			
	319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
2220			
	327.35(2)(b)	3rd	Felony BUI.
2221			
	328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
2222			
	328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
2223			

376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
379.2431 (1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
379.2431 (1)(e)6.	3rd	Possessing any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described in the Marine Turtle Protection Act.
379.2431 (1)(e)7.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.

400.9935(4)(a) or (b)	3rd	Operating a clinic, or offering services requiring licensure, without a license.
400.9935(4)(e)	3rd	Filing a false license application or other required information or failing to report information.
440.1051(3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
624.401(4)(a)	3rd	Transacting insurance without a certificate of authority.
624.401(4)(b)1.	3rd	Transacting insurance without a certificate of authority;

		premium collected less than $20,000.
626.902(1)(a) & (b)	3rd	Representing an unauthorized insurer.
697.08	3rd	Equity skimming.
790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.

812.014(2)(c)2.	3rd	Grand theft; $5,000 or more but less than $10,000.
812.0145(2)(c)	3rd	Theft from person 65 years of age or older; $300 or more but less than $10,000.
815.04(5)(b)	2nd	Computer offense devised to defraud or obtain property.
817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than $20,000.
817.233	3rd	Burning to defraud insurer.
817.234 (8)(b) & (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
817.234(11)(a)	3rd	Insurance fraud; property value less than $20,000.
817.236	3rd	Filing a false motor vehicle

			insurance application.
2247			
	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
2248			
	817.413(2)	3rd	Sale of used goods as new.
2249			
	828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
2250			
	831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
2251			
	831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.
2252			
	838.021(3)(b)	3rd	Threatens unlawful harm to public servant.

843.19	3rd	Injure, disable, or kill police dog or horse.
860.15(3)	3rd	Overcharging for repairs and parts.
870.01(2)	3rd	Riot; inciting or encouraging.
893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., ~~(2)(c)5.,~~ (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs).
893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., ~~(2)(c)5.,~~ (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of university.

893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., ~~(2)(c)5.,~~ (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of public housing facility.
893.13(4)(c)	3rd	Use or hire of minor; deliver to minor other controlled substances.
893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
893.13(7)(a)8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.

893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
893.13(8)(a)1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
893.13(8)(a)2.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.

893.13(8)(a)3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.
893.13(8)(a)4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
944.47 (1)(a)1. & 2.	3rd	Introduce contraband to correctional facility.
944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
985.721	3rd	Escapes from a juvenile facility (secure detention or

		residential commitment facility).
2273		
2274	(e) LEVEL 5	
2275		
Florida Statute	Felony Degree	Description
2276		
316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
2277		
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
2278		
316.80(2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
2279		
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
2280		
327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.

379.365(2)(c)1.	3rd	Violation of rules relating to: willful molestation of stone crab traps, lines, or buoys; illegal bartering, trading, or sale, conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply, aiding in supplying, or giving away stone crab trap tags or certificates; making, altering, forging, counterfeiting, or reproducing stone crab trap tags; possession of forged, counterfeit, or imitation stone crab trap tags; and engaging in the commercial harvest of stone crabs while license is suspended or revoked.
379.367(4)	3rd	Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.
379.407(5)(b)3.	3rd	Possession of 100 or more

			undersized spiny lobsters.
2284			
	381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
2285			
	440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
2286			
	440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
2287			
	440.381(2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
2288			
	624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected $20,000 or more but less than $100,000.
2289			
	626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.

790.01(2)	3rd	Carrying a concealed firearm.
790.162	2nd	Threat to throw or discharge destructive device.
790.163(1)	2nd	False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.
790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
796.05(1)	2nd	Live on earnings of a prostitute; 1st offense.
800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.

800.04(7)(b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
812.0145(2)(b)	2nd	Theft from person 65 years of age or older; $10,000 or more but less than $50,000.
812.015(8)	3rd	Retail theft; property stolen is valued at $300 or more and one or more specified acts.
812.019(1)	2nd	Stolen property; dealing in or trafficking in.
812.131(2)(b)	3rd	Robbery by sudden snatching.
812.16(2)	3rd	Owning, operating, or conducting a chop shop.

817.034(4)(a)2.	2nd	Communications fraud, value $20,000 to $50,000.
817.234(11)(b)	2nd	Insurance fraud; property value $20,000 or more but less than $100,000.
817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
817.568(2)(b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, $5,000 or more or use of personal identification information of 10 or more persons.
817.611(2)(a)	2nd	Traffic in or possess 5 to 14

			counterfeit credit cards or related documents.
2309			
	817.625(2)(b)	2nd	Second or subsequent fraudulent use of scanning device, skimming device, or reencoder.
2310			
	825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
2311			
	827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
2312			
	827.071(5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.
2313			
	839.13(2)(b)	2nd	Falsifying records of an individual in the care and

			custody of a state agency involving great bodily harm or death.
2314			
	843.01	3rd	Resist officer with violence to person; resist arrest with violence.
2315			
	847.0135(5)(b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
2316			
	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
2317			
	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
2318			
	874.05(1)(b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
2319			
	874.05(2)(a)	2nd	Encouraging or recruiting

			person under 13 years of age to join a criminal gang.
2320			
	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. ~~(2)(c)4.~~ drugs).
2321			
	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., ~~(2)(c)5.,~~ (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
2322			
	893.13(1)(d)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d),

			(2)(a), (2)(b), or (2)(c)5. ~~(2)(c)4.~~ drugs) within 1,000 feet of university.
2323			
	893.13(1)(e)2.	2nd	Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., ~~(2)(c)5.,~~ (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.
2324			
	893.13(1)(f)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)5. ~~(2)(c)4.~~ drugs) within 1,000 feet of public housing facility.
2325			
	893.13(4)(b)	2nd	Use or hire of minor; deliver

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

			to minor other controlled substance.
893.1351(1)		3rd	Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.

Section 18. Except as otherwise provided in this act, this act shall take effect July 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 353 Autonomous Vehicles
SPONSOR(S): Fischer, Brodeur and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	13 Y, 0 N	Roth	Vickers
2) Appropriations Committee		Cobb	Leznoff
3) Government Accountability Committee			

SUMMARY ANALYSIS

Florida law currently authorizes the operation of autonomous vehicles equipped with the defined autonomous technology on the public roads of this state by any person holding a valid driver license. The physical presence of an operator in the autonomous vehicle is not required under specified conditions. Autonomous vehicles registered in this state must continue to meet federal standards and regulations that apply to such vehicles.

The bill removes the requirement for a person to possess a valid driver license to operate an autonomous vehicle. Additionally, the bill provides that "autonomous technology" rather than a person is deemed the operator of an autonomous vehicle operating in autonomous mode.

The bill specifies that certain provisions of law do not apply to autonomous vehicles operating in autonomous mode if, in the event of a crash involving the vehicle, the vehicle owner, a person on behalf of the vehicle owner, or the autonomous vehicle, promptly contacts law enforcement to report the crash. Similarly, the bill specifies statutory provisions relating to unattended motor vehicles do not apply to autonomous vehicles operating in autonomous mode.

The bill provides that regardless of whether a human operator is physically present in the vehicle, the vehicle is required to have a system to safely alert a human operator physically present in the vehicle if an autonomous technology failure is detected while the autonomous technology is engaged. When the alert is given, the system must:

- If a human operator is physically present in the vehicle, require the human operator to take control of the autonomous vehicle; or
- If a human operator does not, or is not able to, take control of the autonomous vehicle, or if a human operator is not physically present in the vehicle, be capable of bringing the vehicle to a complete stop.

The bill creates an exemption to driver licensing requirements when an autonomous vehicle is operated in autonomous mode without a human operator physically present in the vehicle.

The bill does not appear to have a fiscal impact on state or local governments.

The bill has an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Vehicle Automation

While there are multiple definitions for levels of vehicle automation, the National Highway Traffic Safety Administration (NHTSA) has adopted the SAE International (SAE) definitions for levels of automation.[1] The SAE definitions[2] divide vehicles into levels based on "who does what, when." Generally:

- At SAE Level 0, the human driver does everything;
- At SAE Level 1, an automated system on the vehicle can sometimes assist the human driver conduct some parts of the driving task;
- At SAE Level 2, an automated system on the vehicle can actually conduct some parts of the driving task, while the human continues to monitor the driving environment and performs the rest of the driving task;
- At SAE Level 3, an automated system can both actually conduct some parts of the driving task and monitor the driving environment in some instances, but the human driver must be ready to take back control when the automated system requests;
- At SAE Level 4, an automated system can conduct the driving task and monitor the driving environment, and the human need not take back control, but the automated system can operate only in certain environments and under certain conditions; and
- At SAE Level 5, the automated system can perform all driving tasks, under all conditions that a human driver could perform them.

Federal Policy

In an announcement on January 14, 2016, the U.S. Department of Transportation (USDOT) outlined the following 2016 autonomous vehicle milestones: [3]

- NHTSA will work with industry and other stakeholders within six months of the announcement to develop guidance on the safe deployment and operation of autonomous vehicles, providing a common understanding of the performance characteristics necessary for fully autonomous vehicles and the testing and analysis methods needed to assess them;
- In the same six months, NHTSA will work with state partners, the American Association of Motor Vehicle Administrators, and other stakeholders to develop a model state policy on automated vehicles that offers a path to consistent national policy;
- Manufacturers are encouraged to submit rule interpretation requests where appropriate to help enable technology innovation;[4]
- When interpretation authority is not sufficient, manufacturers are encouraged to submit requests for use of the agency's exemption authority to allow the deployment of fully autonomous

---

[1] SAE International, *NHTSA Adopts SAE International Standard Defining Autonomous Vehicles; SAE Releases New Version for Free - J3016 states and defines six levels of automation in on-road motor vehicles* (October 3, 2016), available at https://www.sae.org/news/3550/ (last visited October 30, 2017).

[2] SAE International, Automated Driving: *Levels of Driving Automation are Defined in New Safe International Standard J3016* (2014), available at https://www.sae.org/misc/pdfs/automated_driving.pdf (last viewed October 30, 2017).

