

STORAGE NAME: h1757a.tr

DATE: April 19, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
TRANSPORTATION
ANALYSIS**

BILL #: HB 1757

RELATING TO: Driving Schools

SPONSOR(S): Representative Alexander

COMPANION BILL(S): SB 2108 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) TRANSPORTATION YEAS 8 NAYS 2
 - (2) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

The Department of Highway Safety and Motor Vehicles' current regulatory authority for driver improvement programs is limited to approving course curriculums and performing course effectiveness studies. The Department is not authorized to regulate the driver improvement schools who teach the approved courses.

HB 1757 makes numerous changes to the Department's regulation of driver improvement courses and schools. The bill:

- Requires that a driver improvement course must pass both the crash and violation recidivism portions of DHS&MV's effectiveness study, including currently approved courses, in order to maintain the Department's approval of the course.
- Directs the Department to prepare, provide, and maintain a Traffic School Reference Guide that will be issued with each citation for a moving violation. The Guide will provide the motorists with information about driver improvement courses and the process for enrolling in a course. In addition, state and local government employees are prohibited from marketing, advertising, providing, or maintaining specific information on individual driver improvement courses and schools.
- Prohibits course providers from presenting courses using Internet, videotapes, or any alternate format unless an instructor is physically present with the student.
- Requires the Department to screen accident reports for accidents involving property damage of at least \$500 for mandatory attendance at a driver improvement course. Currently, attendance is mandatory for a second accident within a two-year period with property damage of at least \$500.
- Increases the number of times a person may elect to attend a driver improvement course, in lieu of making a court appearance or paying the full fine amount, from five to seven.

Requiring persons to attend a driver improvement course as a result of an accident involving property damage of at least \$500 will result in approximately 186,000 additional people having to annually attend a driver improvement course. This will result in a revenue increase of approximately \$.5 million to the Highway Safety Operating Trust Fund. In addition, the Department indicated 2 support staff positions and related funding of approximately \$85,000 from the Highway Safety Operating Trust Fund is required to implement the bill's provisions.

Note: The Committee on Transportation adopted one amendment to HB 1757. The amendment rewrites the bill to incorporate numerous changes. Please see part VI. Amendments or Committee Substitute Changes, for details.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Throughout the United States, one of the greatest causes of death and injury among citizens result from motor vehicle collisions. On average, statistics show that a person is injured in vehicle crashes every nine seconds, and someone is killed every 13 minutes. During calendar year 1995 there were approximately 234,000 injuries and 2,847 deaths on Florida highways. The causal factor in the vast majority of these collisions is operator error brought on by behavioral choices made by the individual drivers. To mitigate the impact of motor vehicle collisions, driver licensing entities use multiple education approaches for the modification and development of driving behavior.

Prior to 1995, the Department of Highway Safety and Motor Vehicles was responsible for licensing and regulating all driver improvement schools, including approving courses taught in the schools. In 1995, the Legislature deregulated driver improvement schools by eliminating the Department's responsibility for licensing schools.

The Department's current regulatory authority is limited to approving course curriculums and performing course effectiveness studies. Section 318.1451, F.S., authorizes the Department to approve the *curriculum* for all Florida driver improvement schools. The course curriculums approved by the Department are owned and copyrighted by organizations such as the National Safety Council and the National Traffic Safety Institute. As of April 14, 1999, there were 18 Department approved courses. When evaluating courses for approval, the Department considers course content designed to promote safety, driver awareness, accident avoidance techniques, and other criteria to improve driver performance.

Although course owners (often referred to as course providers) can teach their courses, they typically contract with private and non-profit organizations (often referred to as schools) to provide the instructors and present the course materials. The Department *does not* license or approve the schools, nor does the Department directly regulate their performance. However, agency rules place requirements on course providers which affect the schools. For example, course providers are required to ensure that: 1) only Department approved materials are used in the presentation of the course; 2) instructors complete in-service training; and 3) each driver improvement school conducting its course comply with collecting the assessment fee.

There are several categories of driver improvement courses that drivers may attend:

Basic Driver Improvement Course: When motorists are issued traffic citations, they have the option of paying the fine, contesting the citation in court, or paying a reduced fine and attending a 4-hour basic driver improvement school. In addition to paying a reduced fine, other advantages of attending a school are that it prevents points from being assessed on the motorist's driver's license and insurance companies are prohibited from increasing the motorist's insurance premiums, unless there was an accident when the citation was issued. A person may elect to attend a basic driver improvement course, pay the reduced fine, and have the points waived once during a 12 month period, and for a maximum of 5 times. Approximately 500,000 students attended this training during Fiscal Year 1997-98.

Advanced Driver Improvement Course: This 12-hour course is designed to help problem drivers (non-DUI, habitual traffic offenders, drivers with point suspensions, etc.) recognize the problems that they cause for themselves, their attitudes about the problems, how to adjust their attitudes to once again become safe drivers, and help them to develop a driving plan to safely implement their new knowledge. The course must be completed within 90 days of driver license reinstatement. Approximately 20,000 drivers attend this training annually.

Traffic Law and Substance Abuse Education Course: This 4-hour course is required before an initial Florida driver license may be issued. The course is required for all first-time applicants for a Florida license who were not licensed in any other jurisdiction or who did not attend a Department of Education Driver Education course in high school. The course provides information on the psychological consequences of the abuse of alcohol and other drugs, the societal and economic costs of alcohol and drug abuse, the effects of alcohol and drug abuse on the driver of a motor vehicle, and the laws of this state relating to the operation of a motor vehicle.

The Department is also authorized to review the effectiveness of driver improvement courses in reducing crash and violation rates. The basic driver improvement effectiveness study requires that a course be effective in reducing *either* crash or violation recidivism. A study on the effectiveness of the Traffic Law and Substance Abuse course is required by law to be completed by October 1, 2000. Current law does not require an effectiveness study for the advanced driver improvement course.

Section 322.0261, F.S., provides that a person who is responsible for 2 accidents that involve estimated property damage of \$500 for each occurrence within a 2 year period must, in addition to other applicable penalties, attend a departmentally approved driver improvement course in order to maintain driving privileges. If the operator fails to complete the course within 90 days of receiving notice from the Department, the operator's driver's license is canceled by the Department until the course is successfully completed.

B. EFFECT OF PROPOSED CHANGES:

The bill makes numerous changes to the State's regulation of driver improvement courses and schools.

The bill amends s. 318.1451, F.S., to:

- Repeal the authority of chief judges to establish requirements for the location of driver improvement schools within their respective judicial circuits.
- Require that a driver improvement course must pass both the crash and violation recidivism portions of the Department's effectiveness study, including courses approved prior to July 1, 1999. According to the Department, three currently approved courses have not met both the crash and violation portions of the effectiveness study. Providers not meeting both portions of the study are authorized to seek provisional approval as a new basic driver improvement course. Obsolete language for reporting the effectiveness study findings to the Legislature are also repealed. This will also help to clarify that the Department is to routinely conduct the studies rather than on a onetime basis.
- Direct the Department to prepare, provide, and maintain a Traffic School Reference Guide that will be issued with each citation for a moving violation. Information about what is to be included in the guide is provided by the bill. The bill also prohibits state, county, city, and municipal employees and agencies from marketing, advertising, providing, or maintaining specific information on individual driver improvement schools or course providers. The Traffic School Reference Guide and the telephone directory heading "Driving Instruction" will be the only driver improvement school information distributed, provided, or maintained by the Department, courts, clerks of court, law enforcement agencies, public schools, or other governmental agencies. This requirement does not affect court authority to issue orders for attendance at driver improvement training. The bill provides that it would be a first-degree misdemeanor if the restricted information were provided. A first-degree misdemeanor is punishable by a fine of up to \$1,000 and imprisonment for up to 1 year.
- Establish an educational requirement for all driver improvement course instructors. Instructors approved after July 1, 1999, must have a bachelor's degree or higher from an accredited institution. Instructors hired prior to July 1, 1999, will be allowed to teach for 4 years or until July 1, 2003. After July 1, 2003, all instructors would be required to have a bachelor's degree or higher from an accredited institution.
- Prohibit course providers from presenting courses using Internet, videotapes, or any alternate format unless an instructor is physically present.

The bill also amends s. 322.0261(1), F.S., to require the Department screen accident reports for accidents involving property damage of at least \$500 for mandatory attendance at a driver improvement course. Currently, attendance is mandatory for a second accident within a two-year period with property damage of at least \$500.

Finally, the bill amends s. 318.14, F.S., to increase the number of times a person may elect to attend a driver improvement course, in lieu of making a court appearance or paying the full fine amount, from five to seven. The number of persons who will take advantage of this election is unknown.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The bill establishes an educational requirement for all driver improvement course instructors or teachers. Instructors approved after July 1, 1999, must possess a bachelor's degree or higher from an accredited institution. Instructors hired prior to July 1, 1999 will be allowed to teach for 4 years or until July 1, 2003, afterwards the instructors would have to possess a bachelor's degree or higher in order to continue teaching an approved course.

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

ss. 318.1451, 322.0261, and 318.14, F.S.

