

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 405 Delivery Vehicles

**SPONSOR(S):** Nelson

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1088

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	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	Roads, Bridges & Ports Policy Committee		Brown	Miller
2)	Insurance, Business & Financial Affairs Policy Committee			
3)	Economic Development & Community Affairs Policy Council			
4)				
5)				

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**SUMMARY ANALYSIS**

HB 405 authorizes "seasonal delivery personnel" to use golf carts, modified carts, low-speed vehicles, and utility vehicles upon any public road with a speed limit of up to 35 miles per hour, between October 15 and December 31 of each year, for the purpose of delivering goods sent through a delivery service,.

The bill defines "seasonal delivery personnel" as employees of a delivery service when delivering goods for that service. The golf carts and other vehicles must be marked in some manner with the name of the delivery service, and a trailer may be pulled by the vehicle. Such vehicles may be operated after sunset if, in addition to the safety requirements in s. 316.212(6), F.S., they are equipped with suitable headlights and tail lights.

The Department of Transportation (DOT) has asserted that there would be private sector costs associated with increased property damage, bodily injury, fatalities, and litigation due to crashes. Potential positive fiscal impacts include fewer trucks on the road, lower costs to delivery service businesses, and fuel savings.

The bill has an Effective Date of July 1, 2009.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### *Operation of golf carts, utility vehicles, and low-speed vehicles*

Section 316.212, F.S., generally prohibits the operation of a golf cart<sup>1</sup> upon the public roads or streets of this state, but provides a process for local governments to identify roads in the county or municipality that may safely carry golf carts. The statute requires the county or municipality to formally determine that the road is the only available public road along which golf carts may travel (or the safest of several alternatives). The local government must consider the speed, volume, and character of motor vehicle traffic using the road or street. After the determination is made, the local government must post appropriate signs to indicate that golf-cart operation is allowed.

The Department of Highway Safety and Motor Vehicles (DHSMV) must review and approve all locations where a local government's golf-cart-approved roads intersect the State Highway System (SHS), or when the local roads are actually part of the SHS, but have been designated for transfer to a local government.<sup>2</sup>

Two other golf-cart operation possibilities are also outlined in s. 316.212, F.S.:

- To cross, at midblock, a part of the SHS where a golf course is constructed on both sides of the highway if DHSMV has reviewed and approved the location and design of the crossing and any traffic control devices needed for safety purposes; and
- A golf cart may also be used by residents to cross a road where a single mobile home park is located on both sides of the road and is divided by the road. The governmental unit responsible for the road must approve the crossing location and may require necessary traffic controls.

Under all of the above conditions, a golf cart may be operated only between sunrise and sunset, unless the responsible governmental entity has determined that a golf cart may be operated during the hours

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<sup>1</sup> Section 320.01(22), F.S., provides that "golf cart" means a motor vehicle that is designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour. For purposes of Chapter 316, F.S., "golf cart" means a motor vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes.

<sup>2</sup> See s. 335.0415, F.S.

between sunset and sunrise and the golf cart is equipped with headlights, brake lights, turn signals, and a windshield.<sup>3</sup>

A golf cart must be equipped with efficient brakes, reliable steering apparatus, safe tires, a rearview mirror, and red reflectorized warning devices in both the front and rear.<sup>4</sup> A golf cart may not be operated on public roads or streets by any person under the age of 14.<sup>5</sup>

A local governmental entity may enact an ordinance more restrictive than the requirements listed in statute, but such additional restrictions are applicable only to unlicensed drivers.<sup>6</sup>

Section 316.2125, F.S., authorizes the reasonable operation of golf carts within a retirement community, notwithstanding the provisions of s. 316.212, F.S., if equipped and operated as provided in s. 316.212(5), (6), and (7), F.S., within any self-contained retirement community unless prohibited. A local government or DHSMV may prohibit the operation of golf carts on any street or highway under their respective jurisdiction if either determines that such prohibition is necessary in the interest of safety.

Section 316.2127, F.S. contains requirements for utility vehicles<sup>7</sup> that are substantially similar to those contained in s. 316.212, F.S., for golf-carts.

Section 316.2122(1)-(6), F.S., authorizes the operation of low-speed vehicles<sup>8</sup> on a local road or on an urban minor arterial road with the following restrictions:

- (1) A low-speed vehicle may be operated only on streets where the posted speed limit is 35 miles per hour or less. This does not prohibit a low-speed vehicle from crossing a road or street at an intersection where the road or street has a posted speed limit of more than 35 miles per hour.
- (2) A low-speed vehicle must be equipped with headlamps, stop lamps, turn signal lamps, taillamps, reflex reflectors, parking brakes, rearview mirrors, windshields, seat belts, and vehicle identification numbers.
- (3) A low-speed vehicle must be registered and insured in accordance with s. 320.02.
- (4) Any person operating a low-speed vehicle must have in his or her possession a valid driver's license.
- (5) A county or municipality may prohibit the operation of low-speed vehicles on any road under its jurisdiction if the governing body of the county or municipality determines that such prohibition is necessary in the interest of safety.
- (6) The Department of Transportation may prohibit the operation of low-speed vehicles on any road under its jurisdiction if it determines that such prohibition is necessary in the interest of safety.

#### *Municipal and State Park Exemptions*

Notwithstanding the safety requirements discussed above, certain government employees or their agents are permitted to use golf carts and utility vehicles on local roads.

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3 Section 316.212(5), F.S.

4 Section 316.212(6), F.S.

5 Section 316.212(7), F.S.

6 Section 316.212(8), F.S.

7 "Utility vehicles" are defined by s. 320.01, F.S. as

a motor vehicle designed and manufactured for general maintenance, security, and landscaping purposes, but the term does not include any vehicle designed or used primarily for the transportation of persons or property on a street or highway, or a golf cart, or an all-terrain vehicle as defined in s. 316.2074, F.S.

8 Pursuant to s. 320.01(42), F.S., "Low-speed vehicle" means

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. Low-speed vehicles must comply with the safety standards in 49 C.F.R. s. 571.500 and s. 316.2122.

Section 316.2126, F.S., authorizes the use of golf carts and utility vehicles by both municipalities and state parks. In each case, the golf carts and utility vehicles must comply with the operational and safety requirements described above, and with any more restrictive ordinances enacted by the local governmental entity pursuant to s. 316.212(8), F.S., and anyone operating a golf cart or utility vehicles pursuant to s. 316.2126, F.S., must possess a valid driver's license.<sup>9</sup>

If a municipality uses golf carts or utility vehicles, the vehicles must be operated only by municipal employees for municipal purposes such as police patrol, traffic enforcement, and inspection of public facilities.<sup>10</sup> If state roads are involved, they are restricted to operating on state roads with a speed limit of 30 miles per hour or less.<sup>11</sup>

On public roads within the boundaries of a state park, state employees, park volunteers, and visitors are authorized to use golf carts and utility vehicles for uses authorized by the Division of Parks and Recreation, within the Department of Environmental Protection.

#### *Law Enforcement Exception*

Section 316.21265, F.S., authorizes the use of all-terrain vehicles, golf carts, low-speed vehicles, or utility vehicles by law enforcement agencies, notwithstanding any contrary provision of law, on any street, road, or highway in this state while carrying out its official duties. Such vehicles must be clearly marked as vehicles of a law enforcement agency and may be equipped with special warning lights, signaling devices, or other equipment approved or authorized for use on law enforcement vehicles. Additionally, the vehicle operator and passengers must wear safety gear, such as helmets, which is ordinarily required for use by operators or passengers on such vehicles.<sup>12</sup>

#### Proposed Changes

Notwithstanding statutory provisions requiring local governments and/or DOT to review and approve roads upon which golf carts and other vehicles may be safely operated, HB 405 states that "seasonal delivery personnel" are authorized to operate specified carts and vehicles upon any public road with a speed limit of up to 35 miles per hour during November and December. "Seasonal delivery personnel" are defined as employees of a delivery service, when delivering goods for that service, during the specified timeframe.

The vehicles must be marked in some manner with the name of the delivery service, and a trailer may be pulled by the vehicle. These vehicles may be operated after sunset if, in addition to efficient brakes, reliable steering, safe tires, a rear-view mirror, and red reflectorized warning devices,<sup>13</sup> they are equipped with suitable headlights and tail lights.

#### B. SECTION DIRECTORY:

**Section 1** Amends s. 316.2126, F.S., defining the term "seasonal delivery personnel," and authorizing the use of golf carts, modified carts, low-speed vehicles, and utility vehicles by seasonal delivery personnel during a certain timeframe.

**Section 2** Provides an Effective Date of July 1, 2009.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

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9 Section 316.2126(3), F.S.

10 Section 316.2126(1)(a), F.S.

11 Section 316.2126(1)(c), F.S.

12 Section 316.21265(3), F.S.

13 These are the safety requirements in s. 316.212(6), F.S.

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments, below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments, below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments, below.

D. FISCAL COMMENTS:

DOT notes the following:

The fiscal impact to [DOT], 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.<sup>14</sup>

It should be noted that the 'costs' identified by DOT are not governmental costs but are potential costs to the private sector. In addition, DOT's fiscal analysis did not include potential positive fiscal impacts resulting from fewer trucks on the road, lower costs to delivery service businesses, and fuel savings due to the use of more efficient delivery vehicles.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to: require counties or cities to spend funds or take action 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:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill uses the term “modified cart,” along with golf cart, low-speed vehicle, and utility vehicle. Florida law does not appear to define the term “modified cart.” DOT has suggested that this absence of a definition may create compliance and enforcement issues.<sup>15</sup>

The apparent intended activity under the bill – *i.e.*, the transportation and delivery of goods sent through a delivery service -- appears to directly conflict with the current definition of “utility vehicle,” which expressly provides that the term does *not* include any vehicle designed or used primarily for the transportation of persons or property on a street or highway.<sup>16</sup>

DOT also suggests that the term ‘delivery service’ may require further definition. It is unclear to DOT whether the business entity must offer as its principal product the transportation and delivery of goods sold by others, or whether a seller of goods may establish a “delivery service” transporting and delivering its goods and also qualify under the proposed language.<sup>17</sup>

DOT has indicated that the 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.”<sup>18</sup>

These safety concerns are primarily based on DOT’s conclusion that “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 state highway system.”<sup>19</sup>

#### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

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15 *Id.*

16 *Id.*

17 *Id.*

18 *Id.*

19 *Id.*