

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government— The bill extends government regulation over the behavior of motorists by prohibiting currently lawful operation of motor vehicles in the left-hand lane of multi-lane roadways. The bill creates additional fines for certain driving violations.

Safeguard individual liberty— The bill restricts the freedom of an individual to operate a motor vehicle in the left-hand lane of a multi-lane roadway under certain circumstances, which is allowed under current law.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Chapter 316, F.S. provides the state with a uniform traffic code. Generally, drivers proceeding upon any roadway at *less than the normal speed of traffic* under prevailing conditions must stay in the right-hand lane.¹ However, this requirement does not apply when the motor vehicle is overtaking or passing another vehicle proceeding in the same direction, or when preparing for a left turn.² Motor vehicles are also prohibited from travelling in the leftmost lane of multiple lanes traveling in the same direction, where the leftmost lane is reserved for vehicles carrying multiple passengers.³

On a two-way roadway having four or more lanes, no vehicle may be driven to the left of the centerline of the roadway, except when authorized by official traffic control devices designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except to overtake or pass, or to prepare for a left turn.⁴

Section 316.1923, F.S., defines “aggressive careless driving” as committing *two* or more of the following acts simultaneously or in succession:

- Exceeding the posted speed limit;
- Unsafely or improperly changing lanes;
- Following another vehicle too closely;
- Failing to yield the right-of-way;
- Improperly passing; or
- Violating traffic control and signal devices.

Drivers committing noncriminal traffic infractions are often permitted to pay a fine and attend a basic driver improvement course approved by the Department, without appearing before a hearing officer or a judge.⁵ If the driver elects this option, the court is required to withhold adjudication, and may not assess points as provided by s. 322.27, F.S. In addition, the civil penalty imposed by section 318.18(3),

¹ Section 316.081(2), F.S.

² *Id.*

³ Section 316.0741(3), F.S.

⁴ Section 316.081(3), F.S.

⁵ See Section 318.14, F.S. This exemption does not apply to holders of a commercial driver’s license or to speed violations in excess of 30 miles per hour over the posted speed limit.

F.S., is reduced by 18 percent.⁶ A driver is allowed to elect the course once every twelve months, but not more than five times in total.

Section 318.19, F.S., provides that citations for the following infractions require a mandatory hearing:

- Any infraction which results in a crash and causes the death of another person;
- Any infraction which results in a crash that causes “serious bodily injury” of another person;⁷
- Any infraction of failing to stop for a school bus;⁸
- Any infraction of failing to secure loads on vehicles;⁹ or
- Any speed infraction exceeding 30 miles per hour over the speed limit.

Section 322.27, F.S., sets out a point system for traffic violations. Moving violations typically result in assessment of three points, unless the infraction or offense is among those considered more serious. For example, pursuant to section 322.27(3)(d), F.S., reckless driving, passing a stopped school bus, and speeding in excess of 15 mph over the posted limit all require assessment of four points. Leaving the scene of a crash and speeding resulting in a crash require assessment of six points.

The Department may suspend a driver for 30 days if the driver accumulates 12 or more points within a 12-month period,¹⁰ up to three months if the driver accumulates 18 points in 18 months,¹¹ and up to one year if the driver accumulates 24 points within 36 months.¹²

Proposed Changes

HB 1177, entitled the “Highway Safety Act,” provides legislative findings that road rage and aggressive careless driving are a growing threat to the public’s health, safety, and welfare. It provides further,

[t]he intent of the Legislature is to reduce road rage and aggressive careless driving, reduce the incidence of drivers’ interfering with the movement of traffic, minimize crashes, and promote the orderly, free flow of traffic on the roads and highways of this state.

The bill provides a definition of road rage as “[t]he act of a driver or passenger to intentionally injure or kill another driver, passenger, or pedestrian, or to attempt or threaten to injure or kill another driver, passenger, or pedestrian.”

The bill requires that on roads, streets, or highways with two or more lanes allowing for movement in the same direction, no person is to continue to operate a motor vehicle in the most left-hand lane once the person knows or should reasonably know he or she is being overtaken from the rear by another motor vehicle traveling at a higher rate of speed. The bill provides exceptions to this requirement when the slower motor vehicle is in the process of overtaking another vehicle in an adjacent lane or is preparing to turn left.

⁶ For most violations, this fine is \$60, plus local court costs (which vary by jurisdiction). Speeding fines are tiered, ranging from \$25 to \$250 (plus local court costs), pursuant to section 318.18(3)(b), F.S.

