

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote Personal Responsibility: This bill provides criminal sanctions for failure to take safety precautions for an activity which potentially could cause serious injury.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Currently there is not a Florida statute that requires a person to wear a helmet while riding a horse. The Florida cities of Davie, Parkland, and Plantation currently have municipal laws which require minors to wear approved helmets when riding on public lands. There is a statute that requires bicycle riders under the age of 16 to wear helmets¹. In addition, there is a statute which prohibits renting a bicycle to a person under 16 unless the renter provides a helmet or verifies that the person has a helmet². A violation of this section is a noncriminal traffic infraction³. Similarly, a person under the age of 21 must wear a helmet when riding a motorcycle⁴. A violation of that section is also a noncriminal traffic infraction.

New York has a statute that requires minors who are under 14 years old to wear helmets while riding horses. The New York statute provides that the child's parent must pay up to a maximum \$50 civil fine for a violation if the parent is present when the violation occurs. The child under 14 may not be issued a citation under the statute. Additionally, the statute allows a waiver of the fine if a parent purchases a helmet, or if the purchase of a helmet would cause an undue hardship on the parent.

Proposed Changes

In 2006, Nicole Hornstein was thrown off a horse she was riding and hit her head on a paved area of ground. Hornstein was not wearing a helmet at the time. As a result of the fall, Hornstein fell into a coma for 20 days before passing away at age 12.

HB 305 creates s. 773.01, F.S., which requires all equine riders under 16 years of age to wear helmets if they are riding a horse on:

- A public roadway or right-of-way

¹ Section 316.2065(3)(d), F.S.

² Section 316.2065(16), F.S.

³ ss. 316.2065(20), F.S.

⁴ Section 316.211, F.S.

- A public equestrian trail, public recreational trail, public park or preserve, or public school site
- Any other publicly controlled property

The bill requires that the helmet meet the American Society of Testing and Materials standards for helmets used in horseback riding.

The bill provides exceptions to the helmet requirement. A person under 16 years of age is not required to wear a helmet while riding a horse if the person is:

- Practicing for or competing or performing in shows or events, including, but not limited to, rodeos and parades, where helmets are not historically a part of the show or event;
- On private property, even if the property is separated by a public right of way; or
- Engaged in agricultural pursuits

Additionally, the bill requires that parents may not authorize a child under 16 years of age to ride a horse without a helmet if it would violate this section. Also, the bill prohibits any person from renting a horse to be ridden by a person under 16 years of age without verifying the person has a helmet or providing the person with a helmet.

HB 305 provides that any person who violates this section commits a third degree misdemeanor. Under Florida law, there are only first and second degree misdemeanors⁵.

The bill has an effective date of October 1, 2008.

C. SECTION DIRECTORY:

Section 1. Cites the bill as the "Nicole Hornstein Act."

Section 2. States the intent of the Legislature to protect minors engaged in equestrian activities.

Section 3. Creates s. 773.11, F.S., requiring equine riders under 16 years of age to wear helmets under certain circumstances.

Section 4. Provides effective date of October 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

⁵. s. 775.082, s. 775.083, F.S.

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill provides that any person who violates this section commits a third degree misdemeanor. Per Florida law, there are only first and second degree misdemeanors. S. 775.082, s. 775.083, F.S.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 19, 2008, the Committee on Homeland Security & Public Safety adopted one amendment to the bill. The amendment provides that any violation of this section is a noncriminal penalty.