

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 Transportation Committee

BILL: SB 658

INTRODUCER: Senator Bennett

SUBJECT: Road Rage and Aggressive Careless Driving

DATE: February 4, 2008 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Eichin	Meyer	TR	Fav/1 amendment
2.			CJ	
3.			FT	
4.			TA	
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input checked="" type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

Senate Bill 658, 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 provisions in the bill:

- Prohibit 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;
- Increase from two to three, the number of driving infractions committed simultaneously in order to qualify as aggressive careless driving;
- Include failure to yield to overtaking vehicles to the infractions considered acts of aggressive careless driving;
- Establish penalties for aggressive careless driving and provide for the distribution of money received from fines associated with these penalties;
- Direct 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.¹ 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...”²

“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.”³

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.⁴ 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

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

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

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

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

movement, prescribed directly (by speed limits, or variations in the number of lanes available) 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).⁵ 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.⁶ 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, 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.⁷ 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.

⁵ Ibid.

⁶ Section 316.081 (1)(3)(4), F.S.

⁷ Section 316.650 F.S.

Section 316.083, F.S., provides for 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 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 to reduce 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 prohibit drivers in the furthestmost left-hand lane of roads, streets, or highways from continuing to travel in that lane if their vehicle is being overtaken from the rear. Those drivers who are in the process of overtaking a vehicle themselves or preparing to make a left turn are exempt from this provision.

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 establishes penalties for an aggressive careless driving conviction as:

- A moving violation as provided in ch. 318, F.S., and a point addition as provided in s. 322.27, F.S., for each aggressive driving act.
- An additional fine of \$100 is added to any other fines or charges for the first conviction.
- A mandatory court appearance and a fine of no less than \$250 and no more than \$500 is to be paid upon a second or subsequent conviction.

In addition, the bill provides for the moneys received from the increased fines be deposited into Department of Health Administrative Trust Fund to provide financial support for trauma centers. Fifty percent is to be evenly distributed to Level I, Level II, and pediatric trauma centers. Fifty percent is to be distributed to Level I, Level II, and pediatric trauma centers based on each

center's relative volume of trauma cases as reported by the Department of Health Trauma Registry.

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 bill provides for these educational methods to be public service announcements in cooperation with the Florida Highway Patrol and information on the Highway Safety Act to be included with all new drivers' license educational materials.

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:

DHSMV estimates 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.)

None.

B. Amendments:

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The amendment makes changes to the allocation of moneys received from the fines imposed under s. 319.1923, F.S., relating to aggressive careless driving. The amendment reduces the distribution to trauma centers by 50 percent and requires 25 percent of fines to be allocated for emergency medical services; and 25 percent to be allocated for rural emergency medical services.