

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: CS/SB 1002

INTRODUCER: Infrastructure and Security Committee and Senator Hutson

SUBJECT: Motor Vehicles and Railroad Trains

DATE: March 22, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Price</u>	<u>Miller</u>	<u>IS</u>	Fav/CS
2.	<u>Erickson</u>	<u>Jones</u>	<u>CJ</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1002 clarifies the duties of law enforcement with respect to the collection of information required for crash reports in the event of a motor vehicle crash involving a railroad train.

The bill revises the definition of “railroad train” to provide that a railroad train is not a motor vehicle for purposes of the Florida Uniform Traffic Control Law.

The bill specifies that in the event that a motor vehicle crash involves a railroad train, the collection of certain required crash report information is at the discretion of the law enforcement officer having jurisdiction to investigate the crash.

Current law requires that the crash report contain the names of insurance companies for the “respective parties” involved in the crash, unless not available. The bill amends this requirement to specify it applies to insurance companies of the motor vehicles involved in the crash.

The bill provides a railroad train crew member or a passenger on a railroad train is not a passenger for purposes of completing a crash report. However, in the event of a motor vehicle crash involving a railroad train, a railroad train crew member must furnish: date, time, and location of the crash; description of the vehicles involved in the crash; and the names and addresses of parties involved in or witnesses to the crash. A railroad train crew member must also furnish the train engineer’s and the conductor’s federally-required, railroad-issued certificates, upon the request of the law enforcement officer investigating the crash.

The fiscal impact is indeterminate but expected to be positive (a cost reduction or avoidance). See Section V. Fiscal Impact Statement.

The bill is effective on July 1, 2019.

II. Present Situation:

Florida Uniform Traffic Control Law

The Florida Uniform Traffic Control Law, ch. 316, F.S., is intended “to make uniform traffic laws to apply throughout the state and its several counties and uniform traffic ordinances to apply in all municipalities.”¹

Section 316.003(63), F.S., defines the term “railroad train” as a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except a streetcar. For purposes of ch. 316, F.S., the term “motor vehicle” excludes a self-propelled vehicle that is operated upon rails or guideway.² Similarly, the term “vehicle” excludes a device used exclusively upon stationary rails or tracks.³ Further, the term “driver” is defined as any person who drives or is in actual physical control of a vehicle on a highway or who is exercising control of a vehicle or steering a vehicle being towed by a motor vehicle.⁴ Finally, the term “operator” is defined as any person who is in actual physical control of a motor vehicle upon the highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.⁵

Duties Related to Motor Vehicle Crashes

Among other requirements, s. 316.027, F.S., which relates to crashes involving death or personal injury, requires the driver of a vehicle involved in a crash resulting in injury to a person other than serious bodily injury,⁶ serious bodily injury to a person, or death of a person, to immediately stop the vehicle at the crash scene and remain there until the driver has fulfilled requirements of s. 316.062, F.S.⁷

Section 316.062(1), F.S., requires such driver to provide specified personal and vehicle identification information, and upon request and if available exhibit his or her license or permit to drive, to any person injured in such crash or to the driver or occupant of or person attending any vehicle or other property damaged in the crash. Such driver must also give such information and, upon request, exhibit such license or permit to any police officer at the scene of the crash or who is investigating the crash and render to any person injured in the crash reasonable assistance, including the carrying, or the making of arrangements for the carrying, of such person to a

¹ Section 316.002, F.S.

² Section 316.003(42), F.S.

³ Section 316.003(99), F.S.

⁴ Section 316.003(20), F.S.

⁵ Section 316.003(48), F.S.

⁶ “Serious bodily injury” means an injury to a person, including the driver, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of a bodily member or organ. Section 316.027(1)(a), F.S.

⁷ Section 316.027(2)(a)(b), and (c), F.S.

physician, surgeon, or hospital for medical or surgical treatment if it is apparent that treatment is necessary, or if such carrying is requested by the injured person.⁸

In the event none of the persons specified are in the condition to receive the information to which they otherwise would be entitled under s. 316.062(1), F.S., and no police officer is present, the driver of any vehicle involved in such crash, after fulfilling all other requirements of ss. 316.027 and s. 316.062(1), F.S., must report the crash to the nearest office of a duly authorized police authority and submit the information specified in s. 316.062(1), F.S.⁹

The driver of a vehicle involved in a crash resulting only in damage to a vehicle or other property which is driven or attended by any person must also comply with the requirements of s. 316.062, F.S.¹⁰

Section 316.065(1), F.S., requires the driver of a vehicle involved in a crash resulting in injury to or death of any person or damage to any vehicle or other property in an apparent amount of at least \$500 to immediately give notice of the crash to local law enforcement.

Section 316.066(1)(a), F.S., requires a traffic crash report to be completed and submitted to the Department of Highway Safety and Motor Vehicles (DHSMV) within 10 days after an investigation is completed by the law enforcement officer investigating a motor vehicle crash if such crash:

- Resulted in the death of, personal injury to, or any indication of complaints of pain or discomfort by any of the parties or passengers involved in the crash;
- Involved a violation of s. 316.061, F.S. (failure to immediately stop a vehicle involved in a crash resulting only in damage to a vehicle or other property) or a violation of s. 316.193, F.S. (driving under the influence);
- Rendered a vehicle inoperable to a degree that required a wrecker to remove it from the scene of the crash; or
- Involved a commercial motor vehicle.

Crash Report Forms

Sections 316.066(1) and 316.068(2), F.S., require law enforcement personnel to complete a report of each motor vehicle crash and provide it to the DHSMV. This report must include the following information:

- The date, time, and location of the crash;
- A description of the vehicles involved;
- The names and addresses of the parties involved;
- The names and addresses of all drivers and passengers in the vehicles involved;
- The names and addresses of witnesses;
- The name, badge number, and law enforcement agency of the officer investigating the crash; and
- The names of the insurance companies for the respective parties involved in the crash.

⁸ Section 316.062(1), F.S.

⁹ Section 316.062(2), F.S.

¹⁰ Section 316.061(1), F.S.

However, current law is unclear as to how to treat the passengers and crew of a railroad train when a motor vehicle crash involves a railroad train. Because the current statute can be read to include every person on the railroad train as a “passenger” or “witness” for purposes of the crash report, law enforcement may be compelled to interview every passenger and crew member on a railroad train as a potential witness, even though in many instances nothing relevant was actually witnessed.

The process of interviewing every passenger and crew member on a railroad train may keep the railroad train at the crash scene for hours, resulting in a number of potential issues, such as deteriorating passenger safety and comfort, blocked railroad crossings, and economic loss.

Railroad Train Accident Reports

Florida law does not address the railroad company reporting requirements as they relate to accident reports. However, federal regulations generally require railroad companies to submit a monthly report to the Federal Railroad Authority (FRA) of all railroad accidents or incidents that are:

- Highway-rail grade crossing accidents or incidents;
- Rail equipment accidents or incidents; and
- Death, injury, and occupational illness accidents or incidents.¹¹

In addition, each railroad company must immediately report certain types of accidents or incidents, including certain train accidents or train incidents, by calling the National Response Center.¹² The FRA or the National Transportation Safety Board may choose to investigate such train accidents or incidents.¹³

Certification of Locomotive Engineers and Conductors

Federal regulations prescribe minimum federal safety standards for the eligibility, training, testing, certification, and monitoring of all locomotive engineers¹⁴ and conductors.¹⁵ The FRA does not test or certify engineers or conductors itself. Instead, the regulations require each railroad to adopt training and certification programs that meet the minimum requirements in the regulations,¹⁶ and the FRA must approve the design of individual railroad programs.¹⁷

Ultimately, an individual who successfully completes a railroad’s FRA-approved engineer or conductor certification program receives a certificate that identifies the railroad company and person certified, and shows the qualifications, conditions, and limitations of the certification.¹⁸

¹¹ 49 C.F.R. ss. 225.11 and 225.19.

¹² 49 C.F.R. s. 225.9.

¹³ See *FRA Investigations of Railroad Accidents*, Federal Railroad Authority, available at <https://www.fra.dot.gov/Page/P0474> (last visited on March 19, 2019), and *The Investigative Process*, National Transportation Safety Board, available at <https://www.nts.gov/investigations/process/Pages/default.aspx> (last visited on March 19, 2019).

¹⁴ 49 C.F.R. Part 240.

¹⁵ 49 C.F.R. Part 242.

¹⁶ See, e.g., 49 C.F.R. ss. 240.101 and 242.101.

¹⁷ 49 C.F.R. ss. 240.103 and 242.103.

¹⁸ 49 C.F.R. ss. 240.223 and 242.207.

The certificate must be signed and wallet-sized for ease of carry.¹⁹ Each locomotive engineer and conductor who receives a certificate is required to have the certificate in his or her possession while on duty.²⁰

III. Effect of Proposed Changes:

The bill seeks to clarify the duties of law enforcement with regard to collecting required information for certain crash reports.

The bill amends s. 316.003(63), F.S., the definition of “railroad train,” to provide that a railroad train is not a motor vehicle for purposes of the Florida Uniform Traffic Control Law.

The bill also amends s. 316.068(2)(c) and (d), F.S., which, respectively, require a crash report to include the names and addresses of the parties involved in a crash and the names and addresses of all drivers and passengers in the motor vehicles involved in a crash. The bill provides that in the event of a crash covered by s. 316.027, F.S., s. 316.061, F.S., s. 316.065, F.S., or s. 316.066, F.S.,²¹ involving a railroad train, collection of names and addresses is at the discretion of the investigating law enforcement officer.

Currently, s. 316.068(2)(g), F.S., requires a crash report contain the names of insurance companies for the “respective parties” involved in the crash, unless not available. The bill amends this requirement to specify it applies to insurance companies of the motor vehicles involved in the crash.

Section 316.068(2)(g), F.S., is also amended to provide that a railroad train crew member or a passenger on a railroad train is not a passenger for purposes of completing a crash report. However, in the event of a motor vehicle crash involving a railroad train, a railroad train crew member must furnish:

- The date, time, and location of the crash;
- A description of the vehicles involved;
- The names and addresses of the parties involved; and
- The names and addresses of witnesses.

Finally, s. 316.068(2)(g), F.S., is amended to require a railroad train crew member to furnish the train engineer’s and conductor’s federal certificates under 49 C.F.R., parts 240 and 242, upon the request of the law enforcement officer with jurisdiction to investigate the crash.

As a result of these changes, law enforcement officers may exercise discretion in their investigations of motor vehicle crashes involving a railroad train and the collection of information relevant to such crashes. This may reduce delays associated with collecting necessary information for crash reports.

¹⁹ *Id.*

²⁰ 49 C.F.R. ss. 242.209(a)(1) and 240.305(b)1.

²¹ These statutes relate to crashes involving personal injury or death (s. 316.027, F.S.), crashes involving damage to vehicles or property (s. 316.061, F.S.), reporting to law enforcement a crash involving injury or death of any person or damage to any vehicle or property in the apparent amount of at least \$500 (s. 316.065, F.S.), and written reports of crashes (s. 316.066, F.S.)

The bill is effective on July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The fiscal impact of the bill is indeterminate. The bill may positively impact (a cost reduction or avoidance) railroad train companies and their operations if all crew members and passengers of the train are not required to be interviewed in the event of a motor vehicle crash involving a train. However, railroad train companies may incur indeterminate expenses associated with the requirement that a railroad train crew member collect and furnish specified information. To the extent that this requirement results in delay for the railroad train crew, the expected positive fiscal impact may be offset.

C. Government Sector Impact:

The fiscal impact of the bill is indeterminate. However, the bill may reduce government expenditures relating to the investigation of railroad train accidents. Government personnel involved in these investigations will no longer be required to obtain the name and address of each person on the railroad train, unless the person is considered a witness.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 316.003 and 316.068.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Infrastructure and Security on March 11, 2019:

The committee substitute requires a member of the railroad train crew to furnish specified information relating to a crash, as well as the train engineer's and conductor's certificates issued by the railroad in accordance with federal regulations.

- B. **Amendments:**

None.