[3] National Highway Traffic Safety Administration, *Secretary Foxx Unveils President Obama's FY17 Budget Proposal of Nearly $4 Billion for Automated Vehicles and Announces DOT Initiatives to Accelerate Vehicle Safety Innovations* (January 14, 2016), available at https://www.nhtsa.gov/press-releases/secretary-foxx-unveils-president-obama%E2%80%99s-fy17-budget-proposal-nearly-4-billion (last visited October 30, 2017).

[4] As an example, the announcement links to a NHTSA response to a BMW request for an interpretation confirming that BMW's remote self-parking system meets the Federal Motor Vehicle Safety Standards. The response notes that NHTSA does not provide approvals of vehicles or vehicle equipment or make determinations as to whether a product conforms to the Federal Motor Vehicle Safety Standards (FMVSSs) outside of an agency compliance test. Instead, federal law requires manufacturers to self-certify that a product conforms to all applicable FMVSSs in effect on the date of product manufacture. *See* NHTSA response: http://isearch.nhtsa.gov/files/15-005347%20BMW%20Brake%20Transmission%20Shift%20Interlock%20v5.htm (last visited October 30, 2017).

vehicles.[5] Exemption authority allows NHTSA to enable the deployment of up to 2,500 vehicles for up to two years if the agency determines that an exemption would ease development of new safety features;[6] and
- USDOT and NHTSA will develop the new tools necessary for this new era of vehicle safety and mobility, and will consider seeking new authorities when they are necessary to ensure that fully autonomous vehicles, including those designed without a human driver in mind, are deployable in large numbers when they are demonstrated to provide an equivalent or higher level of safety than is now available.

In September 2016, USDOT issued its model state policy on autonomous vehicles, whose objective is to ensure the establishment of a consistent national framework rather than a patchwork of incompatible laws. The model state policy addresses issues regarding autonomous vehicle testing, what would be considered the "driver" of an autonomous vehicle, registration and titling of autonomous vehicles, law enforcement considerations, and liability and insurance issues.[7]

In September 2017, USDOT released new federal guidance for Automated Driving Systems in a document called *A Vision for Safety 2.0*. The new guidance builds on the previous policy and incorporates feedback received through public comments and Congressional hearings. The document paves the way for the safe deployment of advanced driver assistance technologies by providing voluntary guidance that encourages best practices and prioritizes safety. The document also provides technical assistance to states and best practices for policymakers. Specifically, the new voluntary guidance:
- Focuses on SAE International Levels of Automation 3-5;
- Clarifies the guidance process and that entities do not need to wait to test or deploy their Automated Driving Systems;
- Revises unnecessary design elements from the safety self-assessment;
- Aligns federal guidance with the latest developments and industry terminology; and
- Clarifies federal and state roles going forward.[8]

Current Florida Law

Definitions
Section 316.003(2), F.S., defines "autonomous vehicle" as any vehicle equipped with autonomous technology. That subsection also includes a definition of "autonomous technology," which means technology installed on a motor vehicle that has the capability to drive the vehicle on which the technology is installed without the active control or monitoring by a human operator.[9]

Operation
Section 316.85(1), F.S., provides for the operation of autonomous vehicles. A person possessing a valid driver license may operate an autonomous vehicle in autonomous mode on roads in this state if the vehicle is equipped with autonomous technology.

For purposes of Ch. 316, F.S., a person is deemed to be operating an autonomous vehicle operating in autonomous mode when he or she causes the vehicle's autonomous technology to engage. This is

[5] *See* 49 C.F.R. § 555.
[6] *See* 49 C.F.R. § 555.6.
[7] United States Department of Transportation, *Federal Automated Vehicles Policy* (September 2016), available at https://www.transportation.gov/sites/dot.gov/files/docs/AV%20policy%20guidance%20PDF.pdf (last visited October 30, 2017).
[8] United States Department of Transportation, *U.S. DOT Releases New Automated Driving Systems Guidance* (September 12, 2017), available at https://www.nhtsa.gov/press-releases/us-dot-releases-new-automated-driving-systems-guidance (last visited October 31, 2017).
[9] An autonomous vehicle excludes a motor vehicle enabled with active safety systems or driver assistance systems, including, without limitation, a system to provide electronic blind spot assistance, crash avoidance, emergency braking, parking assistance, adaptive cruise control, lane keep assistance, lane departure warning, or traffic jam and queuing assistant, unless any such system alone or in combination with other systems enables the vehicle on which the technology is installed to drive without the active control or monitoring by a human operator.

regardless of whether he or she is physically present in the vehicle while the vehicle is operating in autonomous mode.[10]

Exemption from Liability
Section 316.86, F.S., provides that the original manufacturer of a vehicle converted by a third party into an autonomous vehicle is not liable in, and has a defense to and may be dismissed from, any legal action brought against the original manufacturer by any person injured due to an alleged vehicle defect caused by the conversion of the vehicle, or by equipment installed by the converter, unless the alleged defect was present in the vehicle as originally manufactured.

Autonomous Vehicle Requirements
Section 319.145, F.S., requires that an autonomous vehicle registered in this state[11] must continue to meet federal standards and regulations for a motor vehicle. The vehicle must:

- Have a means to alert the operator of the vehicle if an autonomous technology failure (impacting the ability of the vehicle to safely operate autonomously) is detected while the vehicle is operating autonomously in order to indicate to the operator to take control of the vehicle or bring the vehicle to a complete stop;[12]
- Have a means, inside the vehicle, to visually indicate when the vehicle is operating in autonomous mode;[13] and
- Be capable of being operated in compliance with the applicable traffic and motor vehicle laws of this state.[14]

This section of law is expressly superseded when in conflict with NHTSA regulations.[15]

Driver Licensing
Section 322.03, F.S., generally requires drivers to be licensed and provides penalties for operating a motor vehicle without a valid driver license. However, this statute does not discuss autonomous vehicles operating in autonomous mode.

Proposed Changes

The bill amends s. 316.85, F.S., removing the requirement for a person to possess a valid driver license to operate an autonomous vehicle in autonomous mode.

Additionally, the bill amends s. 316.85, F.S., providing that "autonomous technology" rather than a person is deemed the operator of an autonomous vehicle operating in autonomous mode. The bill creates language in s. 316.85, F.S., providing that unless otherwise provided by law, autonomous technology is deemed the operator of an autonomous vehicle operating in autonomous mode and a licensed human operator is not required to operate an autonomous vehicle while in autonomous mode, except as provided in s. 319.145(1), F.S.[16]

The bill specifies the following provisions do not apply to autonomous vehicles operating in autonomous mode if, in the event of a crash involving the vehicle, the vehicle owner, a person on behalf of the vehicle owner, or the autonomous vehicle, promptly contacts law enforcement to report the crash:

- Duty to give information and render aid as provided in s. 316.062, F.S.;
- Duty upon damaging unattended vehicle or property as provided in s. 316.063, F.S.; and
- Crash reports as provided in s. 316.065, F.S.

---

[10] Section 316.85(2), F.S.
[11] Chapter 320, F.S., reflects no vehicle registration provision specific to autonomous vehicles.
[12] Section 319.145(1)(a), F.S.
[13] Section 319.145(1)(b), F.S.
[14] Section 319.145(1)(c), F.S.
[15] Section 319.145(2), F.S.
[16] Section 319.145(1), F.S., requires autonomous vehicles to meet certain standards.

The bill specifies statutory provisions relating to unattended motor vehicles in s. 316.1975, F.S., do not apply to autonomous vehicles operating in autonomous mode.

The bill amends s. 319.145, F.S., providing that regardless of whether a human operator is physically present in the vehicle, the vehicle is required to have a system to safely alert a human operator physically present in the vehicle if an autonomous technology failure is detected while the autonomous technology is engaged. When the alert is given, the system must:

- If a human operator is physically present in the vehicle, require the human operator to take control of the autonomous vehicle; or
- If a human operator does not, or is not able to, take control of the autonomous vehicle, or if a human operator is not physically present in the vehicle, be capable of bringing the vehicle to a complete stop.

The bill creates s. 322.015, F.S., creating an exemption to driver licensing requirements[17] when an autonomous vehicle is operated in autonomous mode without a human operator physically present in the vehicle.

The bill creates a definition of "human operator," in ss. 316.85, 319.145, and 322.015, F.S., defining it as "a natural person physically present in the vehicle with immediate access to controls for steering, braking, and acceleration."

B. SECTION DIRECTORY:

Section 1: Amends s. 316.85, F.S., relating to autonomous vehicles; operation.

Section 2: Amends s. 316.062, F.S., relating to duty to give information and render aid.

Section 3: Amends s. 316.063, F.S., relating to duty upon damaging unattended vehicle or other property.

Section 4: Amends s. 316.065, F.S., relating to crashes; reports; penalties.

Section 5: Amends s. 316.1975, F.S., relating to unattended motor vehicle.

Section 6: Amends s. 319.145, F.S., relating to autonomous vehicles.

Section 7: Creates s. 322.015, F.S., relating to exemptions.

Section 8: Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None

2. Expenditures:

   The bill does not appear to have a fiscal impact on state government.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

[17] Chapter 322, F.S.

1. Revenues:

   None.

2. Expenditures:

   The bill does not appear to have a fiscal impact on local governments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill could serve to stimulate private sector investment in Florida and incentivize autonomous vehicle testing and research in Florida.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to autonomous vehicles; amending s. 316.85, F.S.; authorizing a person to operate, or engage autonomous technology to operate, an autonomous vehicle in autonomous mode; providing that autonomous technology is deemed to be the operator of an autonomous vehicle operating in autonomous mode; providing construction; defining the term "human operator"; amending ss. 316.062, 316.063, 316.065, and 316.1975, F.S.; providing applicability; amending s. 319.145, F.S.; conforming provisions to changes made by the act; creating s. 322.015, F.S.; exempting autonomous vehicles from certain provisions under certain circumstances; defining the term "human operator"; providing an effective date.

