

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 Commerce Committee

BILL: CS/CS/CS/SB 1088

INTRODUCER: Commerce Committee; Community Affairs Committee; Transportation Committee; and Senator Altman

SUBJECT: Delivery Vehicles

DATE: April 14, 2009 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Eichin</u>	<u>Meyer</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Murphy</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
3.	<u>O'Callaghan</u>	<u>Cooper</u>	<u>CM</u>	<u>Fav/CS</u>
4.	_____	_____	<u>TA</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

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|------------------------------|-------------------------------------|---|
| 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:

This bill creates a new subsection (3) of s. 316.2126, F.S., authorizing “seasonal delivery personnel” to use, for limited period of time, golf carts, low-speed vehicles, and utility vehicles on certain roads, having a posted speed limit of 35 mph or less, for the purpose of delivering goods. However, seasonal delivery personnel are prohibited from driving golf carts on roads having a speed limit of 30 to 35 mph when a municipality’s ordinance prohibits such conduct.

This bill requires any vehicle operated, as authorized in the bill, to meet certain safety requirements.

This bill substantially amends s. 316.2126, F.S.

II. Present Situation:

Generally, golf carts, low-speed vehicles, and utility vehicles are addressed individually and in combination in the Florida Statutes. Since each vehicle type is different, current statutes assign to each vehicle type, various authorizations for use on public roads. The vehicle types are

differentiated primarily by speed capabilities and required safety equipment. Often, the authorization for these vehicles' use on public roads is restricted by the speed limit of the public road on which it is to be used and the purpose for the use of the vehicle. Registration and insurance requirements also vary by vehicle type.

Specific descriptions of each vehicle type, their authorized public road use, registration requirements, and required safety equipment follows:

Golf Carts

A golf cart is defined by s. 316.003, F.S., as "a motor vehicle that is designed and manufactured for operation on a golf course for sporting or recreational purposes." Section 320.01 (22), F.S., relating to registration uses the same definition, adding further that a golf cart "is not capable of exceeding speeds of 20 miles per hour" (mph).

According to s. 316.212, F.S., golf carts may not be operated on public roads except:

- On county or municipal roads designated by the local government for such use.
- To cross a State Highway System (SHS) road:
 - when the intersecting road has been designated for golf cart use by the local government.
 - at mid-block where a golf course is located on both sides of the highway.
- When the SHS road has been designated for transfer to a local government upon meeting specific requirements.
- For the purpose of crossing a road bisecting a mobile home park.
- On a State Park Road System road posted at 35 mph or less when authorized by the Department of Environmental Protection (DEP).

When local governments designate local roads for golf cart use, the designation must consider the speed, volume, and character of traffic on the road. The local government must post signs indicating the allowed use of golf carts on the designated roads. Where a golf cart is allowed to use or cross a state road, the Florida Department of Transportation (FDOT) must approve the authorized use. When use of a state road is authorized, FDOT must post signs indicating the allowed use.

In all cases, a golf cart must be equipped with:

- efficient brakes,
- a reliable steering mechanism,
- safe tires,
- a rear-view mirror, and
- red reflective warning devices in the front and rear.

A golf cart may only be operated between sunrise and sunset, unless the responsible governmental entity authorizes night-time use. Golf carts used on designated public roads between sunset and sunrise must also be equipped with:

- headlights,
- brake lights,
- turn signals, and
- a windshield.

No golf cart may be operated on a public road by a person under the age of 14. Local governments may enact additional restrictions other than those listed above, but these may only

apply to unlicensed drivers. Section 316.2126, F.S., requires municipal and state employees, state park volunteers, and state park visitors using golf carts to possess a valid driver's license.

Florida law contains no insurance or registration requirements associated with the use of golf carts on public roads.

Section 316.2125, F.S., authorizes the use of golf carts within any self-contained retirement community unless the local government or FDOT determine a prohibition of use on roadways under their jurisdictions is necessary in the interest of safety.

Section 316.2126, F.S., gives municipalities the authorization to use golf carts on any county or municipal road and on SHS roads with posted speed limits of 30 mph or less, provided the cart is operated by licensed municipal employees only and only for municipal purposes. The golf cart must comply with the operational and safety requirements in ss. 316.212 and 316.2125, F.S., and must be equipped with sufficient lighting and turn signals. This section further authorizes state park employees, volunteers, and visitors to operate golf carts on public roads in state parks.

Low-Speed Vehicles

A low-speed vehicle (LSV) is defined in s. 320.01 (42), F.S., as "any four-wheeled electric vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including neighborhood electric vehicles."

LSVs are authorized to operate on local roads¹ and urban minor arterial roads² with posted speed limits of 35 mph or less, but may cross roads having higher posted speeds. An LSV must be equipped with:

- headlamps,
- stop lamps,
- turn signals,
- taillamps,
- reflectors,
- parking brakes,
- rearview mirrors,
- a windshield,
- seat belts, and
- a vehicle identification number (VIN).

An LSV must be registered and insured under s. 320.02, F.S., and operators must be licensed drivers. Local governments and FDOT may prohibit the operation of LSVs on any road under their jurisdictions in the interest of safety.

¹ "Local road" is defined by s. 334.03(15), F.S., as "a route providing service which is of relatively low average traffic volume, short average trip length or minimal through-traffic movements, and high land access for abutting property."

² "Urban minor arterial road" is defined by s. 334.03(33), F.S., as a route that generally interconnects with and augments an urban principal arterial road and provides service to trips of shorter length and a lower level of travel mobility. The term includes all arterials not classified as "principal" and contain facilities that place more emphasis on land access than the higher system.

Utility Vehicles

Section 320.01(43), F.S., defines a utility vehicle as “a motor vehicle designed and manufactured for general maintenance, security, and landscaping purposes.” The definition specifically excludes:

- vehicles designed or used primarily for the transportation of persons or property on a street or highway,
- golf carts, and
- all-terrain vehicles (ATVs).³

Since utility vehicles cannot be registered under ch. 320, F.S., they are prohibited from operating on public roads. However, s. 316.2127, F.S., authorizes the operation of utility vehicles on public roads by homeowners’ associations or their agents, in some circumstances. Specifically, a utility vehicle may be operated by a homeowners’ association or its agents only upon local roads designated by a local government, for use by a utility vehicle for general maintenance, security, and landscaping purposes, if the local government first determines utility vehicles may safely travel on or cross the public road or street. A local government may not make such a determination without first considering factors including the speed, volume, and character of motor vehicles on the road or street, and it must post appropriate signs to indicate such operation is allowed.

A utility vehicle may be operated by a homeowners’ association or its agents on a portion of the SHS under the following conditions:

- To cross a portion of the SHS intersecting a local road designated for use by utility vehicles if FDOT has reviewed and approved the location and design of the crossing and any traffic control devices needed for safety purposes;
- To cross a SHS road:
 - when the intersecting road has been designated for utility vehicle use by the local government.
 - at mid-block where a highway bisects property controlled or maintained by a homeowners’ association.
- When the SHS road has been designated for transfer to a local government upon meeting specific requirements.

When local governments designate local roads for utility vehicle use, the designation must be made in consideration of the speed, volume, and character of traffic on the road. The local government must post signs indicating the allowed use of utility vehicles on the designated roads. Where a utility vehicle is allowed to use or cross a state road, FDOT must approve the authorized use. When use of a state road is authorized, FDOT must post signs indicating the allowed use.

In all cases, a utility vehicle must be equipped with:

³ “All Terrain Vehicle” is defined in s. 316.2074, F.S., as “any motorized off-highway vehicle 50 inches or less in width, having a dry weight of 900 pounds or less, designed to travel on three or more low-pressure tires, having a seat designed to be straddled by the operator and handlebars for steering control, and intended for use by a single operator with no passenger.”

- efficient brakes,
- a reliable steering mechanism,
- safe tires,
- a rear-view mirror, and
- red reflective warning devices in the front and rear.

A utility vehicle may only be operated between sunrise and sunset, unless the responsible governmental entity authorizes night-time use. Utility vehicles used on designated public roads between sunset and sunrise must also be equipped with:

- headlights,
- brake lights,
- turn signals, and
- a windshield.

No utility vehicle may be operated on a public road by a person under the age of 14.

Florida law contains no insurance or registration requirements associated with the use of utility vehicles on public roads. However, s. 316.2126, F.S., requires municipal and state employees, state park volunteers, and state park visitors using utility vehicles to possess a valid driver's license.

Trailers

Section 320.01 (4), F.S., defines a trailer as “any vehicle without motive power designed to be coupled to or drawn by a motor vehicle and constructed so that no part of its weight or that of its load rests upon the towing vehicle.” A trailer is also considered a motor vehicle under ch. 320, F.S., and is required to be registered in order to be used on public roads.

Other Vehicle-type Authorizations

Section 316.2123, F.S., prohibits the operation of ATVs on public roadways except that the daytime operation of ATVs on unpaved roads with posted speeds of 35 mph or less is authorized unless the county commission votes to opt out of the exception. Section 316.21265, F.S., authorizes law enforcement agencies to operate ATVs, golf carts, LSVs, and utility vehicles on any public road in conjunction with official duties, provided the vehicle is clearly marked as a law enforcement vehicle.

Registration of Motor Vehicles

Chapter 320, F.S., provides for the implementation, issuance, and enforcement of motor vehicle license plates, validation decals, and parking permits. Registration of vehicles requires proof of ownership, proof of residency, and proof of personal injury protection and property damage liability when required. Insurance is not required when registering trailers.

Safety Concerns

Because golf carts are designated primarily as off-road vehicles and are designed to operate below 20 mph, they do not have to conform to the same stringent federal motor vehicle safety standards that apply to motorcycles and automobiles and quite often lack even rudimentary safety equipment.

Under current Florida law, neither golf carts nor utility vehicles are required to be equipped with seat belts and the use of seat belts is not required when operating the vehicles on public roads.⁴ Studies have shown that roughly half of golf cart injuries occur on streets or residential

⁴ Florida Attorney General Advisory Legal Opinion AGO 2004-60, November 23, 2004.

property.⁵ A golf cart traveling downhill at speeds greater than 15 mph can easily become unstable and can easily overturn without proper braking and the National Electronic Injury Surveillance System indicates a significant number of golf cart-related injuries have occurred as a result of an individual losing control of a cart.⁶ Vehicles capable of speeds in the 20 mph to 25 mph range are considered LSVs by both the National Highway Traffic Safety Administration and by Florida Statute (s. 320.01 (42), F.S.) and are subject to safety regulations from which regular golf carts are exempt. However, it is relatively easy for a consumer to modify a golf cart to have a maximum speed in excess of 20 mph.

Even when a golf cart is modified to meet the safety equipment requirements of LSVs, neither vehicle is required to have bumpers or doors, the lack of which poses a significant safety hazard, especially if a golf cart or LSV were to be involved in a collision with a much heavier automobile.⁷

III. Effect of Proposed Changes:

The bill creates a new subsection (3) of s. 316.2126, F.S., which authorizes “seasonal delivery personnel” to use low-speed vehicles and utility vehicles on public roads within a residential area with posted speed limits of 35 mph or less for the purpose of delivering goods. Subsection (3) also authorizes “seasonal delivery personnel” to use golf carts on public roads within a residential area with posted speed limits of 30 mph or less for the purpose of delivering goods. Furthermore, such personnel is authorized to use golf carts on public roads within residential areas with posted speed limits of 30 to 35 mph for the purpose of delivering goods, unless a municipality having jurisdiction over those public roads enacts an ordinance prohibiting such conduct.

“Seasonal delivery personnel” are effectively defined as the employees of a licensed commercial delivery service company providing delivery services between October 15 and December 31 of each year. The commercial delivery company must have at least 10,000 persons employed in Florida that deliver express envelopes and packages, having a maximum size of 130 inches for the combined length and girth and not weighing more than 150 pounds per seasonal delivery service.

“Residential Area” is defined as areas zoned primarily or exclusively for single-family or multifamily residential use.

For the purposes of the new subsection created by the bill, a “golf cart” is defined as a motor vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes that is not capable of exceeding speeds of 20 miles per hour, but also includes such vehicles modified with a cargo platform or bin to transport parcels, or with a hitch to tow a trailer.

Subsection (3) requires the vehicles to be marked in a conspicuous manner with the name of the delivery service and allows the vehicle to pull a trailer, presumably for cargo.

⁵ “Golf carts hit the streets as gas prices soar,” The Corpus Christi Caller-Times, August 12, 2008

⁶ “Incidence of Golf Cart-Related Injury in the United States,” The Journal of TRAUMA (June 2008)

⁷ Ibid.

This subsection requires certain safety equipment on vehicles being operated during the daytime and additional safety equipment on vehicles being operated after sunset. Specifically, if a vehicle is to be operated after sunset, the vehicle must be equipped with headlamps and tail lamps in addition to the equipment required by s. 316.212 (6), F.S.

Section 316.212 (6), F.S., requires:

- efficient brakes,
- a reliable steering mechanism,
- safe tires,
- a rear-view mirror, and
- red reflective warning devices in the front and rear.

Other Potential Implications:

The bill requires vehicles being used in nighttime conditions to be equipped with specific safety equipment. However, vehicles being used at night are only required to be equipped with the safety equipment required for daytime use under existing law, plus headlamps and tail lamps. In nighttime conditions, vehicles operated by seasonal delivery personnel would not be required to have brake lights, turn signals, or a windshield, unlike the current requirements for vehicles authorized in other sections of current law.⁸

Of the four vehicle types contained in the bill, only LSVs are required to be insured. The potential for uninsured vehicles to be legally engaged in a commercial enterprise while operating on public roadways appears to be unprecedented and raises significant public safety concerns, especially in light of the following conclusions reached by FDOT in an analysis⁹ of the bill:

(T)he relative light weight, low speed, and low profile characteristics of these carts and vehicles, compared to automobiles, trucks, and commercial trucks, makes these vehicles especially dangerous for the occupants, as they have no crash worthiness or occupant protection features and are not engineered for operation in mixed traffic. Collision with an automobile, truck, or commercial truck will inevitably result in property damage, serious bodily injury, or fatality for the occupants of the lighter, slower, less visible carts and vehicles.

Mixing these carts and vehicles with automobile, truck, and commercial vehicle traffic will place operators and passengers at significant risk and is counter to the Department's mission of reducing serious injuries and fatalities on the SHS.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁸ See ss. 316.212 (5), 316.2127 (3), 316.221, 316.222, and 316.2225, F.S.

⁹ February 12, 2009, Memorandum to Legislative Staff

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:

Delivery service companies should realize currently unquantifiable but lower costs and fuel savings due to the use of more efficient delivery vehicles. FDOT notes the following:

The fiscal impact to the Department, local governments, motorists, and owners and drivers of the subject carts and vehicles is unquantifiable, but is expected to be negatively significant, in the form of costs associated with increased property damage, bodily injury, fatalities, and litigation due to crashes. Increased traffic congestion and travel time delays are also expected.

C. Government Sector Impact:

As stated above, FDOT expects an unquantifiable, but negatively significant fiscal impact.

The Department of Highways Safety and Motor Vehicles (DHSMV) stated:

This bill would cause confusion regarding the types of vehicle that can be operated on public roadways. In addition, the limiting of operation to specific dates only adds to the confusion. This bill may provide a means for person to circumvent the vehicle safety standards established for normal vehicles operating on the roadways.

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 Community Affairs on April 6, 2009:**

The CS provides more specific language defining the term “seasonal delivery personnel,” requiring that the licensed delivery service must have at least 10,000 persons employed in Florida and must deliver express envelopes and packages having a maximum size of 130 inches for the combined length and girth and not weighing more than 150 pounds. The CS provides that golf carts and modified cars may be used by authorized personnel within residential areas that have a speed limit of up to 30 miles per hour; or within areas that have a speed limit of up to 35 miles per hour unless a municipality having jurisdiction over such public roads enacts an ordinance restricting such actions. The CS also provides a definition for the term “residential area,” which is defined as areas zoned primarily and exclusively for single-family or multifamily residential use.

CS by Transportation on March 25, 2009:

The CS revised the definition of “seasonal delivery personnel” to include the words “licensed commercial” in reference to a delivery service. The CS also revised the definition of “golf cart” to include specific structural modifications to the vehicle for carrying cargo or towing a trailer.

CS by Commerce on April 14, 2009:

The CS reorganizes the proposed provisions in the bill and incorporates a number of technical amendments recommended by staff. In addition, the amendment:

- Deletes references to “modified carts.”
- Specifies that vehicles are to be marked in a “conspicuous” manner.
- Prohibits seasonal delivery personnel from driving golf carts within residential areas where a municipality has an ordinance prohibiting such personnel from using roads that have a posted speed limit of 30 to 35 miles per hour, instead of 35 miles per hour or less.
- Requires anyone using a low-speed vehicle under this section to possess a valid driver’s license, to conform to requirements existing in current law.¹⁰

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

¹⁰ See s. 316.2122(4), F.S.