

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 1194
 SPONSOR: Senators Wise and Bullard
 SUBJECT: Commercial Vehicle Traffic
 DATE: February 10, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cooper/Perrin	Yeatman	CP	Favorable
2.	_____	_____	TR	_____
3.	_____	_____	FT	_____
4.	_____	_____	ATD	_____
5.	_____	_____	AP	_____
6.	_____	_____	RC	_____

I. Summary:

This bill clarifies the jurisdiction and authority of municipalities to regulate commercial vehicle traffic.

This bill amends section 316.006 of the Florida Statutes.

II. Present Situation:

Chapter 316, F.S., provides for uniform traffic laws throughout the state. Section 316.002, F.S., states that:

“The Legislature recognizes that there are conditions which require municipalities to pass certain other traffic ordinances in regulation of municipal traffic that are not required to regulate the movement of traffic outside of such municipalities.”

Section 316.006(2), F.S., grants municipalities “original jurisdiction over all streets and highways located within their boundaries, except state roads....”

Section 316.008, F.S., states that local authorities are authorized “with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power...” to, among other things:

- (a) Regulate or prohibit stopping, standing, or parking;
- (g) Restrict the use of streets; and
- (n) Prohibit or regulate the use of heavily traveled streets by any class or kind of traffic found to be incompatible with the normal and safe movement of traffic.

Prior to its 1973 repeal, s. 167.01, F.S., provided, in relevant part, that cities were authorized to regulate streets, lands and avenues. The repealing statute, s. 166.042, F.S., contains a savings clause that specifically provides municipalities the authority to continue to exercise the regulatory power granted to them pursuant to the repealed s. 167.01, F.S.

Counties currently have explicit authority over the regulation and restriction of certain commercial vehicle traffic. Section 125.01(1)(n), F.S., provides, to the extent not inconsistent with general or special law, this power includes, but is not restricted to, the power to:

“License and regulate taxis, jitneys, limousines for hire, rental cars, and other passenger vehicles for hire that operate in the unincorporated areas of the county...”

III. Effect of Proposed Changes:

Section 1 of this bill amends s. 316.006, F.S., to clarify the jurisdiction and authority of municipalities to “regulate and restrict commercial vehicle traffic by granting permits, franchises and licenses” on roads within their jurisdiction. The provision further states that this paragraph is intended to “reinforce the long-standing policy of this state” (see Present Situation).

Section 2 provides that the bill will become effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

Consistent with a recent ruling by a circuit court, this bill clarifies the authority of local governments to charge fees for commercial vehicle permits, franchises and licenses associated with the regulation and restriction of commercial vehicle traffic over all streets and highways within their boundaries.

B. Private Sector Impact:

Consistent with a recent ruling by a circuit court and current practice by municipalities, privately owned companies may be charged fees by municipalities for commercial vehicle permits, franchises and licenses.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

In a recent circuit court case,¹ a municipality's authority to enact franchise ordinances granting exclusive contracts for sightseeing tours within its jurisdiction was challenged and upheld. The Plaintiff argued that there existed no "clearly articulated or affirmatively expressed policy of the State of Florida" authorizing a city to enact franchise ordinances. The plaintiffs alleged that the ordinances enacted by the defendants constituted actionable, anticompetitive conduct as defined in Ch. 542, F.S. The defendants responded that sections 316.002, 316.006, and 316.008, F.S., provide sufficient authority to enact the challenged franchise ordinances.

The court ruled in favor of the defendants and held that the City of Key West was statutorily authorized to enact the franchise ordinances granting exclusive contracts for sightseeing tours within its jurisdiction. The court did not rule on whether or not the franchise ordinances were in violation of Ch. 542, F.S.

This case is on appeal.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

¹Case no. 95-941-CA-18 (FLA 16th Cir. Ct. Sept. 26, 2002)