



562928

LEGISLATIVE ACTION

Senate . House

.

.

Floor: 1/AD/2R

.

04/27/2010 04:02 PM

.

.

---

Senator Bennett moved the following:

**Senate Amendment (with title amendment)**

Delete lines 207 - 466

and insert:

Section 2. Subsection (83) of section 316.003, Florida Statutes, is amended, and subsection (86) is added to that section, to read:

316.003 Definitions.—The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context otherwise requires:

(83) ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICE.—Any self-balancing, ~~two-nontandem-wheeled~~ device, designed to transport



562928

14 only one person, with an electric propulsion system with average  
15 power of no more than 750 watts (1 horsepower), the maximum  
16 speed of which, on a paved level surface when powered solely by  
17 such a propulsion system while being ridden by an operator who  
18 weighs 170 pounds, is less than 20 miles per hour. Electric  
19 personal assistive mobility devices are not vehicles as defined  
20 in this section.

21 (86) TRI-VEHICLE.—An enclosed three-wheeled passenger  
22 vehicle that:

23 (a) Is designed to operate with three wheels in contact  
24 with the ground;

25 (b) Has a minimum unladen weight of 900 lbs;

26 (c) Has a single, completely enclosed, occupant  
27 compartment;

28 (d) Is produced in a minimum quantity of 300 in any  
29 calendar year;

30 (e) Is capable of a speed greater than 60 miles per hour on  
31 level ground; and

32 (f) Is equipped with:

33 1. Seats that are certified by the vehicle manufacturer to  
34 meet the requirements of Federal Motor Vehicle Safety Standard  
35 No. 207, "Seating systems" (49 C.F.R. s. 571.207);

36 2. A steering wheel used to maneuver the vehicle;

37 3. A propulsion unit located forward or aft of the enclosed  
38 occupant compartment;

39 4. A seat belt for each vehicle occupant, certified to meet  
40 the requirements of Federal Motor Vehicle Safety Standard No.  
41 209, "Seat belt assemblies" (49. C.F.R. s. 571.209);

42 5. A windshield and an appropriate windshield wiper and



562928

43 washer system that are certified by the vehicle manufacturer to  
44 meet the requirements of Federal Motor Vehicle Safety Standard  
45 No. 205, "Glazing Materials" (49 C.F.R. s. 571.205) and Federal  
46 Motor Vehicle Safety Standard No. 104, "Windshield Wiping and  
47 Washing Systems" (49 C.F.R. s. 571.104); and

48 6. A vehicle structure certified by the vehicle  
49 manufacturer to meet the requirements of Federal Motor Vehicle  
50 Safety Standard No. 216, "Rollover crush resistance" (49 C.F.R.  
51 s. 571.216).

52 Section 3. Subsection (7) is added to section 316.008,  
53 Florida Statutes, to read:

54 316.008 Powers of local authorities.—

55 (7) A county or municipality may enact an ordinance to  
56 permit, control, or regulate the operation of vehicles, golf  
57 carts, mopeds, motorized scooters, and electric personal  
58 assistive mobility devices on sidewalks or sidewalk areas when  
59 such use is permissible under federal law. The ordinance must  
60 restrict such vehicles or devices to a maximum speed of 15 miles  
61 per hour in such areas when such use is permissible under  
62 federal law.

63 Section 4. Paragraph (b) of subsection (5) of section  
64 316.066, Florida Statutes, is amended to read:

65 316.066 Written reports of crashes.—

66 (5)

67 (b) Crash reports held by an agency under paragraph (a) may  
68 be made immediately available to the parties involved in the  
69 crash, their legal representatives, their licensed insurance  
70 agents, their insurers or insurers to which they have applied  
71 for coverage, persons under contract with such insurers to



562928

72 provide claims or underwriting information, prosecutorial  
73 authorities, law enforcement agencies, county traffic  
74 operations, victim services programs, radio and television  
75 stations licensed by the Federal Communications Commission,  
76 newspapers qualified to publish legal notices under ss. 50.011  
77 and 50.031, and free newspapers of general circulation,  
78 published once a week or more often, available and of interest  
79 to the public generally for the dissemination of news. For the  
80 purposes of this section, the following products or publications  
81 are not newspapers as referred to in this section: those  
82 intended primarily for members of a particular profession or  
83 occupational group; those with the primary purpose of  
84 distributing advertising; and those with the primary purpose of  
85 publishing names and other personal identifying information  
86 concerning parties to motor vehicle crashes.