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

Section 1. Section 316.85, Florida Statutes, is amended to read:

316.85 Autonomous vehicles; operation; compliance with traffic and motor vehicle laws.—

(1) If an autonomous vehicle is equipped with autonomous technology as defined in s. 316.003, a person ~~who possesses a valid driver license~~ may:

(a) Operate the ~~an~~ autonomous vehicle in autonomous mode on roads in this state; or

(b) Engage ~~if the vehicle is equipped with~~ autonomous technology to operate the autonomous vehicle in autonomous mode on roads in this state, regardless of whether a human person is physically present in the vehicle~~, as defined in s. 316.003~~.

(2)(a) For purposes of this chapter, unless the context otherwise requires, autonomous technology ~~a person~~ shall be deemed to be the operator of an autonomous vehicle operating in autonomous mode ~~when the person causes the vehicle's autonomous technology to engage~~, regardless of whether a human ~~the~~ person is physically present in the vehicle while the vehicle is operating in autonomous mode.

(b) Unless otherwise provided by law, an applicable traffic or motor vehicle law of this state does not:

1. Prohibit autonomous technology from being deemed the operator of an autonomous vehicle operating in autonomous mode.

2. Require a licensed human operator to operate an autonomous vehicle when in autonomous mode, except as provided in s. 319.145(1). For purposes of this subparagraph, the term "human operator" means a natural person physically present in the vehicle with immediate access to controls for steering, braking, and acceleration.

Section 2. Subsection (5) is added to section 316.062, Florida Statutes, to read:

316.062 Duty to give information and render aid.—

(5) This section does not apply to an autonomous vehicle operating in autonomous mode in the event of a crash involving the vehicle if the vehicle owner, or a person on behalf of the vehicle owner, promptly contacts a law enforcement agency to report the crash or if the autonomous vehicle has the capability of alerting a law enforcement agency to the crash.

Section 3. Subsection (4) is added to section 316.063, Florida Statutes, to read:

316.063 Duty upon damaging unattended vehicle or other property.—

(4) This section does not apply to an autonomous vehicle operating in autonomous mode in the event of a crash involving the vehicle if the vehicle owner, or a person on behalf of the vehicle owner, promptly contacts a law enforcement agency to report the crash or if the autonomous vehicle has the capability of alerting a law enforcement agency to the crash.

Section 4. Subsection (5) is added to section 316.065, Florida Statutes, to read:

316.065 Crashes; reports; penalties.—

(5) Subsection (1) does not apply to an autonomous vehicle operating in autonomous mode in the event of a crash involving the vehicle if the vehicle owner, or a person on behalf of the vehicle owner, promptly contacts a law enforcement agency to report the crash or if the autonomous vehicle has the capability

of alerting a law enforcement agency to the crash.

Section 5. Subsection (3) is added to section 316.1975, Florida Statutes, to read:

316.1975 Unattended motor vehicle.—

(3) This section does not apply to an autonomous vehicle operating in autonomous mode.

Section 6. Subsection (1) of section 319.145, Florida Statutes, is amended to read:

319.145 Autonomous vehicles.—

(1) An autonomous vehicle registered in this state must ~~continue to~~ meet applicable federal standards and regulations for such motor vehicle. Regardless of whether a human operator is physically present in the vehicle, the vehicle must:

(a) Have a system to safely alert a human ~~the~~ operator physically present in the vehicle if an autonomous technology failure is detected while the autonomous technology is engaged. When an alert is given, the system must:

1. If a human operator is physically present in the vehicle, require the human operator to take control of the autonomous vehicle; or

2. If a human ~~the~~ operator does not, or is not able to, take control of the autonomous vehicle or if a human operator is not physically present in the vehicle, be capable of bringing the vehicle to a complete stop.

(b) Have a means, inside the vehicle, to visually indicate

when the vehicle is operating in autonomous mode.

(c) Be capable of being operated in compliance with the applicable traffic and motor vehicle laws of this state.

For purposes of this subsection, the term "human operator" means a natural person physically present in the vehicle with immediate access to controls for steering, braking, and acceleration.

Section 7. Section 322.015, Florida Statutes, is created to read:

322.015 Exemption.—This chapter does not apply when an autonomous vehicle is operated in autonomous mode without a human operator physically present in the vehicle. For purposes of this section, the term "human operator" means a natural person physically present in the vehicle with immediate access to controls for steering, braking, and acceleration.

Section 8. This act shall take effect July 1, 2018.

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: Appropriations Committee
Representative Fischer offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsection (2) of section 316.003, Florida Statutes, is amended to read:

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

(2) AUTOMATED DRIVING SYSTEM.—The hardware and software that are collectively capable of performing the entire dynamic driving task of an autonomous vehicle on a sustained basis, regardless of whether it is limited to a specific operational

design domain, as specified in SAE International Standard J3016 (Revised September 2016). The term "autonomous vehicle" means

~~AUTONOMOUS VEHICLE.—~~any vehicle equipped with an automated driving system designed to function at a level of driving automation of Level 3, 4, or 5, as specified in SAE International Standard J3016 (Revised September 2016). The term "fully autonomous vehicle" means a vehicle equipped with an automated driving system designed to function at a level of driving automation of Level 4 or 5, as specified in SAE International Standard J3016 (Revised September 2016) ~~autonomous technology. The term "autonomous technology" means technology installed on a motor vehicle that has the capability to drive the vehicle on which the technology is installed without the active control or monitoring by a human operator. The term excludes a motor vehicle enabled with active safety systems or driver assistance systems, including, without limitation, a system to provide electronic blind spot assistance, crash avoidance, emergency braking, parking assistance, adaptive cruise control, lane keep assistance, lane departure warning, or traffic jam and queuing assistant, unless any such system alone or in combination with other systems enables the vehicle on which the technology is installed to drive without active control or monitoring by a human operator~~.

Section 2. Subsection (5) is added to section 316.062, Florida Statutes, to read:

316.062 Duty to give information and render aid.—

(5) This section does not apply to a fully autonomous vehicle operating in autonomous mode in the event of a crash involving the vehicle if the vehicle owner, or a person on behalf of the vehicle owner, promptly contacts a law enforcement agency to report the crash or if the autonomous vehicle has the capability of alerting a law enforcement agency to the crash.

Section 3. Subsection (4) is added to section 316.063, Florida Statutes, to read:

316.063 Duty upon damaging unattended vehicle or other property.—

(4) This section does not apply to a fully autonomous vehicle operating in autonomous mode in the event of a crash involving the vehicle if the vehicle owner, or a person on behalf of the vehicle owner, promptly contacts a law enforcement agency to report the crash or if the autonomous vehicle has the capability of alerting a law enforcement agency to the crash.

Section 4. Subsection (5) is added to section 316.065, Florida Statutes, to read:

316.065 Crashes; reports; penalties.—

(5) Subsection (1) does not apply to a fully autonomous vehicle operating in autonomous mode in the event of a crash involving the vehicle if the vehicle owner, or a person on behalf of the vehicle owner, promptly contacts a law enforcement

agency to report the crash or if the autonomous vehicle has the capability of alerting a law enforcement agency to the crash.

Section 5. Subsection (3) is added to section 316.1975, Florida Statutes, to read:

316.1975 Unattended motor vehicle.—

(3) This section does not apply to a fully autonomous vehicle operating in autonomous mode.

Section 6. Section 316.303, Florida Statutes, is amended to read:

316.303 Television receivers.—

(1) No motor vehicle may be operated on the highways of this state if the vehicle is actively displaying moving television broadcast or pre-recorded video entertainment content that is visible from the driver's seat while the vehicle is in motion, unless the vehicle is an ~~equipped with~~ autonomous vehicle ~~technology~~, as defined in s. 316.003(2), and is being operated in autonomous mode~~, as provided in s. 316.85(2)~~.

(2) This section does not prohibit the use of television-type receiving equipment used exclusively for safety or law enforcement purposes, provided such use is approved by the department.

(3) This section does not prohibit the use of an electronic display used in conjunction with a vehicle navigation system; an electronic display used by an operator of an autonomous ~~a~~ vehicle ~~equipped with autonomous technology~~, as

defined in s. 316.003(2) ~~s. 316.003~~; or an electronic display used by an operator of a vehicle equipped and operating with driver-assistive truck platooning technology, as defined in s. 316.003.

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

Section 7. Paragraph (b) of subsection (3) of section 316.305, Florida Statutes, is amended to read:

316.305 Wireless communications devices; prohibition.—

(3)

(b) Paragraph (a) does not apply to a motor vehicle operator who is:

1. Performing official duties as an operator of an authorized emergency vehicle as defined in s. 322.01, a law enforcement or fire service professional, or an emergency medical services professional.

2. Reporting an emergency or criminal or suspicious activity to law enforcement authorities.

3. Receiving messages that are:

a. Related to the operation or navigation of the motor vehicle;

b. Safety-related information, including emergency, traffic, or weather alerts;

c. Data used primarily by the motor vehicle; or

d. Radio broadcasts.

4. Using a device or system for navigation purposes.

5. Conducting wireless interpersonal communication that does not require manual entry of multiple letters, numbers, or symbols, except to activate, deactivate, or initiate a feature or function.

6. Conducting wireless interpersonal communication that does not require reading text messages, except to activate, deactivate, or initiate a feature or function.

7. Operating an autonomous vehicle, as defined in s. 316.003(2) ~~s. 316.003~~, in autonomous mode.

Section 8. Section 316.85, Florida Statutes, is amended to read:

316.85 Autonomous vehicles; operation; compliance with traffic and motor vehicle laws; testing; preemption.—

(1) Notwithstanding any other law, a licensed human operator is not required to operate a fully autonomous vehicle ~~A person who possesses a valid driver license may operate an autonomous vehicle in autonomous mode on roads in this state if the vehicle is equipped with autonomous technology~~, as defined in s. 316.003(2) ~~s. 316.003~~.

(2) A fully autonomous vehicle may operate in this state regardless of whether a licensed human operator is physically present in the vehicle.

(3)(a)~~(2)~~ For purposes of this chapter, unless the context otherwise requires, the automated driving system ~~a person~~ shall be deemed to be the operator of an autonomous vehicle operating in autonomous mode ~~when the person causes the vehicle's autonomous technology to engage~~, regardless of whether a ~~the~~ person is physically present in the vehicle while the vehicle is operating in autonomous mode.

