

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: CS/SB 658

INTRODUCER: Criminal Justice Committee and Senator Bennett

SUBJECT: Road Rage and Aggressive Careless Driving

DATE: April 21, 2008                      REVISED: \_\_\_\_\_

|    | ANALYST         | STAFF DIRECTOR | REFERENCE | ACTION                 |
|----|-----------------|----------------|-----------|------------------------|
| 1. | <u>Eichin</u>   | <u>Meyer</u>   | <u>TR</u> | <b>Fav/1 amendment</b> |
| 2. | <u>Erickson</u> | <u>Cannon</u>  | <u>CJ</u> | <b>Fav/CS</b>          |
| 3. | _____           | _____          | <u>FT</u> | _____                  |
| 4. | _____           | _____          | <u>TA</u> | _____                  |
| 5. | _____           | _____          | _____     | _____                  |
| 6. | _____           | _____          | _____     | _____                  |

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| <b>Please see Section VIII. for Additional Information:</b> |  |
| A. COMMITTEE SUBSTITUTE.....                                | <input checked="" type="checkbox"/> Statement of Substantial Changes |
| B. AMENDMENTS.....  | <input type="checkbox"/> Technical amendments were recommended       |
|   | <input type="checkbox"/> Amendments were recommended                 |
|   | <input type="checkbox"/> Significant amendments were recommended     |

**I. Summary:**

The bill, known as the “Highway Safety Act,” declares the Legislature’s finding that road rage and aggressive driving are a growing threat to the public’s health, safety, and welfare, and the Legislature’s intent to reduce road rage, aggressive careless driving, crashes, and interference with the movement of traffic. The bill:

- Prohibits a driver from continuing to operate a vehicle in the left lane of a multi-lane highway when the driver knows, or should reasonably know, he or she is being overtaken (and establishes exceptions to this prohibition);
- Increases from two to three, the number of driving infractions committed simultaneously in order to qualify as aggressive careless driving;
- Includes failure to yield to overtaking vehicles to the infractions considered acts of aggressive careless driving;
- Establishes penalties for aggressive careless driving and provides for the distribution of money received from increased fines associated with these penalties;
- Directs the Department of Highway Safety and Motor Vehicles (DHSMV) to provide information about this act in driver’s license educational materials.

This bill substantially amends sections 316.003, 316.083, 316.1923 and 318.19 of the Florida Statutes. Section 316.650, F.S., is reenacted for the purpose of incorporating amendments made by this act.

## II. Present Situation:

### Road Rage and Aggressive Driving

The terms “aggressive driving” and “road rage” are often used interchangeably, but most experts agree the terms are not the same. According to the National Highway Traffic Safety Administration (NHTSA), aggressive driving comprises following too closely, driving at excessive speeds, weaving through traffic, running stop lights and signs, and other forms of negligent or inconsiderate driving.<sup>1</sup> Occasionally, aggressive driving transforms into confrontation, physical assault, and even murder. A study on road deaths and injuries shows that:

... road death and injury rates are the result, to a considerable extent, of the expression of aggressive behavior ...those societies with the greatest amount of violence and aggression in their structure will show this by externalizing some of this violence in the form of dangerous and aggressive driving....<sup>2</sup>

“Road Rage” is the label that has emerged to describe the angry and violent behaviors at the extreme of the aggressive driving continuum. A literature review commissioned by the American Automobile Association (AAA) Foundation for Traffic Safety defines road rage as:

...an incident in which an angry or impatient motorist or passenger intentionally injures or kills another motorist, passenger, or pedestrian, or attempts or threatens to injure or kill another motorist, passenger, or pedestrian.<sup>3</sup>

The willful intent to injure other individuals or to cause damage, although directed at a specific target, presents an immediate danger to all in the vicinity of those engaged in acts of road rage. There are numerous accounts in which road rage incidents inadvertently involve drivers or pedestrians not targeted in the incident.

