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DATE: April 12, 2001

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
CHILD & FAMILY SECURITY
ANALYSIS**

BILL #: HB 1203
RELATING TO: Motor Vehicles
SPONSOR(S): Representative Mealor

TIED BILL(S):

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

- (1) INSURANCE YEAS 12 NAYS 0
- (2) TRANSPORTATION YEAS 10 NAYS 0
- (3) CHILD & FAMILY SECURITY YEAS 8 NAYS 0
- (4) COUNCIL FOR COMPETITIVE COMMERCE
- (5)

I. SUMMARY:

Under current law, when an adult signs a learner's permit application for a minor driver that adult assumes liability for the minor's negligence and willful misconduct. In addition, an insurance company is not prohibited from charging the parent or foster parent an additional premium for insuring drivers with learner's permits. The majority of motor vehicle insurers do not charge an additional premium. The motor vehicle insurers that do charge the additional premium tend to be the companies that insure higher risk individuals or families.

This bill creates an exception from the automatic imputation of liability where a learner's permit application is signed by a foster parent or an authorized group home representative. The bill also prohibits a motor vehicle insurer from charging parents or foster parents an additional premium for insuring drivers operating their parent's or foster parent's vehicle with a learner's permit. However, the insurer is not prohibited from charging an additional premium for a child once that child obtains a regular driver's license.

The bill has an effective date of July 1, 2001.

On April 4, 2001, the Committee on Insurance adopted an amendment traveling with the bill. See Section VI. of this analysis for an explanation of the amendment.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1. Less Government Yes No N/A

The bill restricts the ability of insurance companies to charge additional premiums to parents and foster parents of drivers with a learner's permit.

2. Lower Taxes Yes No N/A

3. Individual Freedom Yes No N/A

4. Personal Responsibility Yes No N/A

Although the bill does not strictly reduce personal responsibility, it does reduce the responsibility imputed to foster parents or group home representatives for the negligence or willful misconduct of minors driving with a learner's permit while under their care.

5. Family Empowerment Yes No N/A

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Currently, any applicant for a driver's license under the age of 18 must have the signature of his or her father, mother, or guardian to obtain the license, unless the applicant is emancipated by marriage. If the applicant does not have a parent or guardian, that applicant must obtain the signature of a responsible adult.

The law makes certain requirements of a minor applicant before that applicant can be granted regular driving privileges. The minor applicant:

- Must be enrolled in a public school, nonpublic school, or home school satisfying certain attendance requirements;
- If not in school, must have received a high school diploma, the equivalent of a high school diploma, or be enrolled in a study program for the Test of the General Education Development; or
- Must receive a hardship waiver.

A minor making an application for a learner's permit must fulfill other criteria to obtain the permit.

The applicant must:

- Be at least 15 years old;
- Pass the written driver's examination; and
- Pass the vision and hearing examination.

The holder of the learner's permit may only operate a motor vehicle in the presence of a person at least 21 years of age holding a valid driver's license and seated in the closest seat to the right of the driver.

Any adult who signs an application for a minor's learner's permit is liable for the negligent acts or willful misconduct of that minor while he or she is driving with the learner's permit. This concept is

derived from the vicarious liability doctrine. According to Black's Law Dictionary (7th ed. 1999), vicarious liability is the liability that a supervisory party bears for the actionable conduct of a subordinate or associate because of the relationship between the two parties (for example, parent-child or employer-employee).

According to the Department of Education's Driver's Education Curriculum Specialist, a driver must have a valid learner's permit and proof of insurance to qualify to take a driver's education course at a public high school. Each school district generally has insurance to cover damages to the vehicles used in the class, but not insurance to cover the injury to the drivers or injury they may cause to others.

An insurance company is not currently prohibited from charging an additional premium when a driver obtains a learner's permit in an insured household. According to recent data, the state's two largest motor vehicle insurers do not charge a premium for a driver with a learner's permit, although most insurers reportedly do require a policy holder to report if there is a new driver with a learner's permit in the household. The insurance companies that do not charge an additional premium for a driver with a learner's permit do charge a premium when the driver obtains his or her regular driver's license.

Non-standard insurers that insure the highest risk drivers serve from 10 to 20 percent of the automobile insurance market. The standard practice of these insurers is to charge a premium for any driver over the age of fourteen in the household, including those drivers with learner's permits.

The Department of Highway Safety and Motor Vehicles reported in the 1999 Florida Traffic Crash Report, the most current statistics to date, that there were 57,615 15-year-old drivers licensed with a learner's permit that year. In the 15-year-old age group, there were only 642 crashes, 8 of them fatal. Sixteen year olds were involved in 7,426 crashes. This translates to a rate per 10,000 drivers of 111.43 for 15 year olds, as compared to a rate of 619.68 for 16-year-olds.

C. EFFECT OF PROPOSED CHANGES:

The bill limits the liability of a foster parent or authorized group home representative who signs the application of a minor applying for a learner's permit, by reason of having signed the application, for the negligent acts or willful misconduct of that minor performed while driving. In addition, the bill prohibits motor vehicle insurers from charging a parent or foster parent an additional premium for a minor operating a vehicle with a learner's permit.

The provisions of this bill apply to motor vehicle insurance policies issued or renewed on or after July 1, 2002.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Limits the liability imputed to foster parents and group home representatives who sign the learner's permit applications of minors in their care.

Section 2. Prohibits insurers from charging parents and foster parents additional premiums for minors in the household who have learner's permits.

Section 3. Provides an effective date of July 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to affect the revenues of state government.

2. Expenditures:

The bill does not appear to increase the expenditures of state government.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to affect the revenues of local governments.

2. Expenditures:

The bill does not appear to increase the expenditures of local governments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Motor vehicle insurers would be unable to charge an additional premium for drivers with a learner's permit. Companies now charging an additional premium would no longer be able to charge the additional amount. These motor vehicle insurers could incur losses without recovering corresponding premiums. This could have a greater impact on insurers with a smaller premium base.

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties or municipalities to raise revenues in the aggregate.

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

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

This bill does not expand or contract the authority of any agency to make rules.

C. OTHER COMMENTS:

The bill eliminates the liability a foster parent or group home representative would otherwise assume by signing the application for a learner's permit of a minor under their care. However, the bill does not appear to eliminate the liability of these persons entirely. Under the language of the bill, these persons would not assume any obligation or liability by reason of having signed the application. It is conceivable that guardians like foster parents and group home representatives could be held liable under some legal theory separate from the strict liability currently imputed to them automatically under s. 322.09, F.S, for having signed a minor's application for a learner's permit.

In addition, since person's holding a learner's permit may not operate a motor vehicle without the direct supervision of another person who is at least 21-years-of-age, the person providing supervision may also be subject to imputation of the minor's liability. Thus, it appears that the bill would merely limit the liability of foster parents and group home representatives without eliminating it entirely, and would not appear to eliminate all recourse of a party injured by a minor with a learner's permit obtained under the signature of a foster parent or group home representative.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 4, 2001, the Committee on Insurance adopted an amendment by Representative Mealor that prohibits insurers from charging to foster parents an additional premium for minor's with learner's permits. The bill had included both parents and foster parents.

The bill was then reported favorably as amended, with the amendment traveling with the bill.

VII. SIGNATURES:

COMMITTEE ON INSURANCE:

Prepared by:

Staff Director:

Alexis L. Mead

Stephen T. Hogge

COMMITTEE ON TRANSPORTATION:

Prepared by:

Staff Director:

William C. Garner

Phillip B. Miller

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Prepared by:

Staff Director:

Bob Barrios

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