⁷ “Serious bodily injury” is defined by section 316.1933(1)(b), F.S., 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.”

⁸ See Section 316.172, F.S.

⁹ See Section 316.520, F.S.

¹⁰ Section 322.27(3)(a), F.S.

¹¹ Section 322.27(3)(b), F.S.

¹² Section 322.27(3)(c), F.S.

The bill also amends s. 316.1923, F.S., increasing the number of traffic violations from two to three that a person must commit simultaneously or in succession to be guilty of "aggressive careless driving." The bill also includes failing to yield to overtaking vehicles as one of these traffic violations. A violation is made a non-criminal traffic infraction punishable as a moving violation pursuant to Chapter 318, F.S. Offenders would be subject to a \$60 fine (plus fees and court costs varying by jurisdiction) for each violation, and an assessment of applicable points against the driver's license for each of the acts violated.

The bill provides additional fines for aggressive careless driving beyond the current fines and accumulation of points under Chapters 318 and 322, F.S. HB 1177 provides that any person convicted of aggressive careless driving will be punished by an additional fine of \$100 for a first conviction, and by both (i) a fine ranging from \$250 to \$500 and (ii) a mandatory hearing under s. 318.19, F.S., for a second or subsequent conviction.

The bill provides that moneys received from the increased fine for aggressive careless driving are to be remitted to the Department of Revenue and deposited into the Department of Health Administrative Trust Fund to provide financial support to verified trauma centers to ensure the availability and accessibility of trauma services throughout the state. These funds are required to be allocated as follows:

- Twenty-five percent shall be allocated equally among all Level I, Level II, and pediatric trauma centers in recognition of readiness costs for maintaining trauma services;
- Twenty-five percent shall be allocated among Level I, Level II, and pediatric trauma centers based on each center's relative volume of trauma cases as reported in the Department of Health Trauma Registry;
- Twenty-five percent shall be allocated for emergency medical services; and
- Twenty-five percent shall be allocated for rural emergency medical services.

The Department is required to conduct a public awareness campaign to inform the motoring public about changes in the law. The Department must provide information about the act in "all newly printed driver's license educational materials after October 1, 2008," and in public service announcements produced in cooperation with the Florida Highway Patrol.

C. SECTION DIRECTORY:

- Section 1.** Provides a popular name for the act.
- Section 2.** Provides legislative findings relating to road rage and aggressive careless driving.
- Section 3.** Amends s. 316.003, F.S., defining the term "road rage."
- Section 4.** Amends s. 316.083, F.S., requiring an operator of a motor vehicle to yield the left lane when being overtaken on a multilane highway; providing exceptions.
- Section 5.** Amends s. 316.1923, F.S., revising the number of specified acts necessary to qualify as an aggressive careless driver; providing specified punishments for aggressive careless driving.
- Section 6.** Amends s. 318.19, F.S., providing that a second or subsequent infraction as an aggressive careless driver requires attendance at a mandatory hearing; providing for the disposition of the increased penalties;
- Section 7.** Requires the Department to provide an educational awareness campaign about the Act.
- Section 8.** Reenacts s. 316.650(1)(a), F.S., relating to traffic citations, to incorporate the amendments made to s. 316.1923, F.S., in a reference thereto.

Section 9. Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS, below.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A person violating the aggressive careless driving provision would be subject to a \$60 fine plus applicable fees and court costs for each violation.

D. FISCAL COMMENTS:

The bill prohibits behavior that is currently lawful. It is unknown how many traffic citations will be issued pursuant to the bill's provisions, therefore the resulting increase in revenue to the state and local governments is indeterminate.

To the extent that the bill deters unsafe traffic activity in Florida, crash-related injuries and deaths could be reduced thereby decreasing associated medical and insurance costs.

The bill directs the Department to conduct a public awareness campaign (including public service announcements) regarding the changes in the law. Because the bill does not provide additional funding to the agency for the campaign, the scope of the public awareness campaign will be limited by what funds are available for such purposes within DHSMV's existing resources.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

This bill is about safety and protection for the driving public. I believe holding back the flow of traffic in the left lane contributes to increased incidents of road rage. The Federal Uniform code acknowledges this and states: "Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic ..."

This bill is not a "free ticket" for speeding drivers nor a punishment for drivers doing the speed limit in the left lane. Speeders will remain subject to speeding tickets but with the legislation, "failure to yield" becomes an infraction for drivers in the left lane who simply fail to move over when there is an oncoming vehicle in the left lane.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES