

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 Community Affairs Committee

BILL: CS/SB 2448

INTRODUCER: Community Affairs Committee and Senator Bennett

SUBJECT: Vehicle Operation

DATE: April 20, 2010

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Eichin</u>	<u>Meyer</u>	<u>TR</u>	Favorable
2.	<u>Wolfgang</u>	<u>Yeatman</u>	<u>CA</u>	Fav/CS
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill amends several sections of ch. 316, F.S., to allow the use of golf carts and various other motorized devices on bicycle paths, sidewalks, and sidewalk areas. Essentially, the bill:

- Authorizes local governments to enact ordinances allowing vehicles, golf carts, mopeds, and motorized scooters to be operated on sidewalks and sidewalk areas.
- Allows the use of motorized wheelchairs on sidewalks and bicycle paths.

This bill substantially amends the following sections of the Florida Statutes: 316.003, 316.008, 316.1995, 316.212, and 316.2128.

II. Present Situation:

Chapter 316, F.S., contains multiple sections controlling the legal operation of vehicles and devices on the state's bicycle paths, sidewalks, and sidewalk areas. Several relevant definitions established in s. 316.003, F.S., are provided below:

Bicycle.--Every vehicle propelled solely by human power, and every motorized bicycle propelled by a combination of human power and an electric helper motor capable of propelling the vehicle at a speed of not more than 20 miles per hour on level ground upon which any person may ride, having two tandem wheels, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels. The term does not include such a vehicle with a seat height of no more than 25 inches from the ground when the seat is adjusted to its highest position or a scooter or similar device. No person under the age of 16 may operate or ride upon a motorized bicycle.

[s. 316.003(2), F.S.]

Motor Vehicle.--Any self-propelled vehicle not operated upon rails or guideway, but not including any bicycle, motorized scooter, electric personal assistive mobility device, or moped. [s. 316.003(21), F.S.]

Motorcycle.--Any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor or a moped. [s. 316.003(22), F.S.]

Pedestrian.--Any person afoot. [s. 316.003(28), F.S.]

Right-Of-Way.--The right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed, and proximity as to give rise to danger of collision unless one grants precedence to the other. [s. 316.003(40), F.S.]

Sidewalk.--That portion of a street between the curbline, or the lateral line, of a roadway and the adjacent property lines, intended for use by pedestrians. [s. 316.003(47), F.S.]

Bicycle Path.--Any road, path, or way that is open to bicycle travel, which road, path, or way is physically separated from motorized vehicular traffic by an open space or by a barrier and is located either within the highway right-of-way or within an independent right-of-way. [s. 316.003(63), F.S.]

Vehicle.--Every device, in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks. [s. 316.003(75), F.S.]

Golf Cart.--A motor vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes. [s. 316.003(68), F.S.]

Moped.--Any vehicle with pedals to permit propulsion by human power, having a seat or saddle for the use of the rider and designed to travel on not more than three wheels; with a motor rated not in excess of 2 brake horsepower and not capable of propelling the vehicle at a speed greater than 30 miles per hour on level ground; and with a power-drive system that functions directly or automatically without clutching or shifting gears by the operator after the drive system is engaged. If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters. [s. 316.003(77), F.S.]

Motorized Scooter.--Any vehicle not having a seat or saddle for the use of the rider, designed to travel on not more than three wheels, and not capable of propelling the vehicle at a speed greater than 30 miles per hour on level ground. [s. 316.003(82), F.S.]

Electric Personal Assistive Mobility Device.--Any self-balancing, two-nontandem-wheeled device, designed to transport only one person, with an electric propulsion system with average power of 750 watts (1 horsepower), the maximum speed of which, on a paved level surface when powered solely by such a propulsion system while being ridden by an operator who weighs 170 pounds, is less than 20 miles per hour. Electric personal

assistive mobility devices (EPAMD) are not vehicles as defined in this section. [s. 316.003(83), F.S.] (As currently written, this definition applies to only one commercially-available product, which is commonly known as the Segway™ Human (or Personal) Transporter.)

Vehicles Prohibited on Sidewalks and Bicycle Paths

Section 316.1995, F.S., prohibits a person from driving any vehicle other than by human power upon a bicycle path, sidewalk, or sidewalk area. The area within the intersection of a driveway and a path or sidewalk is excepted.

Bicycle Regulations

Section 316.2065, F.S., provides numerous regulations related to the legal operation of bicycles including:

- Persons riding a vehicle by human power have all of the rights and all of the duties applicable to the driver of a motor vehicle.
- A bicycle rider under the age of 16 must wear an approved helmet.
- Every bicycle used between sunset and sunrise must have appropriate lighting.
- A person riding bicycle or other human-powered vehicle on a sidewalk must yield right-of-way to any pedestrian and give an audible signal before overtaking and passing a pedestrian.

EPAMD/ Segway™ Regulations

Section 316.2068, F.S., provides regulations related to electric personal assistive mobility devices (e.g., Segway devices). Such a device may be operated:

- On a road or street where the posted speed limit is 25 miles per hour or less.
- On a marked bicycle path.
- On any street or road where bicycles are permitted.
- At an intersection, to cross a road or street even if the road or street has a posted speed limit of more than 25 miles per hour.
- On a sidewalk, if the person operating the device yields the right-of-way to pedestrians and gives an audible signal before overtaking and passing a pedestrian.

Persons under the age of 16 years may not operate, ride, or otherwise be propelled on an electric personal assistive mobility device unless the person wears an approved bicycle helmet. A local government may prohibit the operation of electric personal assistive mobility devices on any road, street, or bicycle path under its jurisdiction if the governing body determines that such a prohibition is necessary in the interest of safety. The Florida Department of Transportation (FDOT) may prohibit the operation of such devices on any road under its jurisdiction if it determines that such a prohibition is necessary in the interest of safety.

Moped Regulations

Section 316.208, F.S., provides a number of regulations related to motorcycles and mopeds, including:

- A moped may only be ridden on a sidewalk while the motor is not operating.
- A person propelling a moped solely by human power on a sidewalk, or in a crosswalk, has all the rights and duties applicable to a pedestrian under the same circumstances,

except that such person shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing a pedestrian.

Golf Cart Provisions

Under s. 316.1995, F.S., golf carts may not be operated on sidewalks or bicycle paths.

Additionally, under 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, FDOT must approve the authorized use. When use of a state road is authorized, FDOT must post signs indicating the allowed use. In all of these 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.

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

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. Additionally, delivery personnel may use golf carts meeting certain safety equipment requirements to transport cargo on residential roads with posted speeds no higher than 35 miles per hours from October 15 to December 31.

Safety Concerns

Under current Florida law, golf carts are not required to be equipped with seat belts and the use of seat belts is not required when operating the vehicles on public roads.¹

Studies have shown that roughly half of golf cart injuries occur on streets or residential property.²

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.³ It is relatively easy for a consumer to modify a golf cart to have a maximum speed in excess of 20 mph.

Motorized Scooters and Miniature Motorcycles

Though considered motor vehicles in tag/registration law, the registration laws do not provide for registration of motorized scooters and miniature motorcycles, thus they cannot be legally operated on public streets or highways. If operated on a public roadway anyway, regardless of a person's age, law officers can require the person to show at least a valid operator (Class E) license as per driver license law they are considered motor vehicles (see s. 322.03(1) and 322.01(26). F.S.)

Section 316.2128, F.S., requires a seller of motorized scooters or miniature motorcycles to prominently display a notice that such vehicles are not legal to operate on public roads or sidewalks and may not be registered as motor vehicles. The required notice must also appear in all forms of advertising offering motorized scooters or miniature motorcycles for sale.

¹ Florida Attorney General Advisory Legal Opinion AGO 2004-60, November 23, 2004.

² "Golf carts hit the streets as gas prices soar," The Corpus Christi Caller-Times, August 12, 2008

³ "Incidence of Golf Cart-Related Injury in the United States," The Journal of TRAUMA (June 2008)

III. Effect of Proposed Changes:

Generally, this bill amends several sections of ch. 316, F.S., for the purpose of authorizing the use of various motorized devices on bicycle paths, sidewalks, and sidewalk areas. Essentially, the bill:

- Authorizes local governments to enact ordinances allowing vehicles, golf carts, mopeds, and motorized scooters to be operated on sidewalks and sidewalk areas.
- Allows the use of motorized wheelchairs on sidewalks and bicycle paths.

A specific section-by-section analysis follows:

Section 1 amends s. 316.003(83), F.S., expanding the definition of electric personal assistive mobility device. Currently, the existing statute applies to only one product, known as the Segway™ Human (or Personal) Transporter, or simply Segway. By removing the term “two-nontandem wheeled” the bill broadens the definition to include any self-balancing device (*e.g.*, a wheelchair, three-wheeled scooter, or other similar device) propelled by an electric motor of 750 watts (1 horsepower) or less, which is capable of traveling no faster than 20 miles per hour. Such devices are specified as to not be vehicles, thus effectively allowing their use on sidewalks and bicycle paths and exempting them from other limitations on the use of vehicles on certain facilities.