(b) Unless otherwise provided by law, applicable traffic or motor vehicle laws of this state may not be construed to:

1. Prohibit the automated driving system from being deemed the operator of an autonomous vehicle operating in autonomous mode.

2. Require a licensed human operator to operate a fully autonomous vehicle.

(4) The Florida Turnpike Enterprise may fund, construct, and operate test facilities for the advancement of autonomous and connected innovative transportation technology solutions for the purposes of improving safety and decreasing congestion for the traveling public and to otherwise advance the objectives of the Florida Turnpike Enterprise as set forth in the Florida Transportation Code.

(5) It is the intent of the Legislature to provide for uniformity of laws governing autonomous vehicles throughout the state. A local government may not impose any tax, fee, or other requirement on autonomous technology or autonomous vehicles or

on a person who operates an autonomous vehicle, including a person who operates an autonomous vehicle for purposes of providing passenger transportation services.

Section 9. Section 319.145, Florida Statutes, is amended to read:

319.145 Autonomous vehicles.—

(1) An autonomous vehicle registered in this state must ~~continue to~~ meet all of the following requirements:

(a) Complies with applicable federal law and regulations ~~applicable federal standards and regulations for such motor vehicle~~.

(b) When required by federal law, has been certified in accordance with federal regulations in 49 C.F.R. Part 567 as being in compliance with applicable federal motor vehicle safety standards and bears the required certification label or labels including reference to any exemption granted under applicable federal law.

(c) Be capable of being operated in compliance with the applicable traffic and motor vehicle laws of this state, regardless of whether the vehicle is operating in autonomous mode.

(d) Have a means, inside the vehicle, to visually indicate when the vehicle is operating in autonomous mode.

(2) If the autonomous vehicle is not fully autonomous, the vehicle must~~:~~

~~(a)~~ have a system to safely alert a licensed human ~~the~~ operator physically present in the vehicle if an automated driving system ~~autonomous technology~~ failure is detected while the automated driving system ~~autonomous technology~~ is engaged. When an alert is given, the system must~~:~~

~~1.~~ require the licensed human operator to take control of the autonomous vehicle~~; or~~

~~2. If the operator does not, or is not able to, take control of the autonomous vehicle, be capable of bringing the vehicle to a complete stop.~~

~~(b) Have a means, inside the vehicle, to visually indicate when the vehicle is operating in autonomous mode.~~

~~(c) Be capable of being operated in compliance with the applicable traffic and motor vehicle laws of this state~~.

(3) If the autonomous vehicle is fully autonomous, the automated driving system must be capable of bringing the vehicle to a complete stop if a failure of the system occurs.

(4)~~(2)~~ Federal regulations promulgated by the National Highway Traffic Safety Administration shall supersede this section when found to be in conflict with this section.

Section 10. Section 322.015, Florida Statutes, is created to read:

322.015 Exemption.—This chapter does not apply when a fully autonomous vehicle is operated in autonomous mode without a licensed human operator physically present in the vehicle.

Section 11. Paragraph (c) of subsection (7) of section 339.175, Florida Statutes, is amended to read:

339.175 Metropolitan planning organization.—

(7) LONG-RANGE TRANSPORTATION PLAN.—Each M.P.O. must develop a long-range transportation plan that addresses at least a 20-year planning horizon. The plan must include both long-range and short-range strategies and must comply with all other state and federal requirements. The prevailing principles to be considered in the long-range transportation plan are: preserving the existing transportation infrastructure; enhancing Florida's economic competitiveness; and improving travel choices to ensure mobility. The long-range transportation plan must be consistent, to the maximum extent feasible, with future land use elements and the goals, objectives, and policies of the approved local government comprehensive plans of the units of local government located within the jurisdiction of the M.P.O. Each M.P.O. is encouraged to consider strategies that integrate transportation and land use planning to provide for sustainable development and reduce greenhouse gas emissions. The approved long-range transportation plan must be considered by local governments in the development of the transportation elements in local government comprehensive plans and any amendments thereto. The long-range transportation plan must, at a minimum:

(c) Assess capital investment and other measures necessary to:

1. Ensure the preservation of the existing metropolitan transportation system including requirements for the operation, resurfacing, restoration, and rehabilitation of major roadways and requirements for the operation, maintenance, modernization, and rehabilitation of public transportation facilities; and

2. Make the most efficient use of existing transportation facilities to relieve vehicular congestion, improve safety, and maximize the mobility of people and goods. Such efforts must include, but are not limited to, consideration of infrastructure and technological improvements necessary to accommodate advances in vehicle technology, such as automated driving systems ~~autonomous technology~~ and other developments.

In the development of its long-range transportation plan, each M.P.O. must provide the public, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with a reasonable opportunity to comment on the long-range transportation plan. The long-range transportation plan must be approved by the M.P.O.

Section 12. Paragraph (c) of subsection (3) and paragraph (a) of subsection (4) of section 339.64, Florida Statutes, are amended to read:

339.64 Strategic Intermodal System Plan.—

(3)

(c) The department shall coordinate with federal, regional, and local partners, as well as industry representatives, to consider infrastructure and technological improvements necessary to accommodate advances in vehicle technology, such as automated driving systems ~~autonomous technology~~ and other developments, in Strategic Intermodal System facilities.

(4) The Strategic Intermodal System Plan shall include the following:

(a) A needs assessment that must include, but is not limited to, consideration of infrastructure and technological improvements necessary to accommodate advances in vehicle technology, such as automated driving systems ~~autonomous technology~~ and other developments.

Section 13. Section 339.83, Florida Statutes, is amended to read:

339.83 Enrollment in federal pilot programs.—The Secretary of Transportation may enroll the State of Florida in any federal pilot program or project for the collection and study of data for the review of federal or state roadway safety, infrastructure sustainability, congestion mitigation, transportation system efficiency, automated driving systems ~~autonomous vehicle technology~~, or capacity challenges.

Section 14. Subsection (6) of section 627.0653, Florida Statutes, is amended to read:

627.0653 Insurance discounts for specified motor vehicle equipment.—

(6) The Office of Insurance Regulation may approve a premium discount to any rates, rating schedules, or rating manuals for the liability, personal injury protection, and collision coverages of a motor vehicle insurance policy filed with the office if the insured vehicle is equipped with an automated driving system ~~autonomous driving technology~~ or electronic vehicle collision avoidance technology that is factory installed or a retrofitted system and that complies with National Highway Traffic Safety Administration standards.

Section 15. This act shall take effect July 1, 2018.

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

Remove everything before the enacting clause and insert:

A bill to be entitled

An act relating to autonomous vehicles; amending s. 316.003, F.S.; revising and providing definitions; amending ss. 316.062, 316.063, 316.065, and 316.1975, F.S.; providing applicability; amending s. 316.303, F.S.; exempting an autonomous vehicle being operated in autonomous mode from a prohibition on the active

display of television or video; amending s. 316.305, F.S.; exempting a motor vehicle operator who is operating an autonomous vehicle from a prohibition on the use of wireless communications devices; amending s. 316.85, F.S.; providing that a licensed human operator is not required to operate a fully autonomous vehicle; authorizing a fully autonomous vehicle to operate in this state regardless of whether a licensed human operator is physically present in the vehicle; requiring the automated driving system to be deemed to be the operator of an autonomous vehicle operating in autonomous mode; providing construction; authorizing the Florida Turnpike Enterprise to fund and operate certain test facilities; preempting regulation of autonomous vehicles to the state; amending s. 319.145, F.S.; revising requirements for autonomous vehicles registered in this state; creating s. 322.015, F.S.; providing applicability; amending ss. 339.175, 339.64, 339.83, and 627.0653, F.S.; conforming provisions to changes made by the act; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 787 Specialty License Plates
SPONSOR(S): Transportation & Infrastructure Subcommittee; Ingram
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	13 Y, 0 N, As CS	Johnson	Vickers
2) Appropriations Committee		Cobb PC	Leznoff
3) Government Accountability Committee			

SUMMARY ANALYSIS

There are over 120 specialty license plates available to any owner or lessee of a motor vehicle who is willing pay the additional annual use fee for such plate. The collected fees are distributed by the Department of Highway Safety and Motor Vehicles (DHSMV) to statutorily designated organizations in support of a particular cause or charity.

The bill revises the design of the existing Lighthouse Association specialty license plate.

The bill creates the Ducks Unlimited and Dan Marino Campus specialty license plates with annual use fees of $25, and provides for the design of the plates and the use of their annual use fees.

According to DHSMV, the bill will have a negative, but insignificant fiscal impact to state expenditures.

The bill has an effective date of October 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The first Florida specialty license plates were enacted in 1986 and included the creation of the Challenger plate and ten Florida collegiate plates. Today, there are over 120 specialty license plates available to any owner or lessee of a motor vehicle who is willing to pay the additional use fee for the privilege, typically $25 annually. [1] The collected fees are distributed by the Department of Highway Safety and Motor Vehicles (DHSMV) to statutorily designated organizations in support of a particular cause or charity. Vehicles registered under the International Registration Plan, a commercial truck required to display two license plates, or truck tractors are not eligible for specialty license plates.[2]

Only the Legislature may create new specialty license plates. If a specialty license plate is created by law, the following requirements must then be met:

- Within 60 days, the organization must submit an art design, in a medium prescribed by DHSMV.
- Within 120 days, DHSMV must establish a method to issue a specialty license plate voucher to allow for the pre-sale of the specialty plate.
- Within 24 months after the voucher is established, the organization must obtain a minimum of 1,000 voucher sales before manufacturing may begin. If this requirement is not met, the plate is deauthorized and DHSMV must discontinue development of the plate and issuance of the vouchers.

