

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Brannan offered the following:

**Amendment (with title amendment)**

Remove lines 111-145 and insert:

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

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

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

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

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

24 (2) Department of Highway Safety and Motor Vehicles  
25 ~~Transportation~~ personnel may conduct compliance reviews for the  
26 purpose of determining compliance with this section. A civil  
27 penalty ~~not to exceed \$5,000 in the aggregate~~ may be assessed  
28 against any person who violates any provision of this section or  
29 who violates any rule or order of the department found during a  
30 compliance review as provided in s. 316.3025. A ~~of~~  
31 ~~Transportation. A civil penalty not to exceed \$25,000 in the~~  
32 ~~aggregate may be assessed for violations found in a followup~~  
33 ~~compliance review conducted within a 24-month period. A civil~~  
34 ~~penalty not to exceed \$25,000 in the aggregate may be assessed~~  
35 ~~and the motor carrier may be enjoined from operation pursuant to~~  
36 ~~s. 316.3026 for if violations found during a are found after a~~  
37 ~~second followup compliance review within 12 months after the~~  
38 ~~first followup compliance review.~~ Motor carriers found to be

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39 | operating without insurance coverage required by s. 627.742 or  
40 | 49 C.F.R. part 387 may be enjoined as provided in s. 316.3026.

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

59 | (4)-(3) School buses subject to ~~the provisions of~~ chapter  
60 | 1006 or s. 316.615 are exempt from ~~the provisions of~~ this  
61 | section.

62 | Section 4. Section 319.1414, Florida Statutes, is created  
63 | to read:

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64 319.1414 Investigations; examinations; subpoenas;  
65 hearings; witnesses.—

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

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

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

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89 to obey the subpoena. Failure to comply with such order is  
90 contempt of court.

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

95 (5) The department may adopt rules to administer this  
96 section.

97 Section 5. Section 319.25, Florida Statutes, is amended to  
98 read:

99 319.25 Cancellation of certificates; investigations;  
100 subpoenas and other process; oaths; rules.-

101 (1) If it appears that a certificate of title has been  
102 improperly issued, the department shall cancel the certificate.  
103 Upon cancellation of any certificate of title, the department  
104 shall notify the person to whom the certificate of title was  
105 issued, as well as any lienholders appearing thereon, of the  
106 cancellation and shall demand the surrender of the certificate  
107 of title, but the cancellation shall not affect the validity of  
108 any lien noted thereon. The holder of the certificate of title  
109 shall return it to the department forthwith. If a certificate of  
110 registration has been issued to the holder of a certificate of  
111 title so canceled, the department shall immediately cancel the  
112 certificate of registration and demand the return of such  
113 certificate of registration and license plate or mobile home

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114 sticker; and the holder of such certificate of registration and  
115 license plate or sticker shall return them to the department  
116 forthwith.

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

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

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

136 (5) If a person refuses to testify; produce books, papers,  
137 documents, or records; or otherwise obey the subpoena or  
138 subpoena duces tecum issued under subsection (4), the department

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139 may petition a court of competent jurisdiction in the county  
140 where the person's residence or principal place of business is  
141 located, upon which the court must issue an order requiring such  
142 person to obey the subpoena or show cause for failing to obey  
143 the subpoena. Unless the person shows sufficient cause for  
144 failing to obey the subpoena, the court must direct the person  
145 to obey the subpoena. Failure to comply with such order is  
146 contempt of court.

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

151 (7) The department may adopt rules to administer this  
152 section.

153 Section 6. Section 320.861, Florida Statutes, is amended  
154 to read:

155 320.861 Investigations; subpoenas and other process;  
156 oaths; rules ~~Inspection of records; production of evidence;~~  
157 ~~subpoena power.~~

158 (1) The department may conduct investigations and  
159 examinations of any person whom the department reasonably  
160 suspects of violating or of having violated this chapter or any  
161 rule adopted or order issued under this chapter based on  
162 specific facts in a written complaint to the department, the  
163 department's observations, or evidence in the department's

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164 possession inspect the pertinent books, records, letters, and  
165 contracts of any licensee, whether dealer or manufacturer,  
166 relating to any written complaint made to it against such  
167 licensee.

168 (2) For purposes of any investigation or examination  
169 conducted pursuant to this section, the department may ~~is~~  
170 granted and authorized to exercise the power of subpoena and,  
171 after providing a reasonable opportunity for a person or the  
172 person's employee or agent to consult with counsel, exercise the  
173 powers to administer oaths or affirmations, to examine  
174 witnesses, to require affidavits, to take depositions, and to  
175 compel the attendance of witnesses and the production of  
176 pertinent books, papers, documents, records, and other evidence  
177 relevant to the investigation or examination. A designated agent  
178 of the department may serve a subpoena relating to an  
179 investigation or examination ~~for the attendance of witnesses and~~  
180 the production of any documentary evidence necessary to the  
181 disposition by it of any written complaint against any licensee,  
182 whether dealer or manufacturer.