Section 2 amends s. 316.008, F.S., adding a new subsection (7) to empower counties and municipalities to enact ordinances to “permit, control, or regulate the operation of vehicles, golf carts, mopeds, motorized scooters, and electric personal assistive mobility devices on sidewalks or sidewalk areas.” Any such ordinance must restrict the legal speed of such vehicles and devices to a maximum of 15 miles per hour.

Section 3 amends s. 316.1995, F.S., revising the prohibition against driving powered vehicles on bicycle paths, sidewalks, and sidewalk areas. The revisions provide referenced exceptions to accommodate changes to other sections of Florida Statute made elsewhere in the bill. Additionally, motorized wheelchairs are specifically excepted from the prohibition, thus allowing their use on bicycle paths, sidewalks, and sidewalk areas.

Section 4 amends s. 316.212, F.S., to enable a local governmental entity to enact an ordinance relating to the operation of golf carts on sidewalks adjacent to specific segments of municipal streets, county roads, and state highways within the entity’s jurisdiction, provided:

- the entity determines that golf carts, bicycles, and pedestrians may safely share the sidewalk, after first considering:
 - the condition and current use of the sidewalks;
 - the character of the surrounding community; and
 - the locations of authorized golf cart crossing;
- the entity consults with FDOT before adopting the ordinance;
- the ordinance restricts golf carts to a maximum legal speed of 15 miles per hour;
- the ordinance permits such use on sidewalks adjacent to state highways only if the sidewalk is at least 8 feet wide;
- the ordinance requires the following safety equipment on the golf cart:
 - efficient brakes;

- a reliable steering mechanism;
- safe tires;
- a rear-view mirror;
- red reflective warning devices in the front and rear; and
- the entity posts appropriate signs “or otherwise informs residents” that golf carts are permitted on certain sidewalks.

Section 5 amends s. 316.2128, F.S., to revise the notification required to be provided by commercial sellers of motorized scooters or miniature motorcycles concerning the illegality of operating such devices on sidewalks. The notification requirement is amended to accommodate the permitted use of the devices on sidewalks under the provisions of the bill.

Section 6 provides an effective date for the bill of July 1, 2010.

Other Potential Implications:

Under s. 334.044, F.S., FDOT is solely responsible for determining whether safety requirements are met on facilities on the State Highway System. The bill requires local governments to “consult” with FDOT prior to permitting motorized devices on state facilities without defining the authority of either party in the course of consultation.

Unlike other existing provisions allowing vehicular use of sidewalks and bicycle paths, the bill does not provide:

- equipment requirements for night-time operation;
- a hierarchy of right-of-way priority for pedestrians; or
- a minimum age limit for operators.

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:

None.

C. Government Sector Impact:

The bill will result in indeterminate, but potentially significant negative fiscal impacts to FDOT and local governments. The safe operation of motorized vehicles on bicycle paths and sidewalks will likely require the signing and marking of such facilities (*e.g.*, stop signs at driveways, striping) as well as improvements to the facilities' pavement and structures (*e.g.*, culverts, bridges) to support the additional weight of larger vehicles such as golf carts.

Further, under 23 U.S.C. 217(h)(5), the Federal Highway Administration must issue a permit for any exception allowing motorized use (other than wheelchairs and electric bicycles) on bicycle paths and sidewalks adjacent to Federal-aid System highways.⁴ Permitting motorized use on such facilities without federal action may result in penalties up to, and including a reduction in federal transportation funding.

VI. Technical Deficiencies:Lines 68 through 70

Existing statute allows local governments to enact ordinances controlling the legal use of golf carts but only when the ordinance is more restrictive than the current statutory restrictions. Existing statutory language found in the bill states: "An ordinance referred to in this section must apply only to an unlicensed driver." Thus, any expansion of the legal use of golf carts allowed through use of a local ordinance would only apply to non-licensed drivers.

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 20, 2010:

Clarifies that driving certain vehicles on sidewalks may only be made permissible when it is permissible under federal law.

B. Amendments:

None.

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

⁴ "Framework for Considering Motorized Use on Nonmotorized Trails and Pedestrian Ways under 23 U.S.C. s. 217"
<http://www.fhwa.dot.gov/environment/bikeped/framework.htm>