87 Section 5. Paragraph (b) of subsection (1) of section  
88 316.0741, Florida Statutes, is amended to read:

89 316.0741 High-occupancy-vehicle lanes.—

90 (1) As used in this section, the term:

91 (b) "Hybrid vehicle" means a motor vehicle:

92 1. That draws propulsion energy from onboard sources of  
93 stored energy which are both an internal combustion or heat  
94 engine using combustible fuel and a rechargeable energy-storage  
95 system; ~~and~~

96 2. That, in the case of a passenger automobile or light  
97 truck, has received a certificate of conformity under the Clean  
98 Air Act, 42 U.S.C. ss. 7401 et seq., and meets or exceeds the  
99 equivalent qualifying California standards for a low-emission  
100 vehicle; and



562928

101           3. That, in the case of a tri-vehicle, is an inherently  
102 low-emission vehicle (ILEV), as provided in subsection (4).

103           Section 6. Section 316.159, Florida Statutes, is amended to  
104 read:

105           316.159 Certain vehicles to stop or slow at all railroad  
106 grade crossings.-

107           (1) The driver of any motor vehicle carrying passengers for  
108 hire, excluding taxicabs, of any school bus carrying any school  
109 child, or of any vehicle carrying explosive substances or  
110 flammable liquids as a cargo or part of a cargo, before crossing  
111 at grade any track or tracks of a railroad, shall stop such  
112 vehicle within 50 feet but not less than 15 feet from the  
113 nearest rail of the railroad and, while so stopped, shall listen  
114 and look in both directions along the track for any approaching  
115 train, and for signals indicating the approach of a train,  
116 except as hereinafter provided, and shall not proceed until he  
117 or she can do so safely. After stopping as required herein and  
118 upon proceeding when it is safe to do so, the driver of any such  
119 vehicle shall cross only in a gear of the vehicle so that there  
120 will be no necessity for changing gears while traversing the  
121 crossing, and the driver shall not shift gears while crossing  
122 the track or tracks.

123           (2) No stop need be made at any such crossing where a  
124 police officer, a traffic control signal, or a sign directs  
125 traffic to proceed. However, any school bus carrying any school  
126 child shall be required to stop unless directed to proceed by a  
127 police officer.

128           (3) The driver of any commercial motor vehicle that is not  
129 required to stop under subsection (1) or subsection (2) before



562928

130 crossing the track or tracks of any railroad grade crossing  
131 shall slow the motor vehicle and check that the tracks are clear  
132 of an approaching train.

133 ~~(4)~~(3) A violation of this section is a noncriminal traffic  
134 infraction, punishable as a moving violation as provided in  
135 chapter 318.

136 Section 7. Subsections (13) and (14) of section 316.193,  
137 Florida Statutes, are amended to read:

138 316.193 Driving under the influence; penalties.—

139 (13) If personnel of the circuit court or the sheriff do  
140 not immobilize vehicles, only immobilization agencies that meet  
141 the conditions of this subsection shall immobilize vehicles in  
142 that judicial circuit.

143 (a) The immobilization agency responsible for immobilizing  
144 vehicles in that judicial circuit shall be subject to strict  
145 compliance with all of the following conditions and  
146 restrictions:

147 1. Any immobilization agency engaged in the business of  
148 immobilizing vehicles shall provide to the clerk of the court a  
149 signed affidavit attesting that the agency:

150 ~~a. Have a class "R" license issued pursuant to part IV of~~  
151 ~~chapter 493;~~

152 ~~a.b. Has~~ Have ~~at least 3 years of~~ verifiable experience in  
153 immobilizing vehicles; ~~and~~

154 ~~b.e. Maintains~~ Maintain accurate and complete records of  
155 all payments for the immobilization, copies of all documents  
156 pertaining to the court's order of impoundment or  
157 immobilization, and any other documents relevant to each  
158 immobilization. Such records must be maintained by the



562928

159 immobilization agency for at least 3 years; and  
160 c. Employs and assigns persons to immobilize vehicles who  
161 meet the requirements established in subparagraph 2.  
162 2. The person who immobilizes a vehicle must:  
163 a. Not have been adjudicated incapacitated under s.  
164 744.331, or a similar statute in another state, unless his or  
165 her capacity has been judicially restored; involuntarily placed  
166 in a treatment facility for the mentally ill under chapter 394,  
167 or a similar law in any other state, unless his or her  
168 competency has been judicially restored; or diagnosed as having  
169 an incapacitating mental illness unless a psychologist or  
170 psychiatrist licensed in this state certifies that he or she  
171 does not currently suffer from the mental illness.  
172 b. Not be a chronic and habitual user of alcoholic  
173 beverages to the extent that his or her normal faculties are  
174 impaired; not have been committed under chapter 397, former  
175 chapter 396, or a similar law in any other state; not have been  
176 found to be a habitual offender under s. 856.011(3), or a  
177 similar law in any other state; or not have had any convictions  
178 under s. 316.193, or a similar law in any other state within 2  
179 years of the affidavit.  
180 c. Not have been committed for controlled substance abuse  
181 or have been found guilty of a crime under chapter 893, or a  
182 similar law in any other state, relating to controlled  
183 substances in any other state.  
184 d. Not have been found guilty of or entered a plea of  
185 guilty or nolo contendere to, regardless of adjudication, or  
186 been convicted of a felony, unless his or her civil rights have  
187 been restored.



562928

188 e. Be a citizen or legal resident alien of the United  
189 States or have been granted authorization to seek employment in  
190 this country by the United States Bureau of Citizenship and  
191 Immigration Services.

192 (b) The immobilization agency shall conduct a state  
193 criminal history check through the Department of Law Enforcement  
194 to ensure that the person hired to immobilize a vehicle meets  
195 the requirements in sub-subparagraph (a)2.d. never have been  
196 convicted of any felony or of driving or boating under the  
197 influence of alcohol or a controlled substance in the last 3  
198 years.

199 (c) ~~(b)~~ A person who violates paragraph (a) commits a  
200 misdemeanor of the first degree, punishable as provided in s.  
201 775.082 or s. 775.083.

202 ~~(c) Any immobilization agency who is aggrieved by a~~  
203 ~~person's violation of paragraph (a) may bring a civil action~~  
204 ~~against the person who violated paragraph (a) seeking injunctive~~  
205 ~~relief, damages, reasonable attorney's fees and costs, and any~~  
206 ~~other remedy available at law or in equity as may be necessary~~  
207 ~~to enforce this subsection. In any action to enforce this~~  
208 ~~subsection, establishment of a violation of paragraph (a) shall~~  
209 ~~conclusively establish a clear legal right to injunctive relief,~~  
210 ~~that irreparable harm will be caused if an injunction does not~~  
211 ~~issue, that no adequate remedy at law exists, and that public~~  
212 ~~policy favors issuance of injunctive relief.~~

213 (14) As used in this chapter, the term:

214 (a) "Immobilization," "immobilizing," or "immobilize" means  
215 the act of installing a vehicle antitheft device on the steering  
216 wheel of a vehicle, the act of placing a tire lock or wheel





562928

217 clamp on a vehicle, or a governmental agency's act of taking  
218 physical possession of the license tag and vehicle registration  
219 rendering a vehicle legally inoperable to prevent any person  
220 from operating the vehicle pursuant to an order of impoundment  
221 or immobilization under subsection (6).

222 (b) "Immobilization agency" or "immobilization agencies"  
223 means any person, firm, company, agency, organization,  
224 partnership, corporation, association, trust, or other business  
225 entity of any kind whatsoever that meets all of the conditions  
226 of subsection (13).

227 (c) "Impoundment," "impounding," or "impound" means the act  
228 of storing a vehicle at a storage facility pursuant to an order  
229 of impoundment or immobilization under subsection (6) where the  
230 person impounding the vehicle exercises control, supervision,  
231 and responsibility over the vehicle.

232 (d) "Person" means any individual, firm, company, agency,  
233 organization, partnership, corporation, association, trust, or  
234 other business entity of any kind whatsoever.