Aggressive driving maneuvers, such as tailgating and speeding, can also be seen as the result of the driving environment, and they are also connected with the issue of congestion.<sup>4</sup> Studies show most incidents happen between the hours of four and six o’clock in the evening, times in which traffic congestion is more than likely a factor or the primary cause of an accident. In addition, there is strong evidence correlating the number of lane change maneuvers to accidents, and speed to accidents. On most roads, drivers are made relatively equal by the prescribed limits of the law regardless of individual differences in capability and status. The vast majority of cars are fully capable of exceeding 70 mph, yet all cars are directed by law to adhere to the same upper and lower limits. In relation, dense traffic which impedes progress is a natural and commonplace theme on most roads. Drivers must adhere to the limitations placed on their speed and movement, prescribed directly (by speed limits, or variations in the number of lanes available)

<sup>1</sup> NHTSA, “Aggressive Driving Enforcement: Evaluation of Two Demonstration Programs” (March 2004) DOT HS 809 707

<sup>2</sup> Whitlock, F.A., *Death on the Road: A Study in Social Violence*. London: Tavistock

<sup>3</sup> AAA Foundation for Traffic Safety “Controlling Road Rage: A Literature Review and Pilot Study (June 1999)

<sup>4</sup> D. Connell, M. Joint, “Driver Aggression” Road Safety Unit Group Public Policy (November 1996)

and indirectly (by congestion). For this reason it is easier for the driver to ascribe frustration at being impeded by an ambiguous source, especially if there is no logical reason for the obstruction (to the impeded driver).<sup>5</sup> This is an example of the possible escalating frustration, which may transform from driving aggressively into an instance of road rage.

Current Florida law in relation to “driving on right side of roadway,” does require vehicles moving at a lesser rate of speed to drive in the right hand lane as soon as it is reasonable to proceed into that lane. Exceptions and exemptions include: when overtaking and passing another vehicle proceeding in the same direction, when preparing for a left turn at an intersection or into a private road or driveway.<sup>6</sup> Violations of this law are non criminal offenses; however, enforcement of these provisions has been minimal.

### **Aggressive Driving Laws**

Another important distinction is aggressive driving is considered a traffic violation, while road rage results in criminal offense(s). Currently nine states have laws pertaining to aggressive driving as described above (including Florida). The extent of the few road rage laws in existing statutes are limited to definition. Most, if not all acts under the umbrella of what is considered to be road rage, are labeled criminal offenses with applicable punishments. Road rage is not considered a punishable crime in any existing statute. Some crimes considered to be an act of road rage if carried out while driving include: *Criminal Damage, Using Threatening, Abusive, or Insulting Words or Behavior* (thereby causing fear or provocation), *Wounding with Intent, Common Assault, Assault with a Deadly Weapon, Murder, Manslaughter, and Vehicular Homicide*.

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

- (1) Exceeding the posted speed as defined in s. 322.27(3)(d)5.b, F.S.
- (2) Unsafely or improperly changing lanes as defined in s. 316.085, F.S.
- (3) Following another vehicle too closely as defined in s. 316.0895(1), F.S.
- (4) Failing to yield the right-of-way as defined in ss. 316.079, 316.0815, or 316.123, F.S.
- (5) Improperly passing as defined in ss. 316.083, 316.084, or 316.085, F.S.
- (6) Violating traffic control and signal devices as defined in subsections 316.074 and 316.075, F.S.

These violations carry separate penalties for each offense. Section 316.1923, F.S., does not, however, provide for any penalties to be administered for the act of aggressive driving itself. Law enforcement officers, by law are to check off a box, which is included on a ticket or an accident report form, when the officer believes the traffic violation or crash was due to aggressive driving.<sup>7</sup> The information is recorded and used by the DHSMV.

Section 316.003, F.S., is a list of definitions for terms used in the chapter.

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<sup>5</sup> Ibid.

<sup>6</sup> Section 316.081 (1)(3)(4), F.S.

<sup>7</sup> Section 316.650 F.S.

Section 316.083, F.S., provides that drivers overtaking other drivers must use the proper signal, and those being overtaken must yield the right of way to the overtaking vehicle. In addition, vehicles being overtaken may not increase speed until the attempted pass is complete or it is reasonably safe to do so.

Section 318.19, F.S., lists infractions requiring a mandatory court hearing.

Section 316.650, F.S., requires the DHSMV to include a box on all traffic citation tickets and accident report forms in which the issuing law enforcement officer is to check off if it is believed the traffic infraction or crash was a result of aggressive careless driving.

