

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.)

Prepared By: Community Affairs Committee

BILL: SB 642

SPONSOR: Senators Rich and Wise

SUBJECT: Traffic Regulations

DATE: March 2, 2005

REVISED: 03/29/05

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Evans</u>	<u>Meyer</u>	<u>TR</u>	<u>Favorable</u>
2.	<u>Vickers</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable</u>
3.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
4.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
5.	<u> </u>	<u> </u>	<u> </u>	<u> </u>
6.	<u> </u>	<u> </u>	<u> </u>	<u> </u>

I. Summary:

Section 316.1303, F.S., currently provides that whenever a pedestrian who is mobility-impaired (using a walker, or a crutch, or an orthopedic cane, or a wheelchair) is in the process of crossing an intersection motorists are required to stop and take precautions to avoid injuring such pedestrian. A violation of this section constitutes a noncriminal traffic infraction, punishable by a civil fine of \$60.

This bill amends this section to expand the definition of pedestrians who are mobility-impaired to include those pedestrians using guide dogs or service animals.

This bill substantially amends section 316.1303 of the Florida Statutes.

II. Present Situation:

Section 413.081 (5)(a), F.S., defines the term "guide dog" to mean a dog trained for the purpose of guiding blind persons or a dog trained for the purpose of assisting hearing impaired persons, and s. 413.081 (5)(b), F.S., defines "service animal" to mean an animal which is trained for the purposes of assisting or accommodating a disabled person's sensory, mental, or physical disability.

Florida Traffic Laws - Section 316.1301, F.S., (*Traffic Regulations to Assist Blind Persons*) requires the operator of a motor vehicle to bring his or her vehicle to a full stop before arriving at an intersection or a place of crossing and, before proceeding, to take such precautions as may be necessary to avoid injuring a pedestrian whenever a pedestrian is crossing, or attempting to cross, a public street or highway, guided by a dog guide or carrying in a raised or extended position a cane or walking stick which is white in color or white tipped with red.

Section 316.1303, F.S., (*Traffic Regulations to Assist Mobility-Impaired Persons*) requires the operator of a motor vehicle to bring his or her vehicle to a full stop before arriving at an intersection and, before proceeding, shall take such precautions as may be necessary to avoid injuring such pedestrian whenever a pedestrian is in the process of crossing a public street or highway and the pedestrian is mobility-impaired (using a walker, or a crutch, or an orthopedic cane, or a wheelchair).

Violation of ss. 316.1301 or 316.1303, F.S., is a noncriminal traffic infraction punishable by a civil fine of \$60. If the violation results in an injury to the pedestrian or damage to the property of the pedestrian then an additional fine of up to \$250 shall be paid under s. 318.18(3)(a) and (e), F.S. If another person dies as a result of the infraction, the person cited may be required to perform 120 community service hours under s. 316.027, F.S., in addition to any other penalties. According to the Department of Highway Safety and Motor Vehicles, there were 54 convictions for violations of ss. 316.1301 and 316.1303, F.S., during 2003.

Section 316.130, F.S., establishes general requirements governing pedestrian obedience to traffic control devices and traffic regulations. Subsection (1) provides that a pedestrian shall obey the instructions of any official traffic control device specifically applicable to the pedestrian unless otherwise directed by a police officer. Subsection (7) provides that when traffic control signals are not in place or in operation, a motorist shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger. Subsection (15) states that notwithstanding other provisions of ch. 316, F.S., every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian or any person propelling a human-powered vehicle and give warning when necessary and exercise proper precaution upon observing any child or any obviously confused or incapacitated person. Violation of this section is punishable as a noncriminal traffic infraction.

The Americans with Disabilities Act (ADA) and Service Animals - The ADA defines a service animal as any guide dog, signal dog, or other animal individually trained to provide assistance to an individual with a disability. If they meet this definition, animals are considered service animals under the ADA regardless of whether they have been licensed or certified by a state or local government.

Service animals perform some of the functions and tasks that the individual with a disability cannot perform. "Seeing eye dogs" are one type of service animal, used by some individuals who are blind. This is the type of service animal with which most people are familiar. But there are service animals that assist persons with other kinds of disabilities in their day-to-day activities. Some examples include:

- Alerting persons with hearing impairments to sounds.
- Pulling wheelchairs or carrying and picking up things for persons with mobility impairments.

- Assisting persons with mobility impairments with balance.

Some, but not all, service animals wear special collars, harnesses, or vests. Similarly, some, but not all, service animals are licensed or certified and have identification papers. ADA guidelines provide that business operators who are not certain that an animal is a service animal, may ask the person who has the animal if it is a service animal required because of a disability. However, documentation generally may not be required as a condition for providing service to an individual accompanied by a service animal.

Although a number of states have programs to certify service animals, individuals with disabilities are not required to utilize animals that have completed a certification program. ADA guidelines provide that a business operator may not insist on proof of certification before permitting the service animal to accompany the person with a disability.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 316.1303, F.S., to expand the definition of pedestrians who are mobility-impaired to include pedestrians using guide dogs and service animals.

Section 2 of the bill provides the effective date of the bill is July 1, 2005.

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:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill expands the definition of pedestrians who are mobility-impaired to include those pedestrians using guide dogs or service animals. However, because guide dogs and service animals are not required to wear identifying harnesses or vests, motorists may not be able to readily distinguish such animals from pets.

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

VIII. Summary of Amendments:

None.

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