DHSMV must discontinue the issuance of an approved specialty license plate if the number of valid specialty plate registrations falls below 1,000 plates for at least 12 consecutive months. A warning letter is mailed to the sponsoring organization following the first month in which the total number of valid specialty plate registrations falls below 1,000 plates (does not apply to collegiate license plates).[3]

Organizations receiving specialty license plate revenue must adhere to certain accountability requirements found in statute. These requirements include an annual attestation document affirming, under penalty of perjury, that funds received have been spent in accordance with applicable statutes.[4]

The annual use fees collected by an organization and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of specified United States Armed Forces and veterans-related specialty plates.[5]

Proposed Changes

Lighthouse Association

Created in 2008, the Florida Lighthouse Association specialty license plate currently features the term "Visit Our Lights" on the bottom of the plate. The annual use fee from the plate is distributed to the Florida Lighthouse Association, Inc., to fund the preservation, restoration, and protection of the state's 29 remaining lighthouses.

---

[1] Florida Department of Highway Safety and Motor Vehicles, *Specialty License Plates,* http://www.flhsmv.gov/specialtytags/slp.html (Last visited December 11, 2017).
[2] Section 320.08056(2), F.S.
[3] Section 320.08056 (8)(a), F.S.
[4] Section 320.08062, F. S.
[5] Section 320.08056(10)(a), F.S.

The bill amends s. 320.08058(65)(a), F.S., changing the wording on the bottom of the Lighthouse Association specialty license plate from "Visit Our Lights" to "SaveOurLighthouses.org."

Ducks Unlimited

The bill directs the DHSMV to develop a new specialty license plate designated as the Ducks Unlimited license plate, with an annual use fee of $25. The annual use fee is distributed to Ducks Unlimited, Inc., to be used as follows:

- Up to 5 percent may be used for administrative costs and marketing of the plate.
- A minimum of 95 percent must be used in Florida to support Ducks Unlimited's mission and efforts to conserve, restore, and manage Florida wetlands and associated habitats for the benefit of waterfowl, other wildlife, and people.

The bill provides that the word "Florida" appear at the top of the plate, and the words "Conserving Florida Wetlands" must appear at the bottom of the plate.

Ducks Unlimited is a waterfowl and wetlands conservation organization founded in 1937. The mission of Ducks Unlimited is habitat conservation.[6] Since 1985, Ducks Unlimited has worked to conserve more than 26,000 acres of Florida wetlands.[7] Ducks Unlimited, Inc., is an active foreign not-for-profit corporation registered with the Department of State.[8]

Dan Marino Campus

The bill directs the DHSMV to develop a Dan Marino Campus license plate, with an annual use fee of $25, bearing the colors and design approved by DHSMV. The word "Florida" must appear at the top of the plate and "Marino Campus" must appear at the bottom of the plate.

The annual use fees from the sale of the Dan Marino Campus license plate are distributed to the Dan Marino Foundation, Inc., which may use up to 10 percent of the fees for administrative costs and marketing the plate. The remainder of the fees are to be used by the Dan Marino Foundation, Inc. to assist Floridians with developmental disabilities in becoming employed, independent, and productive, to promote awareness of such services, and to promote and fund education scholarships related to such services.

The Dan Marino Foundation, Inc., is a nonprofit organization dedicated to improving the lives of persons with autism or other developmental disabilities.[9] Based in Fort Lauderdale, the Dan Marino Foundation, Inc. is an active corporation registered with the Department of State.[10]

B. SECTION DIRECTORY:

Section 1 amends s. 320.08056, F.S., relating to specialty license plates.

Section 2 amends s. 320.08058, F.S., relating to specialty license plates.

Section 3 provides an effective date of October 1, 2018.

---

[6] Ducks Unlimited, *About Ducks Unlimited*, http://www.ducks.org/about-du?poe=hometxt (last visited December 11, 2017)

[7] http://www.ducks.org/florida/florida-conservation-projects (Last visited December 11, 2017).

[8] http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=DUCKSUNLIMITED%20P212020&aggregateId=fornp-p21202-1a83e67d-0e9a-43ac-b701-01197e012c59&searchTerm=Ducks%20Unlimited&listNameOrder=DUCKSUNLIMITED%202454030 (Last visited December 11, 2017).

[9] Dan Marino Foundation Website. https://danmarinofoundation.org/ (Last visited December 11, 2017).

[10] http://search.sunbiz.org/Inquiry/CorporationSearch/SearchResultDetail?inquirytype=EntityName&directionType=Initial&searchNameOrder=DANMARINOFOUNDATION%20N480800&aggregateId=domnp-n48080-9460ccb4-0142-4ea7-a8d2-39d9c152a411&searchTerm=Dan%20Marino&listNameOrder=DANMARINO%20L940000001540 (Last visited December 11, 2017).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   DHSMV estimates that 384 hours, or approximately $13,800 in FTE and contracted resources will be required for programming and implementation of the specialty license plates. This cost can be absorbed within existing resources.[11]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Ducks Unlimited and the Dan Marino Foundation may see additional revenues associated with the sale of specialty license plates.

D. FISCAL COMMENTS:

Current law prohibits the redesign of a specialty license plate unless the inventory of the license plate has been depleted. However, the organization may purchase the remaining inventory of the specialty license plate from DHSMV at DHSMV's cost.[12] The Florida Lighthouse Association may be required to purchase the remaining inventory of its specialty license plate at DHSMV's cost prior to the redesign of the license plate.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

[11] DHSMV Analysis of HB 787 (2018). Copy on file with Transportation & Infrastructure Subcommittee.
[12] Section 320.08056(9), F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 9, 2018, the Transportation & Infrastructure Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment removed language from the Dan Marino Campus license plate providing that DHSMV retain all annual use fees from the sale of the plate until all startup costs for developing and issuing the plate have been recovered.

This analysis is drafted to the committee substitute as reported favorably by the Transportation & Infrastructure Subcommittee.

A bill to be entitled

An act relating to specialty license plates; amending ss. 320.08056 and 320.08058, F.S.; directing the Department of Highway Safety and Motor Vehicles to develop a Ducks Unlimited license plate and a Dan Marino Campus license plate; establishing annual use fees for the plates; providing for distribution and use of fees collected from the sale of the plates; revising the design of the Lighthouse Association license plate; providing an effective date.

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

Section 1. Paragraphs (ffff) and (gggg) are added to subsection (4) of section 320.08056, Florida Statutes, to read:

320.08056 Specialty license plates.—

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

(ffff) Ducks Unlimited license plate, $25.

(gggg) Dan Marino Campus license plate, $25.

Section 2. Paragraph (a) of subsection (65) of section 320.08058, Florida Statutes, is amended, and subsections (84) and (85) are added to that section, to read:

320.08058 Specialty license plates.—

(65) LIGHTHOUSE ASSOCIATION LICENSE PLATES.—

(a) The department shall develop a Lighthouse Association license plate as provided in this section. The word "Florida" must appear at the top of the plate, and the words "SaveOurLighthouses.org ~~Visit Our Lights~~" must appear at the bottom of the plate.

(84) DUCKS UNLIMITED LICENSE PLATES.—

(a) The department shall develop a Ducks Unlimited license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Conserving Florida Wetlands" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to Ducks Unlimited, Inc., a nonprofit corporation under s. 501(c)(3) of the Internal Revenue Code, to be used as follows:

1. Up to 5 percent may be used for administrative costs and marketing of the plate.

2. A minimum of 95 percent shall be used in this state to support the mission and efforts of Ducks Unlimited, Inc., to conserve, restore, and manage Florida wetlands and associated habitats for the benefit of waterfowl, other wildlife, and people.

(85) DAN MARINO CAMPUS LICENSE PLATES.—

(a) The department shall develop a Dan Marino Campus

license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Marino Campus" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the Dan Marino Foundation, a Florida nonprofit corporation, which may use up to 10 percent of such fees for administrative costs and marketing of the plate. The balance of the fees shall be used by the Dan Marino Foundation to assist Floridians with developmental disabilities in becoming employed, independent, and productive and to promote and fund education scholarships and awareness of these services.

Section 3. This act shall take effect October 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1189 Commercial Motor Vehicles
SPONSOR(S): Payne
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	10 Y, 0 N	Roth	Vickers
2) Appropriations Committee		Cobb	Leznoff
3) Government Accountability Committee			

SUMMARY ANALYSIS

This bill revises numerous provisions relating to commercial motor vehicles (CMV). In summary, the bill:

- Updates various CMV regulations to address compatibility concerns with federal law.
- Provides that certain CMV regulations do not apply to covered farm vehicles.
- Removes exceptions regarding the visibility of headlamps and turn signals by waste collection vehicles under specified circumstances.
- Provides an effective date for certain requirements relating to the use of electronic logging devices and hours of service support documents.
- Removes language requiring intrastate CMVs that are not carrying hazardous materials to comply with certain federal regulations providing maximum drive time requirements.
- Removes a duplicative $100 fine for falsifying hours of service records.
- Removes a provision requiring a motor carrier to maintain documentation of driving times if a driver is not released from duty within 12 hours after arriving for duty.
- Conforms to federal law by adding the terms "gross vehicle weight rating" and "gross combined vehicle weight rating" and removing the provision regarding transporting petroleum products.
- Requires charter buses operating interstate to register as apportionable vehicles.
- Provides a date by which a vehicle that has an apportioned registration will be issued a license plate and a cab card.
- Provides that an apportionable license plate will be replaced every five years, that the registration period is every 12 months, that the validation sticker is $28, and that the license plate may be replaced at no charge if it is damaged or worn.
- Provides that if an offender uses any type of device to defeat, block, disable, jam, or interfere with a GPS or similar system he or she commits grand theft in the first degree.

According to the Department of Highway Safety and Motor Vehicles (DHSMV), the bill will have a negative, but insignificant fiscal impact to state expenditures. Additionally, Classifying charter buses as apportionable vehicles may have an indeterminate impact to state revenues. See fiscal analysis for discussion.

The bill has an effective date of October 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Federal Motor Carrier Safety Administration Compatibility

Current Situation

The primary mission of the Federal Motor Carrier Safety Administration (FMCSA), within the United States Department of Transportation, is to prevent commercial motor vehicle-related fatalities and injuries.[1] In 2007, FMCSA presented to Florida a Motor Carrier Safety Assistance Program (MSCAP) review, which concluded that Florida Statutes have multiple compatibility concerns with federal commercial motor vehicle (CMV) safety regulations.[2]

Florida law defines "commercial motor vehicle" as any self-propelled or towed vehicle used on public highways in commerce to transport passengers or cargo, if such vehicle:

- Has a gross vehicle weight rating of 10,000 pounds or more;
- Is designed to transport more than 15 passengers, including the driver; or
- Is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act,[3] as amended.[4]

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

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

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

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

[1] Federal Motor Carrier Safety Administration, available at https://www.fmcsa.dot.gov/mission/about-us (last visited January 11, 2018).
[2] 2007 Florida State MSCAP Review (Copy on file with Transportation & Infrastructure Subcommittee).
[3] 49 U.S.C. ss. 1801 et seq.
[4] Section 316.003(12), F.S.

Part	Heading
397	Transportation of Hazardous Materials; Driving and Parking Rules

Federal regulations define "bus" as "any motor vehicle designed, constructed, and/or used for the transportation of passengers, including taxicabs."[5] In its 2007 review, FMCSA found that Florida's exemption for taxicabs was not compatible with federal regulations, which includes taxicabs in the definition of "bus."[6]

In its 2007 review, FMCSA also found that the statutory provision exempting trucks transporting solid waste and recyclable materials with specified mechanisms operating at speeds of less than 20 miles per hour from certain lighting provisions is incompatible with federal regulations,[7] which does not contain a similar exemption and that federal regulations expressly prohibit lamps and reflectors from being obscured.[8]

Federal regulations provide that with some exceptions, CMV drivers are required to be at least 21 years of age.[9] Federal regulations also provide maximum drive time requirements for property carrying vehicles.[10] Section 316.302(2)(a), F.S., provides that a person operating a CMV solely in intrastate commerce and not transporting any hazardous material in amounts that require placarding[11] are not required to comply with the above-referenced federal regulations.

Federal regulations provide hours of service rules for CMV drivers.[12] Florida law also provides that, except as provided in federal regulations, a person operating a CMV solely in intrastate commerce and not transporting any hazardous material may not drive:

- More than 12 hours following 10 consecutive hours off duty; or
- For any period after the end of the 16th hour after coming on duty following 10 consecutive hours off duty.[13]

These provisions do not apply to drivers of utility service vehicles.[14]

Section 316.302(2)(c), F.S., provides that, except as provided in the federal hours of service rules,[15] a person operating a CMV solely in intrastate commerce not transporting any hazardous material may not drive after having been on duty more than 70 hours in any period of seven consecutive days or more than 80 hours in any period of eight consecutive days if the motor carrier operates every day of the week. Upon request of the Department of Highway Safety and Motor Vehicles (DHSMV), motor carriers are required to furnish time records or other written verification so that DHSMV can determine compliance with the hours of service requirements. Falsification of time records is subject to a civil penalty not to exceed $100.

---

[5] 49 C.F.R. 390.5.
[6] *Supra* FN 2 at FL/FI-1.
[7] 49 C.F.R. 393 Subpart B.
[8] *Supra* FN 2 at FL/FI-7.
[9] 49 C.F.R. s. 391.11(b)(1).
[10] 49 C.F.R. s. 395.3(a) and (b).
[11] Placarding is required pursuant to 49 C.F.R. part 172. In this analysis, everywhere there is a discussion regarding the transportation of hazardous materials, it is assumed to be in amounts that require placarding.
[12] 49 C.F.R. s. 395.
[13] Section 316.302(2)(b), F.S.
[14] 49 C.F.R. s. 395.2, defines "utility service vehicle" as any commercial motor vehicle:
(1) Used in the furtherance of repairing, maintaining, or operating any structures or any other physical facilities necessary for the delivery of public utility services, including the furnishing of electric, gas, water, sanitary sewer, telephone, and television cable or community antenna service;
(2) While engaged in any activity necessarily related to the ultimate delivery of such public utility services to consumers, including travel or movement to, from, upon, or between activity sites (including occasional travel or movement outside the service area necessitated by any utility emergency as determined by the utility provider); and
(3) Except for any occasional emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the vehicle is owned, leased, or rented by the utility.
[15] 49 C.F.R. s. 395.1.

Section 316.302(2)(d), F.S., provides that a person operating a CMV solely in intrastate commerce not transporting any hazardous material within a 150 air-mile radius is not required to comply with federal provisions regarding a driver's record of duty status[16] if the requirements of certain federal rules regarding short-haul operations[17] are met. If a driver is not released from duty within 12 hours after the driver arrives for duty, the motor carrier must maintain documentation of the driver's driving times throughout the duty period.

Section 316.302(2)(f), F.S., provides that a person who is operating a CMV having a declared gross vehicle weight of less than 26,001 pounds operating solely in intrastate commerce and who is not transporting hazardous materials or who is transporting petroleum products[18] is exempt from s. 316.302(1), F.S. However, such person must comply with 49 C.F.R. parts 382, 392, and 393, and with 49 C.F.R. ss. 396.3(a)(1) and 396.9.

In its 2007 findings, FMCSA determined that s. 316.302(2)(f), F.S., is not compatible with federal regulations since it exempts vehicles transporting petroleum products and the state definition of petroleum products includes liquids that could require placarding, while federal regulations do not allow drivers of vehicles requiring placarding to be exempt from applicable requirements.[19]

Proposed Changes

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

The bill provides that s. 316.302(1), F.S., applies to CMVs except as it relates to covered farm vehicles.[20] It amends s. 316.302(1)(b), F.S., removing the exception for the federal definition of a bus and updating the date of adoption to December 31, 2017, which updates the state law referencing the applicable federal rules applicable to intrastate CMV vehicles. The bill amends s. 316.302(1)(d), F.S., removing exceptions regarding headlamps and turn signals by waste collection vehicles under specified circumstances.

The bill creates s. 316.302(1)(e), F.S., providing that the requirement for electronic logging devices and hours of service support documents do not go into effect for motor carriers engaged in intrastate commerce and not carrying hazardous materials until December 31, 2019.

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

---

[16] 49 C.F.R. 395.8.

[17] 49 C.F.R. s. 395.1(e)(1)(iii) and (v) are various rules relating to short-haul operations.

[18] Section 376.301(33), F.S., defines "petroleum product" as "any liquid fuel commodity made from petroleum, including, but not limited to, all forms of fuel known or sold as diesel fuel, kerosene, all forms of fuel known or sold as gasoline, and fuels containing a mixture of gasoline and other products, excluding liquefied petroleum gas and American Society for Testing and Materials grades no. 5 and no. 6 residual oils, bunker C residual oils, intermediate fuel oils used for marine bunkering with a viscosity of 30 and higher, asphalt oils, and petrochemical feedstocks."

[19] *Supra* FN 2 at FL/FI-3.

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

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

The bill amends s. 316.302(2)(c), F.S., by removing the $100 fine for falsifying hours of service records, because it is duplicative of the fine provided in the CMV penalties statute.[21]

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

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

Apportionable Vehicles

Current Situation

The International Registration Plan (IRP) is a registration reciprocity agreement among all of the states in the continental United States, the District of Columbia, and certain Canadian provinces.[22] The IRP allows a carrier to register once for all the jurisdictions, rather than dealing with each jurisdiction separately.[23] The IRP jurisdictions voted in favor of amending the definition of "apportionable vehicle," which went into effect on January 1, 2016. The amendment removed the exemption from IRP registration for charter buses. All charter buses operating interstate are now required to obtain IRP registration or purchase trip permits.[24]

According to DHSMV, Congress has incentivized states to participate in the IRP by requiring participation as a condition for being able to establish, maintain, or enforce their own CMV registration laws and regulations which limit, within their own state, the operation of CMVs registered in another state.[25]

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

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

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

Proposed Changes

The bill amends s. 320.01(24), F.S., removing the exception for charter buses from the definition of "apportionable vehicle." This will require charter buses operating interstate to register as apportionable vehicles. Pursuant to the revised IRP, all charter buses operating interstate are now required to obtain an IRP registration or purchase trip permits.

---

[21] Section 316.3025(3)(b)1., F.S.

[22] International Registration Plan, Inc., *About IRP*, available at http://www.irponline.org/?page=AboutIRP (last visited January 11, 2018).

[23] International Registration Plan, Inc., *IRP Registration*, available at http://www.irponline.org/?page=Registration (last visited January 11, 2018).

[24] Department of Highway Safety and Motor Vehicles, *2017 Legislative Concepts*, p. 2, available at https://www.flhsmv.gov/pdf/cabinetreports/legislative_concepts_2017.pdf (last visited January 11, 2018).

[25] Email from Department of Highway Safety and Motor Vehicles, February 16, 2017 (copy on file with Transportation & Infrastructure Subcommittee).

International Registration Plan

Current Situation
Florida law requires all apportionable vehicles domiciled in Florida to be registered in accordance with the IRP and to display required license plates.[26]

Section 320.06, F.S., provides for motor vehicle registration certificates, license plates, and validation stickers. Upon receiving an initial application for registration and payment of the appropriate license tax[27] and other fees, DHSMV assigns the motor vehicle a registration license number and issues to the owner or lessee a certificate of registration and one license plate, unless two plates are required,[28] for each vehicle registered.[29]

Most license plates are issued for a 10-year period. Upon renewal, the license plate is replaced. However, a vehicle with an apportioned[30] registration is issued an annual license plate and a cab card denoting the declared gross vehicle weight for each apportioned jurisdiction in which the vehicle is authorized to operate.[31]

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

Proposed Changes
The bill amends s. 320.06(1)(b), F.S., providing that before October 1, 2019, a vehicle that has an apportioned registration will be issued a license plate and a cab card denoting the declared gross vehicle weight for each apportioned jurisdiction in which the vehicle is authorized to operate.