### III. Effect of Proposed Changes:

**Section 1:** Creates the “Highway Safety Act.”

**Section 2:** Describes the legislative intent of the Highway Safety Act as the reduction of road rage and aggressive careless driving through the reduction of the impediments to the free flow of traffic.

**Section 3:** Amends s. 316.003, F.S., by defining the term “road rage” to mean:

The 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.

**Section 4:** Amends s. 316.083, F.S., to provide that on roads, streets, or highways having two or more lanes that allow movement in the same direction, a driver may not continue to operate a motor vehicle in the furthestmost left-hand lane if the driver knows, or reasonably should know, that he or she is being overtaken in that lane from the rear by a motor vehicle traveling at a higher rate of speed.

The bill provides that this prohibition does not apply to a driver operating a motor vehicle in the furthestmost left-hand lane if:

- The driver is driving the legal speed limit and is not impeding the flow of traffic in the furthestmost left-hand lane;
- The driver is in the process of overtaking a slower motor vehicle in the adjacent right-hand lane for the purpose of passing the slower moving vehicle so that the driver may move to the adjacent right-hand lane;
- Conditions make the flow of traffic substantially the same in all lanes or preclude the driver from moving to the adjacent right-hand lane;
- The driver’s movement to the adjacent right-hand lane could endanger the driver or other drivers;
- The driver is directed by a law enforcement officer, road sign, or road crew to remain in the furthestmost left-hand lane; or
- The driver is preparing to make a left turn.

**Section 5:** Amends s. 316.1923, F.S., by adding a “failing to yield to overtaking vehicles” to the list of offenses that constitute aggressive careless driving. In addition, the number of acts performed simultaneously or in succession constituting aggressive careless driving is changed from two to three.

The bill provides that any person convicted of aggressive careless driving is to be cited for a moving violation and punished as provided in ch. 318, F.S., and by the accumulation of points as provided in s. 322.27, F.S., for each act of aggressive careless driving. In addition to any fine or points administered as specified, a person convicted of aggressive careless driving must also pay:

- Upon a first violation, a fine of \$100.
- Upon a second or subsequent conviction, a fine of not less than \$250 but not more than \$500 and be subject to a mandatory hearing under s. 318.19, F.S.

Moneys received from this increased fine 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. Funds deposited into the Administrative Trust Fund are to be allocated as follows:

- Twenty-five percent is to 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 is to 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 is to be transferred to the Emergency Medical Services Trust Fund and used by the department for making matching grants to emergency medical services organizations as defined in s. 401.107(4), F.S.
- Twenty-five percent is to be transferred to the Emergency Medical Services Trust Fund and made available to rural emergency medical services as defined in s. 401.107(5), F.S., and must be used solely to improve and expand prehospital emergency medical services in this state. Additionally, these moneys may be used for the improvement, expansion, or continuation of services provided.

**Section 6:** Section 318.19, F.S., is amended to include a second or subsequent infraction of aggressive careless driving in the list of infractions for which a court appearance is mandatory.

**Section 7:** Requires the DHSMV to provide an educational awareness campaign informing the driving community about this act. The DHSMV 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.

**Section 8:** The bill, for purposes incorporating the amendments made by this act, reenacts s. 316.650, F.S.

**Section 9:** The bill establishes an effective date of July 1, 2008.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

Persons convicted of aggressive careless driving are to pay \$100 in addition to all fines associated with each individual violation. Upon a second or subsequent conviction, violators will have to pay a fine of no less than \$250 and no more than \$500 in addition to any other fines associated with each individual violation.

## C. Government Sector Impact:

The DHSMV estimates that the cost to inform the public of this bill is \$200,000 in the first year and \$50,000 for each of the next two years.

The bill establishes an additional fine to be distributed to the Administrative Trust Fund for use by certain trauma centers. Revenues accruing from the additional fine are indeterminate.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Criminal Justice on April 21, 2008:**

- Provides additional exceptions to the provision that a driver may not continue to operate a motor vehicle in the furthestmost left-hand lane if the driver knows, or should reasonably know, that he or she is being overtaken in that lane from the rear by a motor vehicle traveling at a higher rate of speed.
- Modifies allocations of moneys received from the increased fine for aggressive careless driving.
- Requires the Department of Highway Safety and Motor Vehicles to provide information about the Highway Safety Act in driver's license educational materials.

- B. **Amendments:**

None.