

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 801

Motor Vehicles

SPONSOR(S): Kreegel

TIED BILLS:

IDEN./SIM. BILLS: SB 482

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Roads, Bridges & Ports Policy Committee		Brown	Miller
2)	Full Appropriations Council on Education & Economic Development			
3)	Economic Development & Community Affairs Policy Council			
4)				
5)				

SUMMARY ANALYSIS

The bill, 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 bill:

- Prohibits 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 (and establishes exceptions to this prohibition);
- Increases from two to three, the number of driving infractions committed simultaneously in order to qualify as aggressive careless driving;
- Includes failure to yield to overtaking vehicles to the infractions considered acts of aggressive careless driving;
- Establishes penalties for aggressive careless driving and provides for the distribution of money received from increased fines associated with these penalties;
- Directs the Department of Highway Safety and Motor Vehicles (DHSMV) to provide information about this act in driver's license educational materials.

The bill could result in increased revenue to the state as a result of fines collected for violations of the act. The amount is indeterminate, based on future driver behavior.

Section 316.650, F.S., is reenacted for the purpose of incorporating amendments made by this act. The bill has an effective date of July 1, 2010.

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:

Current 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.

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)

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. Some researchers have theorized the root cause of these aggressive behaviors is passive-aggressive driving, i.e., the failure to move to the right from a left lane of a multi-lane highway when being overtaken by faster traffic.⁵ The theory contends that because slower moving traffic often refuses to yield to vehicles wishing to pass, those faster-moving vehicles resort to aggressive driving such as "bobbing and weaving" from lane to lane.⁶

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 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).⁷ 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.⁸ Violations of this law are non criminal offenses; however, enforcement of these provisions has been minimal.

Section 316.083, F.S., provides that 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.

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). Many states have criminal penalties for driving behavior such as *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; and Vehicular Homicide*.⁹

The extent of laws actually using the term "road rage" is limited to statutes creating a definition. The defined act of "road rage" is not in and of itself considered a punishable crime in any existing statute, only criminal behaviors like those listed above.

Section 316.1923, F.S., describes "aggressive careless driving" as committing two or more of the following acts simultaneously or in succession:

- Exceeding the posted speed as defined in s. 322.27(3)(d)5.b, F.S.
- Unsafely or improperly changing lanes as defined in s. 316.085, F.S.

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

⁵ D. Hennessy, D. Wiesenthal, "Traffic Congestion, Driver Stress, and Driver Aggression," *Aggressive Behavior*, Vol. 25 (1999).

⁶ Ibid.

⁷ Ibid., and see Connell and Joint, "Driver Aggression"

⁸ Section 316.081 (1)(3)(4), F.S.

⁹ See generally the National Conference of State Legislature's "State Aggressive Driving Laws" chart, available online at:

<http://www.ncsl.org/documents/transportation/aggressivedrive.pdf>

- Following another vehicle too closely as defined in s. 316.0895(1), F.S.
- Failing to yield the right-of-way as defined in ss. 316.079, 316.0815, or 316.123, F.S.
- Improperly passing as defined in ss. 316.083, 316.084, or 316.085, F.S.
- 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.¹⁰ The information is recorded and used by DHSMV.

Section 318.19, F.S., provides a list of infractions for which a court appearance is mandatory. These include:

- Any infraction which results in a crash that causes the death of another;
- Any infraction which results in a crash that causes “serious bodily injury” of another, as that term is defined in s. 316.1933(1);
- Any infraction of s. 316.172(1)(b) – failing to stop for a school bus, and passing on the side from which children exit the vehicle;
- Any infraction of s. 316.520(1) or (2) – failing to secure a load or overloading a motor vehicle; or
- Any infraction of s. 316.183(2), s. 316.187, or s. 316.189 of exceeding the speed limit by 30 m.p.h. or more.

Proposed Changes

HB 801 creates the “Highway Safety Act.” The bill provides that the legislative intent of the Highway Safety Act is the reduction of road rage, aggressive careless driving, and traffic crashes by reducing impediments to the free flow of traffic.

The bill defines “road rage” to mean “the act of a driver or passenger to intentionally or unintentionally, due to a loss of emotional control, injure or kill another driver, passenger, or pedestrian, or to attempt or threaten to injure or kill another driver, passenger, or pedestrian.”

The bill amends s. 316.083, F.S., to provide that on roads, streets, or highways having two or more lanes that allow movement in the same direction, a driver may not continue to operate a motor vehicle in the furthestmost left-hand lane if the driver knows, or reasonably should know, that he or she is being overtaken in that lane from the rear by a motor vehicle traveling at a higher rate of speed. This prohibition does not apply to a driver operating a motor vehicle in the furthestmost left-hand lane if:

- The driver is driving the legal speed limit and is not impeding the flow of traffic in the furthestmost left-hand lane;
- The driver is in the process of overtaking a slower motor vehicle in the adjacent right-hand lane for the purpose of passing the slower moving vehicle so that the driver may move to the adjacent right-hand lane;
- Conditions make the flow of traffic substantially the same in all lanes or preclude the driver from moving to the adjacent right-hand lane;
- The driver’s movement to the adjacent right-hand lane could endanger the driver or other drivers;
- The driver is directed by a law enforcement officer, road sign, or road crew to remain in the furthestmost left-hand lane; or
- The driver is preparing to make a left turn.