Additionally, it provides that beginning October 1, 2019, a vehicle registered in accordance with the IRP, will be issued a license plate for a five-year period, an annual cab card denoting the declared gross vehicle weight, and an annual validation sticker showing the month and year of expiration. The license plate and validation sticker will be issued based on the applicant's appropriate renewal period. The registration period for an apportionable vehicle is for 12 months and the validation sticker is good for 12 months. The annual fee for an original and renewed validation sticker is $28, which is deposited into the Highway Safety Operating Trust Fund. If the license plate is damaged or worn it may be replaced at no charge by applying to DHSMV and surrendering the current license plate.

The bill amends s. 320.0607(5), F.S., providing that beginning October 1, 2019, the $28 fee for a replacement license plate does not apply to vehicles registered under the IRP and issued an apportionable license plate.

Cargo Theft

Current Situation
Section 812.014(2)(a), F.S., provides penalties associated with commercial vehicle theft of cargo. An offender commits grand theft in the first degree[32] if:

- The property stolen is valued at $100,000 or more or is a semitrailer that was deployed by a law enforcement officer; or

---

[26] Section 320.0715(1), F.S.
[27] License taxes are provided for in s. 320.08, F.S.
[28] Section 320.0706, F.S., requires the display of license plates on the front and the rear of some trucks.
[29] Section 320.06(1)(a), F.S.
[30] Section 320.06(3)(a), F.S., requires apportioned licenses plate to have the word "apportioned" at the bottom of the license plate.
[31] Section 320.06(1)(b)1., F.S.
[32] Sections 775.082, 775.083, and 775.084, F.S, state that grand theft in the first degree is punishable as a felony of the first degree, which is a term of imprisonment not to exceed 30 years or a fine not to exceed $10,000. Additionally, the person may be subject to enhanced penalties for certain habitual felony offenders

- Is cargo valued at $50,000 or more that has entered the stream of interstate or intrastate commerce from the shipper's loading platform to the consignee's receiving dock; or
- If the offender commits any grand theft and:
  - In the course of committing the offense the offender uses a motor vehicle as an instrumentality, other than merely as a getaway vehicle, to assist in committing the offense and thereby damages the real property of another; or
  - In the course of committing the offense the offender causes damage to the real or personal property of another in excess of $1,000.

The Florida Highway Patrol's (FHP) Bureau of Criminal Investigations and Intelligence within DHSMV investigates commercial vehicle and cargo theft and other forms of criminal activity related to DHSMV and FHP. The Bureau works with local, state, and federal partners in an effort to combat such activity.[33]

Global positioning system (GPS) jammers are devices using radio frequency transmitters in order to intentionally block, jam, or interfere with a GPS. It is illegal to market, sell, or use GPS jammers in the United States.[34] Such devices have been linked to cargo thefts throughout the United States.[35]

Proposed Changes

The bill provides that if in the course of committing an offense of theft an offender uses any type of device to defeat, block, disable, jam, or interfere with a GPS or similar system designed to identify the location of the cargo of the vehicle or trailer carrying the cargo, he or she commits grand theft in the first degree.

B. SECTION DIRECTORY:

Section 1: Amends s. 316.302, F.S., relating to commercial motor vehicles; safety regulations; transporters and shippers of hazardous materials; enforcement.

Section 2: Amends s. 320.01, F.S., relating to definitions, general.

Section 3: Amends s. 320.06, F.S., relating to registration certificates, license plates, and validation stickers generally.

Section 4: Amends s. 320.0607, F.S., relating to replacement license plates, validation decal, or mobile home sticker.

Section 5: Amends s. 812.014, F.S., relating to theft.

Section 6: Provides an effective date of October 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

---

[33] Department of Highway Safety and Motor Vehicles, *Bureau of Criminal Investigation and Intelligence (BCII)*, available at https://www.flhsmv.gov/florida-highway-patrol/specialized-areas/bureau-of-criminal-investigations-and-intelligence-bcii/ (last visited January 11, 2018).

[34] GPS.gov, *Information About GPS Jamming*, available at http://www.gps.gov/spectrum/jamming/ (last visited January 11, 2018).

[35] Federal Bureau of Investigation, Private Industry Notification 141002-001, *Cargo Thieves use GPS Jammers to Mask GPS Trackers* (Oct. 2, 2014), available at https://info.publicintelligence.net/FBI-CargoThievesGPS.pdf (last visited January 11, 2018).

Because the details of these transactions cannot be quantified at this time, the revenue impact to the Highway Safety Operating Trust Fund is indeterminate.[36]

2. Expenditures:

DHSMV estimates that 684 hours, or approximately $35,940 in FTE and contracted resources will be required for programming and implementation of the specialty license plate. This cost can be absorbed within existing resources.[37].

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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

Classifying charter buses as apportionable vehicles may change the registration fees for these vehicles; however, the actual impact for any specific vehicle will be based on motor vehicle details, jurisdictions where the vehicle travels, and the mileage percentages in each of the jurisdictions.[38]

Persons who use any type of device to defeat, block, disable, jam, or interfere with a GPS device in the course of committing an offense of theft will be subject to enhanced penalties. This same provision may serve to deter theft and enhance productivity for the CMV industry.

D. FISCAL COMMENTS:

According to DHSMV, failure to comply with FMCSA compatibility requirements could lead to a reduction of up to 4 percent of the state's Federal-aid highway funds for the first year of noncompliance and up to 8 percent of loss of Federal-aid highway funds for second or subsequent years of noncompliance. Additionally, noncompliance could lead to the loss in the awarding of potential future highway grants. [39] The bill updates these requirements to address these concerns.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have

[36] Email from Department of Highway Safety and Motor Vehicles, February 16, 2017 (copy on file with Transportation & Infrastructure Subcommittee).
[37] Email from DHSMV January 19, 2018. Copy on file with Transportation & Infrastructure Subcommittee.
[38] Email from Department of Highway Safety and Motor Vehicles, February 16, 2017 (copy on file with Transportation & Infrastructure Subcommittee).
[39] Email from Department of Highway Safety and Motor Vehicles, February 17, 2017 (copy on file with Transportation & Highway Safety Subcommittee).

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to commercial motor vehicles; amending s. 316.302, F.S.; revising regulations to which owners and drivers of commercial motor vehicles are subject; delaying the requirement for electronic logging devices and support documents for certain intrastate motor carriers; deleting a limitation on a civil penalty for falsification of certain time records; deleting a requirement that a motor carrier maintain certain documentation of driving times; providing an exemption from specified provisions for a person who operates a commercial motor vehicle with a certain gross vehicle weight, gross vehicle weight rating, and gross combined weight rating; deleting the exemption from such provisions for a person transporting petroleum products; amending s. 320.01, F.S.; revising the definition of the term "apportionable vehicle"; amending s. 320.06, F.S.; providing for future repeal of issuance of a certain annual license plate and cab card to a vehicle that has an apportioned registration; revising information required to appear on the cab card; providing requirements for license plates, cab cards, and validation stickers for vehicles registered in accordance with the International Registration Plan; authorizing a damaged

or worn license plate to be replaced at no charge under certain circumstances; amending s. 320.0607, F.S.; providing an exemption from a certain fee for vehicles registered under the International Registration Plan; amending s. 812.014, F.S.; providing a criminal penalty for an offender committing grand theft who uses a device to interfere with a global positioning or similar system; providing an effective date.

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

Section 1. Subsection (1) and paragraphs (a), (c), (d), and (f) of subsection (2) of section 316.302, Florida Statutes, are amended to read:

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

(1) Except as otherwise provided in subsection (3):

(a) All owners and drivers of commercial motor vehicles that are operated on the public highways of this state while engaged in interstate commerce are subject to the rules and regulations contained in 49 C.F.R. parts 382, 385, and 390-397.

(b) Except as otherwise provided in this section, all owners or drivers of commercial motor vehicles that are engaged in intrastate commerce are subject to the rules and regulations

contained in 49 C.F.R. parts 382, 383, 385, and 390-397~~, with the exception of 49 C.F.R. s. 390.5 as it relates to the definition of bus,~~ as such rules and regulations existed on December 31, 2017 ~~2012~~.

(c) The emergency exceptions provided by 49 C.F.R. s. 392.82 also apply to communications by utility drivers and utility contractor drivers during a Level 1 activation of the State Emergency Operations Center, as provided in the Florida Comprehensive Emergency Management plan, or during a state of emergency declared by executive order or proclamation of the Governor.

(d) Except as provided in ~~s. 316.215(5), and except as provided in~~ s. 316.228 for rear overhang lighting and flagging requirements for intrastate operations, the requirements of this section supersede all other safety requirements of this chapter for commercial motor vehicles.

(e) For motor carriers engaged in intrastate commerce who are not carrying hazardous materials in amounts that require placards, the requirement for electronic logging devices and hours of service support documents shall take effect December 31, 2019.

(2)(a) A person who operates a commercial motor vehicle solely in intrastate commerce not transporting any hazardous material in amounts that require placarding pursuant to 49 C.F.R. part 172 need not comply with 49 C.F.R. ss. 391.11(b)(1)

and 395.3 ~~395.3(a) and (b)~~.

(c) Except as provided in 49 C.F.R. s. 395.1, a person who operates a commercial motor vehicle solely in intrastate commerce not transporting any hazardous material in amounts that require placarding pursuant to 49 C.F.R. part 172 may not drive after having been on duty more than 70 hours in any period of 7 consecutive days or more than 80 hours in any period of 8 consecutive days if the motor carrier operates every day of the week. Thirty-four consecutive hours off duty shall constitute the end of any such period of 7 or 8 consecutive days. This weekly limit does not apply to a person who operates a commercial motor vehicle solely within this state while transporting, during harvest periods, any unprocessed agricultural products or unprocessed food or fiber that is subject to seasonal harvesting from place of harvest to the first place of processing or storage or from place of harvest directly to market or while transporting livestock, livestock feed, or farm supplies directly related to growing or harvesting agricultural products. Upon request of the Department of Highway Safety and Motor Vehicles, motor carriers shall furnish time records or other written verification to that department so that the Department of Highway Safety and Motor Vehicles can determine compliance with this subsection. These time records must be furnished to the Department of Highway Safety and Motor Vehicles within 2 days after receipt of that department's

request. Falsification of such information is subject to a civil penalty ~~not to exceed $100~~. ~~The provisions of~~ This paragraph does ~~do~~ not apply to operators of farm labor vehicles operated during a state of emergency declared by the Governor or operated pursuant to s. 570.07(21)~~,~~ and does ~~do~~ not apply to drivers of utility service vehicles as defined in 49 C.F.R. s. 395.2.

(d) A person who operates a commercial motor vehicle solely in intrastate commerce not transporting any hazardous material in amounts that require placarding pursuant to 49 C.F.R. part 172 within a 150 air-mile radius of the location where the vehicle is based need not comply with 49 C.F.R. s. 395.8~~,~~ if the requirements of 49 C.F.R. s. 395.1(e)(1)(ii), (iii)(A) and (C), ~~395.1(e)(1)(iii)~~ and (v) are met. ~~If a driver is not released from duty within 12 hours after the driver arrives for duty, the motor carrier must maintain documentation of the driver's driving times throughout the duty period.~~

(f) A person who operates a commercial motor vehicle having a ~~declared~~ gross vehicle weight, gross vehicle weight rating, and gross combined weight rating of less than 26,001 pounds solely in intrastate commerce and who is not transporting hazardous materials in amounts that require placarding pursuant to 49 C.F.R. part 172~~, or who is transporting petroleum products as defined in s. 376.301,~~ is exempt from subsection (1). However, such person must comply with 49 C.F.R. parts 382, 392, and 393~~,~~ and with 49 C.F.R. ss. 396.3(a)(1) and 396.9.

Section 2. Subsection (24) 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:

(24) "Apportionable vehicle" means any vehicle, except recreational vehicles, vehicles displaying restricted plates, city pickup and delivery vehicles, ~~buses used in transportation of chartered parties,~~ and government-owned vehicles, which is used or intended for use in two or more member jurisdictions that allocate or proportionally register vehicles and which is used for the transportation of persons for hire or is designed, used, or maintained primarily for the transportation of property and:

(a) Is a power unit having a gross vehicle weight in excess of 26,000 pounds;

(b) Is a power unit having three or more axles, regardless of weight; or

(c) Is used in combination, when the weight of such combination exceeds 26,000 pounds gross vehicle weight.

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

Section 3. Paragraph (b) of subsection (1) of section 320.06, Florida Statutes, is amended to read:

320.06 Registration certificates, license plates, and validation stickers generally.—

(1)

(b)1. Registration license plates bearing a graphic symbol and the alphanumeric system of identification shall be issued for a 10-year period. At the end of the 10-year period, upon renewal, the plate shall be replaced. The department shall extend the scheduled license plate replacement date from a 6-year period to a 10-year period. The fee for such replacement is $28, $2.80 of which shall be paid each year before the plate is replaced, to be credited toward the next $28 replacement fee. The fees shall be deposited into the Highway Safety Operating Trust Fund. A credit or refund may not be given for any prior years' payments of the prorated replacement fee if the plate is replaced or surrendered before the end of the 10-year period, except that a credit may be given if a registrant is required by the department to replace a license plate under s. 320.08056(8)(a). With each license plate, a validation sticker shall be issued showing the owner's birth month, license plate number, and the year of expiration or the appropriate renewal period if the owner is not a natural person. The validation sticker shall be placed on the upper right corner of the license plate. The license plate and validation sticker shall be issued based on the applicant's appropriate renewal period. The registration period is 12 months, the extended registration

period is 24 months, and all expirations occur based on the applicant's appropriate registration period.

2. Before October 1, 2019, a vehicle that has an apportioned registration shall be issued an annual license plate and a cab card denoting ~~that denote~~ the declared gross vehicle weight ~~for each apportioned jurisdiction in which the vehicle is authorized to operate~~.

3. Beginning October 1, 2019, a vehicle registered in accordance with the International Registration Plan shall be issued a license plate for a 5-year period, an annual cab card denoting the declared gross vehicle weight, and an annual validation sticker showing the month and year of expiration. The validation sticker shall be placed in the center of the license plate. The license plate and validation sticker shall be issued based on the applicant's appropriate renewal period. The fee for the initial validation sticker and any renewed validation sticker is $28. This fee shall be deposited into the Highway Safety Operating Trust Fund. A damaged or worn license plate may be replaced at no charge by applying to the department and surrendering the current license plate.

4.~~2.~~ In order to retain the efficient administration of the taxes and fees imposed by this chapter, the 80-cent fee increase in the replacement fee imposed by chapter 2009-71, Laws of Florida, is negated as provided in s. 320.0804.

Section 4. Subsection (5) of section 320.0607, Florida Statutes, is amended to read:

320.0607 Replacement license plates, validation decal, or mobile home sticker.—

(5) Upon the issuance of an original license plate, the applicant shall pay a fee of $28 to be deposited in the Highway Safety Operating Trust Fund. Beginning October 1, 2019, this subsection does not apply to a vehicle registered under the International Registration Plan.

Section 5. Paragraph (a) of subsection (2) of section 812.014, Florida Statutes, is amended to read:

812.014 Theft.—

(2)(a)1. If the property stolen is valued at $100,000 or more or is a semitrailer that was deployed by a law enforcement officer; or

2. If the property stolen is cargo valued at $50,000 or more that has entered the stream of interstate or intrastate commerce from the shipper's loading platform to the consignee's receiving dock; or

3. If the offender commits any grand theft and:

a. In the course of committing the offense the offender uses a motor vehicle as an instrumentality, other than merely as a getaway vehicle, to assist in committing the offense and thereby damages the real property of another; ~~or~~

b. In the course of committing the offense the offender

causes damage to the real or personal property of another in excess of $1,000; or

c. In the course of committing the offense the offender uses any type of device to defeat, block, disable, jam, or interfere with a global positioning system or similar system designed to identify the location of the cargo or the vehicle or trailer carrying the cargo,

the offender commits grand theft in the first degree, punishable as a felony of the first degree, as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 6. This act shall take effect October 1, 2018.

HOUSE OF REPRESENTATIVES TRUST FUND RE-CREATION STAFF ANALYSIS

BILL #: HB 7033 PCB TTA 18-01 Trust Funds/Re-creation/Land Acquisition Trust Fund/DOS
SPONSOR(S): Transportation & Tourism Appropriations Subcommittee, Ingram
TIED BILLS: **IDEN./SIM. BILLS:** SB 1130

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Transportation & Tourism Appropriations Subcommittee	12 Y, 0 N	Cobb	Davis
1) Appropriations Committee		Cobb	Leznoff

I. SUMMARY

Section 19(f), Article III of the State Constitution requires that all newly created trust funds terminate not more than four years after the initial creation unless re-created. This provision requires that a trust fund be created or re-created by a three-fifths vote of the membership in each house of the Legislature in a separate bill for the sole purpose of created or recreating that trust fund. The Land Acquisition Trust Fund was created in the Department of State effective July 1, 2015, and is scheduled to terminate on July 1, 2019.

This bill re-creates the Land Acquisition Trust Fund in the Department of State effective July 1, 2018, provided that it is enacted by three-fifths of the membership of both houses of the Legislature.

This bill has no fiscal impact.

II. SUBSTANTIVE ANALYSIS

A. PRESENT SITUATION:

1. MAJOR STATUTES THAT CONTROL THE TRUST FUND:

   Section 19(f), Article III of the State Constitution requires that all newly created trust funds terminate not more than four years after the initial creation unless re-created. This provision requires that a trust fund be created or re-created by a three-fifths vote of the membership in each house of the Legislature in a separate bill for the sole purpose of created or recreating that trust fund. The Land Acquisition Trust Fund was created in the Department of State effective July 1, 2015, by chapter 2015-231, Laws of Florida, in section 20.106, Florida Statutes and is scheduled to terminate on July 1, 2019.

2. BRIEF DESCRIPTION OF THE FUND'S USES OR PURPOSES:

   The trust fund is established for the purposes set forth in s. 28, Art. X of the State Constitution, specifically those related to historic and geologic sites.

3. MAJOR SOURCES OF REVENUE FOR THE FUND:

   The trust fund is established for use as a depository for funds received from the Land Acquisition Trust Fund within the Department of Environmental Protection.

4. TOTAL PROJECTED RECEIPTS INTO THE FUND AND CURRENT YEAR APPROPRIATONS FROM THE FUND:

   The total projected receipts into this fund for the current year are $10,603,284 and current year appropriations from the fund are $9,383,940.

B. EFFECT OF PROPOSED CHANGES:

The bill re-creates the trust fund without modification.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

This legislation has no fiscal impact on state agencies or state funds, on local governments as a whole or on the private sector. It simply re-creates, without modification, an existing state trust fund and continues the current use of the fund.

IV. COMMENTS

V. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to trust funds; re-creating the Land Acquisition Trust Fund within the Department of State without modification; amending s. 20.106, F.S.; abrogating provisions relating to the termination of the trust fund, to conform; providing an effective date.

WHEREAS, the Legislature wishes to extend the life of the Land Acquisition Trust Fund within the Department of State, which is otherwise scheduled to be terminated pursuant to constitutional mandate, and

WHEREAS, the Legislature has reviewed the trust fund before its scheduled termination date and has found that it continues to meet an important public purpose, and

WHEREAS, the Legislature has found that existing public policy concerning the trust fund sets adequate parameters for its use, NOW, THEREFORE,

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

Section 1. The Land Acquisition Trust Fund within the Department of State, FLAIR number 45-2-423, which is to be terminated pursuant to Section 19(f), Article III of the State Constitution on July 1, 2019, is re-created.

Section 2. Subsection (5) of section 20.106, Florida Statutes, is amended to read:

20.106 Land Acquisition Trust Fund within Department of State.—

~~(5) In accordance with s. 19(f)(2), Art. III of the State Constitution, the Land Acquisition Trust Fund within the Department of State shall, unless terminated sooner, be terminated on July 1, 2019. Before its scheduled termination, the trust fund shall be reviewed as provided in s. 215.3206.~~

Section 3. This act shall take effect July 1, 2018, but it shall not take effect unless it is enacted by a three-fifths vote of the membership of each house of the Legislature.