235 Section 8. Section 316.1995, Florida Statutes, is amended  
236 to read:

237 316.1995 Driving upon sidewalk or bicycle path.—

238 (1) Except as provided in s. 316.008 or s. 316.212(8), a No  
239 person may not ~~shall~~ drive any vehicle other than by human power  
240 upon a bicycle path, sidewalk, or sidewalk area, except upon a  
241 permanent or duly authorized temporary driveway.

242 (2) A violation of this section is a noncriminal traffic  
243 infraction, punishable as a moving violation as provided in  
244 chapter 318.

245 (3) This section does not apply to motorized wheelchairs.



562928

246 Section 9. Subsections (5) and (20) of section 316.2065,  
247 Florida Statutes, are amended to read:

248 316.2065 Bicycle regulations.—

249 (5) (a) Any person operating a bicycle upon a roadway at  
250 less than the normal speed of traffic at the time and place and  
251 under the conditions then existing shall ride in the lane marked  
252 for bicycle use or, if no lane is marked for bicycle use, as  
253 close as practicable to the right-hand curb or edge of the  
254 roadway except under any of the following situations:

255 1. When overtaking and passing another bicycle or vehicle  
256 proceeding in the same direction.

257 2. When preparing for a left turn at an intersection or  
258 into a private road or driveway.

259 3. When reasonably necessary to avoid any condition,  
260 including, but not limited to, a fixed or moving object, parked  
261 or moving vehicle, bicycle, pedestrian, animal, surface hazard,  
262 or substandard-width lane, that makes it unsafe to continue  
263 along the right-hand curb or edge. For the purposes of this  
264 subsection, a "substandard-width lane" is a lane that is too  
265 narrow for a bicycle and another vehicle to travel safely side  
266 by side within the lane.

267 (b) Any person operating a bicycle upon a one-way highway  
268 with two or more marked traffic lanes may ride as near the left-  
269 hand curb or edge of such roadway as practicable.

270 (20) Except as otherwise provided in this section, a  
271 violation of this section is a noncriminal traffic infraction,  
272 punishable as a pedestrian violation as provided in chapter 318.  
273 A law enforcement officer may issue traffic citations for a  
274 violation of subsection (3) or subsection (16) only if the



562928

275 violation occurs on a bicycle path or road, as defined in s.  
276 334.03. However, a law enforcement officer ~~they~~ may not issue  
277 citations to persons on private property, except any part  
278 thereof which is open to the use of the public for purposes of  
279 vehicular traffic.

280 Section 10. Subsection (3) of section 316.2085, Florida  
281 Statutes, is amended to read:

282 316.2085 Riding on motorcycles or mopeds.—

283 (3) The license tag of a motorcycle or moped must be  
284 permanently affixed to the vehicle and may not be adjusted or  
285 capable of being flipped up. No device for or method of  
286 concealing or obscuring the legibility of the license tag of a  
287 motorcycle shall be installed or used. The license tag of a  
288 motorcycle or moped may be affixed and displayed parallel to the  
289 ground in a manner that the numbers and letters read from left  
290 to right. Alternatively, a license tag for a motorcycle or moped  
291 may be affixed and displayed perpendicularly to the ground in a  
292 manner that the numbers and letters read from top to bottom, if  
293 the registered owner of the motorcycle or moped maintains a  
294 prepaid toll account in good standing and a transponder  
295 associated with the prepaid toll account is affixed to the  
296 motorcycle or moped.

297 Section 11. Subsection (8) of section 316.212, Florida  
298 Statutes, is amended to read:

299 316.212 Operation of golf carts on certain roadways.—The  
300 operation of a golf cart upon the public roads or streets of  
301 this state is prohibited except as provided herein:

302 (8) A local governmental entity may enact an ordinance  
303 relating to:



562928

304        (a) Regarding Golf cart operation and equipment which is  
305 more restrictive than those enumerated in this section. Upon  
306 enactment of such ordinance, the local governmental entity shall  
307 post appropriate signs or otherwise inform the residents that  
308 such an ordinance exists and that it will be enforced within the  
309 local government's jurisdictional territory. An ordinance  
310 referred to in this section must apply only to an unlicensed  
311 driver.

312        (b) Golf cart operation on sidewalks adjacent to specific  
313 segments of municipal streets, county roads, or state highways  
314 within the jurisdictional territory of the local governmental  
315 entity if:

316            1. The local governmental entity determines, after  
317 considering the condition and current use of the sidewalks, the  
318 character of the surrounding community, and the locations of  
319 authorized golf cart crossings, that golf carts, bicycles, and  
320 pedestrians may safely share the sidewalk;

321            2. The local governmental entity consults with the  
322 Department of Transportation before adopting the ordinance;

323            3. The ordinance restricts golf carts to a maximum speed of  
324 15 miles per hour and permits such use on sidewalks adjacent to  
325 state highways only if the sidewalks are at least 8 feet wide;

326            4. The ordinance requires the golf carts to meet the  
327 equipment requirements in subsection (6). However, the ordinance  
328 may require additional equipment, including horns or other  
329 warning devices required by s. 316.271; and

330            5. The local governmental entity posts appropriate signs or  
331 otherwise informs residents that the ordinance exists and  
332 applies to such sidewalks.



562928

333 Section 12. Section 316.2128, Florida Statutes, is amended  
334 to read:

335 316.2128 Operation of motorized scooters and miniature  
336 motorcycles; requirements for sales.—

337 (1) A person who engages in the business of, serves in the  
338 capacity of, or acts as a commercial seller of motorized  
339 scooters or miniature motorcycles in this state must prominently  
340 display at his or her place of business a notice that such  
341 vehicles are not legal to operate on public roads, ~~or sidewalks~~  
342 ~~and~~ may not be registered as motor vehicles, and may not be  
343 operated on sidewalks unless authorized by an ordinance enacted  
344 pursuant to s. 316.008(7) or s. 316.212(8). The required notice  
345 must also appear in all forms of advertising offering motorized  
346 scooters or miniature motorcycles for sale. The notice and a  
347 copy of this section must also be provided to a consumer prior  
348 to the consumer's purchasing or becoming obligated to purchase a  
349 motorized scooter or a miniature motorcycle.

350 (2) Any person selling or offering a motorized scooter or a  
351 miniature motorcycle for sale in violation of this section  
352 commits an unfair and deceptive trade practice as defined in  
353 part II of chapter 501.

354  
355 ===== T I T L E A M E N D M E N T =====

356 And the title is amended as follows:

357 Delete lines 5 - 24

358 and insert:

359 F.S.; redefining the term "electric personal assistive  
360 mobility device" to include additional devices for  
361 transporting one person; defining the term "tri-



562928

362 vehicle"; amending s. 316.008, F.S.; authorizing local  
363 governments to regulate certain vehicles and other  
364 motorized devices operating on sidewalks; amending s.  
365 316.066, F.S.; authorizing crash reports to be  
366 provided to law enforcement agencies and county  
367 traffic operations; amending s. 316.0741, F.S.;  
368 providing that certain tri-vehicles are hybrid  
369 vehicles; amending s. 316.159, F.S.; requiring that  
370 drivers of certain commercial motor vehicles slow  
371 before crossing a railroad grade; amending s. 316.193,  
372 F.S.; revising qualifications for an immobilization  
373 agency to immobilize vehicles in a judicial circuit;  
374 requiring the immobilization agency to conduct a state  
375 criminal history check on certain employees;  
376 redefining the term "immobilization agency" or  
377 "immobilization agencies"; amending s. 316.1995, F.S.;  
378 conforming provisions to changes made by the act;  
379 exempting motorized wheelchairs from certain  
380 ordinances; amending s. 316.2065, F.S.; requiring  
381 bicycles to be ridden in the lane marked for bicycle  
382 use except under specified circumstances; amending s.  
383 316.2085, F.S.; authorizing the license tag on a  
384 motorcycle or moped to be affixed and displayed  
385 perpendicularly relative to the ground under certain  
386 circumstances; amending s. 316.212, F.S.; authorizing  
387 local governments to enact ordinances permitting the  
388 use of golf carts on sidewalks; amending s. 316.2128,  
389 F.S.; conforming provisions relating to notices  
390 required to be displayed by certain sellers of



562928

391 motorized scooters and motorcycles; amending s.  
392 316.2952, F.S.;