183 (3) If a person refuses to testify; to produce pertinent  
184 books, papers, documents, or records; or to otherwise obey the  
185 subpoena or subpoena duces tecum issued under subsection (2),  
186 the department may petition a court of competent jurisdiction in  
187 the county where the person's residence or principal place of  
188 business is located, upon which the court may issue an order

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189 requiring such person to obey the subpoena or show cause for  
190 failing to obey the subpoena. If the court determines that the  
191 person has not shown sufficient cause for failing to obey the  
192 subpoena, the court may direct the person to obey the subpoena.  
193 The court may rule that failure to comply with such order  
194 constitutes contempt of court.

195 (4) For the purpose of any investigation, examination, or  
196 proceeding initiated by the department under this chapter, the  
197 department may designate examiners or investigatory employees of  
198 the department or attorneys representing the department to serve  
199 subpoenas and other process and to administer oaths or  
200 affirmations. The department shall exercise this power on its  
201 own initiative in accordance with ss. 320.615 and 320.71.

202 Section 7. Section 322.71, Florida Statutes, is created to  
203 read:

204 322.71 Investigations; subpoenas and other process; oaths;  
205 rules.-

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

210 (2) For purposes of any investigation or examination  
211 conducted pursuant to this section, the department may exercise  
212 the power of subpoena and the powers to administer oaths or  
213 affirmations, to examine witnesses, to require affidavits, to

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214 take depositions, and to compel the attendance of witnesses and  
215 the production of books, papers, documents, records, and other  
216 evidence. Such subpoenas may be served by an authorized  
217 representative of the department.

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

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

233 (5) The department may adopt rules to administer this  
234 section.

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

238 Remove lines 10-15 and insert:

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239 vehicle"; amending s. 316.70, F.S.; providing that  
240 owners and drivers of nonpublic sector buses operated  
241 on public highways of this state are subject to  
242 specified provisions of law; authorizing the  
243 Department of Highway Safety and Motor Vehicles to  
244 conduct compliance reviews for a specified purpose;  
245 revising civil penalties; authorizing certain law  
246 enforcement officers and appointed agents to require  
247 drivers of nonpublic sector buses to submit to an  
248 inspection of the bus and the driver's records;  
249 authorizing such officers and agents to require the  
250 bus and driver to be removed from service under  
251 specified conditions; authorizing such officers and  
252 agents to give written notice; conforming provisions  
253 to changes made by the act; creating s. 319.1414,  
254 F.S.; authorizing the department to conduct  
255 investigations and examinations of department-  
256 authorized private rebuilt inspection providers;  
257 authorizing the department to exercise certain powers  
258 when conducting such investigations and examinations;  
259 authorizing the department to petition a court if a  
260 person refuses to testify, produce materials, or obey  
261 a subpoena or subpoena duces tecum; requiring the  
262 court to issue an order; requiring such person to obey  
263 the subpoena or show cause for failing to obey the

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264 subpoena; providing a penalty for a person who fails  
265 to comply with the court's order; authorizing the  
266 department to designate agents for specified purposes;  
267 authorizing the department to adopt rules; amending s.  
268 319.25, F.S.; authorizing the department to conduct  
269 investigations and examinations relating to violations  
270 of provisions relating to title certificates;  
271 authorizing the department to exercise certain powers  
272 when conducting such investigations and examinations;  
273 authorizing the department to petition a court if a  
274 person refuses to testify, produce materials, or obey  
275 a subpoena or subpoena duces tecum; requiring the  
276 court to issue an order; requiring such person to obey  
277 the subpoena or show cause for failing to obey the  
278 subpoena; providing a penalty for a person who fails  
279 to comply with the court's order; authorizing the  
280 department to designate agents for specified purposes;  
281 authorizing the department to adopt rules; amending s.  
282 320.861, F.S.; authorizing the department to conduct  
283 investigations and examinations relating to violations  
284 of certain laws, rules, or orders relating to motor  
285 vehicle licenses; revising the powers of the  
286 department relating to conducting such investigations  
287 and examinations; authorizing the department to  
288 petition a court if a person refuses to testify,

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289 produce materials, or obey a subpoena or subpoena  
290 duces tecum; authorizing the court to issue certain  
291 orders or rulings relating to failure to obey the  
292 subpoena; authorizing the department to designate  
293 examiners, employees, or attorneys for specified  
294 purposes; creating s. 322.71, F.S.; authorizing the  
295 department to conduct investigations and examinations  
296 relating to violations of certain laws, rules, or  
297 orders relating to driver licenses; authorizing the  
298 department to exercise certain powers when conducting  
299 such investigations and examinations; authorizing the  
300 department to petition a court if a person refuses to  
301 testify, produce materials, or obey a subpoena or  
302 subpoena duces tecum; requiring the court to issue an  
303 order; requiring such person to obey the subpoena or  
304 show cause for failing to obey the subpoena; providing  
305 a penalty for a person who fails to comply with the  
306 court's order; authorizing the department to designate  
307 agents for specified purposes; authorizing the  
308 department to adopt rules; amending s.

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