E. SECTION-BY-SECTION ANALYSIS:

N/A

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

<u>EXPENDITURES</u>	<u>1999-00</u>	<u>2000-01</u>
Highway Safety Operating Trust Fund	\$ 26,838	

This provides for the non-recurring state standard expense and operating capital outlay package for 2 support staff positions. These positions are based on the anticipated workload increase due to required attendance at a driver improvement course on involvement in certain accidents. Also reflected is 140 hours of contracted programming at \$125 per hour to modify the Driver License Software System.

2. Recurring Effects:

<u>REVENUES</u>	<u>1999-00</u>	<u>2000-01</u>
Highway Safety Operating Trust Fund	\$465,000	\$465,000

This assumes 186,000 additional persons paying the \$2.50 assessment fee on completion of a driver improvement course on involvement in a single accident resulting in property damage of \$500 or more.

<u>EXPENDITURES</u>	<u>1999-00</u>	<u>2000-01</u>
Highway Safety Operating Trust Fund	\$ 57,912	\$ 57,912

This provides for the salary expense for 2 support staff positions. These positions are based on the anticipated workload increase due to required attendance at a driver improvement course on involvement in certain accidents. In addition, the revenue impact from increasing the number of driving school elections is unknown.

3. Long Run Effects Other Than Normal Growth:

Unknown

4. Total Revenues and Expenditures:

<u>REVENUES</u>	<u>1999-00</u>	<u>2000-01</u>
Highway Safety Operating Trust Fund	\$465,000	\$465,000
<u>EXPENDITURES</u>	<u>1999-00</u>	<u>2000-01</u>
Highway Safety Operating Trust Fund	\$ 84,750	\$ 57,912

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

Approximately 186,000 additional persons would annually attend a driver improvement course due to involvement in a single accident resulting in property damage of \$500 or more.

3. Effects on Competition, Private Enterprise and Employment Markets:

According to the Department, three approved course providers have not met both the crash and violation portions of the effectiveness study. Providers not meeting both portions may seek provisional approval as a new basic driver improvement course.

The number of current instructors who will not earn a bachelor's degree by July 1, 2003 is unknown. Instructors who do not earn a bachelor's degree by July 1, 2003, would not be authorized to continue teaching driver improvement courses.

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

The sponsor of the bill indicated that a "strike everything" amendment will be offered in the Committee on Transportation in order to make changes to some of the bill's provisions and correct several scrivener's errors.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 19, 1999, the Committee on Transportation adopted 1 main "strike everything" amendment to HB 1757 and 4 amendments to the main amendment. As adopted by the Committee on Transportation, the amendment rewrites the bill to incorporate numerous changes to the bill.

Section 1: A person may elect to attend a basic driver improvement course a maximum of 8 times instead of 5.

Section 2: The amendment:

- Provides for Department of Highway Safety and Motor Vehicles monitoring of schools.
- Requires that course providers certify instructors.
- Establishes educational requirements for instructors. Combination of teaching and experience is provided for.
- Requires recertification of certain instructors every 2 years, which includes 8 hours of course specific in-service training.
- Requires the Department to develop rules for handling consumer complaints and numbering course completion certificates.
- Prohibits courses with home study and distance learning formats.
- Establishes a \$10,000 application fee for courses seeking Department approval and a \$5,000 fee for the effectiveness study.
- Provides that the \$2.50 fee would continue to be collected from each person enrolled in a course, Department would receive \$2.50 for each person who completes the course.
- Provides for course effectiveness studies to be conducted every 5 years.
- Prohibits public employees and public entities from providing the public specific information regarding individual driver improvement schools, unless the information is a public record. The amendment creates a traffic school reference guide (information regarding basic driver improvement courses) and provides that public employees and public entities may only provide the guide to the public. Law enforcement officers may provide motorists with the guide when issuing citations for moving violations. Also, provides for who may appear on the guide.

Section 3: Changes the term "accident" to "crash" in order to update and conform terminology.

Section 4: Requires the Department to screen reports of convictions and require mandatory course attendance for persons under 22 years of age if they receive a certain number of moving infractions within specified time periods.

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Section 5: Conforming. Similar requirements to those in section 2 are placed on Traffic Law and Substance Abuse Education Courses, the Department classifies such courses as driver improvement courses.

Section 6: Drivers who have had their license suspended due to points must complete, instead of enroll, in an advanced driver improvement course to have their license reinstated on a restricted basis.

Section 7: Requires course completion before a driving privilege may be reinstated for persons who have had their license revoked, or suspended due to points or unlawful blood-alcohol level.

Section 8: Cross reference.

Section 9: Effective date.

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

Staff Director:

Thomas E. Duncan

John R. Johnston