

STORAGE NAME: h0175s1z.cpcs.doc
DATE: June 28, 2001

****AS PASSED BY THE LEGISLATURE****
CHAPTER #: 2001-147, Laws of Florida

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CRIME PREVENTION, CORRECTIONS & SAFETY
FINAL ANALYSIS**

BILL #: CS/HB 175

RELATING TO: Reckless Driving

SPONSOR(S): Crime Prevention, Corrections & Safety and Representative Machek

TIED BILL(S):

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

- (1) CRIME PREVENTION, CORRECTIONS & SAFETY YEAS 9 NAYS 0
 - (2) TRANSPORTATION YEAS 13 NAYS 0
 - (3) COUNCIL FOR HEALTHY COMMUNITIES YEAS 13 NAYS 0
 - (4)
 - (5)
-

I. SUMMARY:

Current law provides no specific penalties for causing serious bodily injury or damaging the property or person of another as a result of reckless driving. CS/HB 175 enhances penalties for reckless driving resulting in serious bodily injury to another, and defines it as a third-degree felony, punishable by up to five years' imprisonment or a \$5,000 fine, or both.

The Committee Substitute also enhances penalties for damaging the property or person of another as a result of reckless driving and defines the offense as a first-degree misdemeanor, punishable by up to one year imprisonment or a \$1,000 fine, or both.

CS/HB 175 defines the term "serious bodily injury" as an injury to any 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 any bodily member or organ.

The Committee Substitute defines "aggressive careless driving" and requires the Department of Highway Safety and Motor Vehicles (DHSMV) to revise the uniform traffic citation so that officers can indicate when a traffic violation or accident was caused by aggressive careless driving. Further provisions require the DHSMV to report the number of aggressive careless driving incidents to the Legislature by December 1, 2002.

The Committee Substitute likely has an insignificant fiscal impact on government, and raises no apparent constitutional or legal issues.

CS/HB 175 has an effective date of October 1, 2001.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

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

B. PRESENT SITUATION:

Reckless driving is defined under s. 316.192(1), F.S., as:

"Any person who drives any vehicle in willful or wanton disregard for the safety of persons or property is guilty of reckless driving."

Although reckless driving is considered a misdemeanor offense, it is not defined as either a first- or second-degree misdemeanor. Section 316.192(2)(a) and (b), F.S., provides specific penalties for a person convicted of reckless driving as follows:

- First conviction - up to 90 days imprisonment or a \$500 fine, or both.
- Second or subsequent conviction - up to six months imprisonment or a \$1,000 fine, or both. In addition, if the person's reckless driving results in the death of another, the person may be required to serve 120 community hours as provided in s. 316.027(4), F.S.

In addition to other penalties, the court may direct an offender to complete a substance abuse education course and evaluation, as provided in s. 316.193(5), F.S., if alcohol or chemical substances contributed to the reckless driving violation. A DUI program licensed by the Department of Highway Safety and Motor Vehicles conducts the course and evaluation, and the offender may be referred to a substance abuse treatment program.

A fee of \$5 is added to a reckless driving fine to fund the Emergency Medical Services Trust Fund.

Florida's current traffic laws do not address aggressive careless driving. In instances where a motorist commits more than one moving violation, law enforcement officers generally issue a citation for the most serious traffic offense.

C. EFFECT OF PROPOSED CHANGES:

CS/HB 175 creates s. 316.192(3), F.S., to enhance penalties for reckless driving as follows:

- Damaging the property or person of another is defined as a first-degree misdemeanor, punishable by up to one year imprisonment or \$1,000 fine or both, as provided in s. 775.082(4)(a), 775.083(1)(d), F.S.

- Causing serious bodily injury to another is defined as a third degree felony, punishable by up to five years' imprisonment and \$5,000 fine or both, as provided in s. 775.082(3)(d), 775.083(1)(c), F.S. The offender also may be subject to enhanced penalties under s. 775.084, F.S., as a habitual felony offender, habitual violent felony offender, three-time violent felony offender or violent career criminal.

The enhanced penalties for reckless driving violations provided by CS/HB 175 are consistent with penalties for driving under the influence (DUI) offenses as set forth in s. 316.193(3)(c)(1) and (2), F.S.

CS/HB 175 defines the term "serious bodily injury" as an injury to any 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 any bodily member or organ. This definition conforms with section 316.1933(1), F.S., which defines "serious bodily injury" as it relates to DUI offenses.

Under section 316.192(2)(b), F.S., a person whose reckless driving results in the death of another may be required to serve 120 community service hours, in addition to other penalties imposed. The Committee Substitute amends s. 782.071, F.S., to conform to provisions relating to vehicular homicide.

CS/HB 175 creates section 316.1923, F.S., defining the term "aggressive careless driving" as committing two or more of the following acts simultaneously or in succession:

- Exceeding the posted speed as defined in s. 322.27(3)(d)5.b.
- Unsafely or improperly changing lanes as defined in s. 316.085.
- Following another vehicle too closely as defined in s. 316.0895(1).
- Failing to yield the right of way as defined in s. 316.079, s. 316.0815, or s. 316.123.
- Improperly passing as defined in s. 316.083, s. 316.084, or s. 316.085.
- Violating traffic control and signal devices as defined in ss. 316.074 and 316.075.

Section 316.650, F.S., is amended to require the Department of Highway Safety and Motor Vehicles (DHSMV) to revise the uniform traffic citation to include a checkbox in which an officer will indicate when he or she believes a traffic violation or traffic accident was caused by aggressive careless driving.

The bill further requires DHMSV to report the number of incidents of aggressive careless driving to the President of the Senate and the Speaker of the House by December 1, 2002.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s 316.192, F.S.; relating to reckless driving resulting in damage to property or person or serious bodily injury.

Section 2: Amends s. 782.071, F.S.; relating to vehicular homicide.

Section 3: Amends s. 921.0022, F.S.; relating to Offense Severity Ranking Chart.

Section 4: Amends s. 960.03, F.S.; technical correction relating to crime.

Section 5: Creates s. 316.1923, F.S.; relating to aggressive careless driving.

Section 6: Amends s. 316.650, F.S., relating to traffic citations.

Section 7: Establishes reporting requirements for the Department of Highway Safety and Motor Vehicles reference aggressive careless driving incidents.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments.

D. FISCAL COMMENTS:

The Department of Highway Safety and Motor Vehicles reports that the provisions pertaining to reckless driving will require approximately 40 hours of programming modifications to the Driver License software system at a cost of \$5,400 for implementation.

This bill contains provisions similar to those in SB 1088 that define aggressive careless driving and require the DHSMV to revise the uniform traffic citation to record such incidents. As reported in the staff analysis for SB 1088, DHSMV advised that the implementation of provisions relating to aggressive careless driving would require approximately 1300 hours of contracted programming modifications at \$135 per hour (\$175,500) to modify the Driver License Software System. Revisions to the uniform traffic citation would result in form and distribution costs that would be absorbed by DHSMV.

The Criminal Justice Estimating Conference has not met to consider the prison-bed impact that CS/HB 175 will have on the Department of Corrections. CS/HB 175 enhances penalties for reckless driving resulting in serious bodily injury to another and defines it as a felony of the third degree. In prior years, the Criminal Justice Estimating Conference has determined that the creation of any third-degree felony offense which is not ranked in the Offense Severity Ranking Chart of the Criminal Punishment Code would have an insignificant prison-bed impact on the Department of Corrections.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

CS/HB 175 is exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

CS/HB 175 does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

CS/HB 175 does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

The Department of Highway Safety and Motor Vehicles reported that Florida law enforcement officers arrested 12,364 motorists for reckless driving in 1999. According to the Department, the enhanced penalties provided by passage of this legislation would assist law enforcement officers in their efforts to provide safety for motorists.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Committee Amendments:

Representative Machek offered two amendments to HB 175 during the February 8, 2001, meeting of the Committee on Crime Prevention, Corrections and Safety. Current law provides, under s.316.192(2)(b), F.S., in addition to other penalties imposed, a person whose reckless driving results in the death of another may be required to serve 120 community service hours. These amendments clarify the aforesaid section to conform with s. 782.071, F.S., relating to vehicular homicide.

The two amendments were adopted by the committee and the bill was made a committee substitute.

Chamber Action:

On April 26, 2001, Representative Machek offered three amendments that were adopted on second reading in the House of Representatives. These amendments define "aggressive careless driving" and provide requirements for the Department of Highway Safety and Motor Vehicles to report recorded incidents to the Legislature.

STORAGE NAME: h0175s1z.cpcs.doc

DATE: June 28, 2001

PAGE: 6

On May 1, 2001, Representative Machek offered a strike everything amendment to correct technical deficiencies in the bill. CS/HB 175 passed the House of Representatives as amended. The House bill was substituted for the similar CS/SB 678, and was passed by the Senate on May 4, 2001. The bill was approved by the Governor on June 1, 2001.

VII. SIGNATURES:

COMMITTEE ON CRIME PREVENTION, CORRECTIONS & SAFETY:

Prepared by:

Staff Director:

Lynn Dodson

David De La Paz

COMMITTEE ON TRANSPORTATION:

Prepared by:

Staff Director:

Joyce Pugh

Phillip B. Miller

AS FURTHER REVISED BY THE COUNCIL FOR HEALTHY COMMUNITIES:

Prepared by:

Council Director:

Lynn Dodson

Mary Pat Moore

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON CRIME PREVENTION, CORRECTIONS & SAFETY:

Prepared by:

Staff Director:

Lynn Dodson

Trina Kramer