The bill specifies that a driver violating both this new provision and the provisions of s. 316.183, F.S., (unlawful speed), shall receive a uniform traffic citation for only the unlawful speed violation.

¹⁰ Section 316.650 F.S.

HB 801 adds "failing to yield to overtaking vehicles" to the list of offenses that constitute aggressive careless driving in s. 316.1923, F.S. In addition, the number of acts performed simultaneously or in succession constituting aggressive careless driving is raised from two to three.

The bill provides that any person convicted of aggressive careless driving is to be cited for a moving violation and punished as provided in Chapter 318, F.S., and by the accumulation of points as provided in s. 322.27, F.S., for each act of aggressive careless driving. In addition to any fine or points administered as specified, a person convicted of aggressive careless driving must also pay:

- Upon a first violation, a fine of \$100.
- Upon a second or subsequent conviction, a fine of not less than \$250 but not more than \$500. The violator is also subject to a mandatory hearing under s. 318.19, F.S.

In the first year after the act takes effect, the bill provides that proceeds from the increased fine shall be remitted to DHSMV for the cost of providing educational materials related to the act. For the first year the bill allots \$200,000, and in the second and third years, \$50,000, from this increased fine for educational purposes (described below). Any additional moneys received from this increased fine are to be remitted to the Department of Revenue and deposited into the Department of Health Administrative Trust Fund to provide financial support to verified trauma centers to ensure the availability and accessibility of trauma services throughout the state. Funds deposited into the Administrative Trust Fund are to be allocated as follows:

- Twenty-five percent is to be allocated equally among all Level I, Level II, and pediatric trauma centers in recognition of readiness costs for maintaining trauma services.
- Twenty-five percent is to be allocated among Level I, Level II, and pediatric trauma centers based on each center's relative volume of trauma cases as reported in the Department of Health Trauma Registry.
- Twenty-five percent is to be transferred to the Emergency Medical Services Trust Fund and used by the Department of Health for making matching grants to emergency medical services organizations as defined in s. 401.107(4), F.S.
- Twenty-five percent is to be transferred to the Emergency Medical Services Trust Fund and made available to rural emergency medical services as defined in s. 401.107(5), F.S., and must be used solely to improve and expand pre-hospital emergency medical services in this state. Additionally, these moneys may be used for the improvement, expansion, or continuation of services provided.

The bill requires DHSMV to provide an educational awareness campaign informing the driving community about this act. DHSMV must provide information about the act in all newly printed driver's license educational materials after October 1, 2010.

For purposes of incorporating the amendments made by the Highway Safety Act, the bill re-enacts s. 316.650, F.S. The bill establishes an effective date of July 1, 2010.

B. SECTION DIRECTORY:

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| Section 1 | Provides that the act may be cited as the "Highway Safety Act." |
| Section 2 | Provides legislative intent relating to road rage and aggressive careless driving. |
| Section 3 | Amends s. 316.003, F.S.; defining the term "road rage." |
| Section 4 | Amends s. 316.083, F.S.; requiring an operator of a motor vehicle to yield the left lane when being overtaken on a multilane highway; providing exceptions. |
| Section 5 | Amends s. 316.1923, F.S.; revising the number of specified acts necessary to qualify as an aggressive careless driver; providing specified punishments for aggressive careless |

driving; specifying the allocation of moneys received from the increased fine imposed for aggressive careless driving.

- Section 6** Amends s. 318.19, F.S.; providing that a second or subsequent infraction as an aggressive careless driver requires attendance at a mandatory hearing; providing for the disposition of the increased penalties;
- Section 7** Requires the Department of Highway Safety and Motor Vehicles to provide information about the Highway Safety Act in driver's license educational materials.
- Section 8** Re-enacts s. 316.650(1)(a), F.S., relating to traffic citations, to incorporate the amendments made to s. 316.1923, F.S., in a reference thereto.
- Section 9** Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill could result in increased revenue to the state as a result of fines collected for violations of the act. The amount is indeterminate and based on the future action of drivers.

2. Expenditures:

See Fiscal Comments, below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill could result in increased revenue to local governments as a result of fines collected for violations of the act. The amount is indeterminate and based on the future action of drivers.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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.

D. FISCAL COMMENTS:

According to DHSMV, 30 hours of programming would be required to include "aggressive careless driving" as a moving violation for the purpose of assessing points specified in s. 322.27, F.S. This would be absorbed in DHSMV's normal course of work without the need for additional appropriation.

The bill provides that \$200,000 of fine revenues collected will be distributed to DHSMV in the first year and \$50,000 for the two subsequent years to fund the cost of developing educational materials related to this bill. Additional fine revenue collected will be distributed to the Department of Health Administrative Trust Fund for use by certain trauma centers, of which the amount is indeterminate.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

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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; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES