

STORAGE NAME: h0175s1.tr.doc
DATE: February 27, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
TRANSPORTATION
ANALYSIS**

BILL #: CS/HB 175

RELATING TO: Reckless Driving

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

TIED BILL(S):

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

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

I. SUMMARY:

Section 316.192, F.S., provides misdemeanor penalties for reckless driving violations: up to 90 days imprisonment or a \$500 fine, or both, for a first conviction, and up to 6 months' imprisonment or a \$1,000 fine, or both, for a second or subsequent conviction. 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 bill also authorizes the enhanced penalties provided in s. 775.084, F.S., for habitual felony offender, habitual violent felony offender, three-time violent felony offender or violent career criminal, to be applied for a reckless driving offense resulting in serious bodily injury to any person, including the reckless driver.

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 also 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 bill 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.

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.

D. SECTION-BY-SECTION ANALYSIS:

See "Effect of Proposed Changes" above.

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 passage of this legislation will require approximately 40 hours of programming modifications to the Drivers License software system at a cost of \$5,400 for implementation.

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:

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.

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VII. SIGNATURES:

COMMITTEE ON CRIME PREVENTION, CORRECTIONS & SAFETY:

Prepared by:

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COMMITTEE ON TRANSPORTATION:

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