

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 Transportation Committee

BILL: CS/SB 1840

INTRODUCER: Transportation Committee and Senator Altman

SUBJECT: Motor Vehicles

DATE: April 12, 2011 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sookhoo	Spalla	TR	Fav/CS
2.			BC	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

This bill is titled the “Minor Traffic Safety Act. It creates s. 316.3035, F.S., which prohibits persons younger than 18 years of age from using a wireless communications device while driving. This bill amends s. 318.1451, F.S., s. 322.0261, F.S., and s. 322.095, F.S., to require driver improvement schools to include a section in their curricula regarding awareness of the risks of using a handheld electronic communications device while driving.

This bill amends ss. 320.02, and 322.08, F.S., to create a \$1 voluntary contribution option for persons applying for or renewing a motor vehicle registration or driver’s license. Revenue collected from this contribution will be disbursed to the Auto Club South Traffic Safety Foundation.

This bill amends s. 322.16, F.S., to prohibit persons under the age of 18 from operating a motor vehicle while more than three passengers are in the vehicle who are under 18 years of age unless accompanied by a licensed person who is at least 21 year of age. This provision does not apply if the passengers are siblings or children of the driver.

This bill creates s. 316.3035 and amends ss. 318.14, 318.1451, 320.02, 322.0261, 322.08, 322.095, and 322.16, F.S.

II. Present Situation:

Mobile Communication Devices

Currently, there are no laws prohibiting the use of mobile communication devices while operating a motor vehicle in Florida. However, twenty-eight states and the District of Columbia, ban all cell phone use by novice drivers, and thirty states and D.C. also ban all operators of motor vehicle from text messaging.¹

Driver Improvement Schools; Traffic Law and Substance Abuse Education Programs

Section 318.1451, F.S., requires the Department of Highway Safety and Motor Vehicles (DHSMV, department) to approve the courses and technology used by driver improvement schools. In approving a driver improvement school, DHSMV must consider course content regarding safety, driver awareness, crash avoidance techniques, and other factors or criteria to improve drivers' performance from a safety viewpoint.² Currently, s. 318.1451, F.S., does not include specific criteria for course curricula pertaining to the dangers of distracted driving or the use of technology while driving. However, DHSMV notes that "hazardous acts while driving are discussed in any driver improvement course curricula."³

Section 322.095, F.S., requires DHSMV to approve traffic law and substance abuse education (TLSAE) courses. Curricula of these courses must provide instruction on the physiological and psychological consequences of the abuse of alcohol and other drugs, the societal and economic costs of alcohol and drug abuse, the effects of alcohol and drug abuse on the driver of a motor vehicle, and laws relating to the operation of a motor vehicle. The course provider must obtain certification from DHSMV that the course complies with these requirements. Currently, s. 322.095, F.S., does not include criteria for course curricula pertaining to the dangers of distracted driving or the use of technology while driving. As with driver improvement schools (discussed above), DHSMV notes that "hazardous acts while driving are discussed in the TLSAE curricula."⁴

Section 322.0261, F.S., requires motor vehicle operators to attend a driver improvement course to maintain driving privileges after receiving a citation for violating a traffic control device,⁵ failing to stop for a school bus,⁶ racing,⁷ or reckless driving.⁸

Voluntary Contribution "Check-offs"

¹ Governor's Highway Safety Association accessed April 7, 2011. (www.ghsa.org/html/stateinco/laws/cellphone_laws.html)

² Section 318.1451(2)(a), F.S.

³ *Department of Highway Safety and Motor Vehicles Agency Bill Analysis: HB 758*, Feb. 23, 2011.

⁴ *Id.*

⁵ Sections 316.074(1) and 316.075(1)(c)1., F.S.

⁶ Section 316.172, F.S.

⁷ Section 316.191, F.S.

⁸ Section 316.192, F.S.

Florida drivers and vehicle owners are afforded multiple opportunities to make financial contributions to various charitable or research organizations when registering a vehicle or applying for a driver's license. Voluntary contribution organizations must be specifically authorized by Florida Statutes.

Vehicle Registration Check-offs

Section 320.023, F.S., outlines the procedures an organization must follow prior to seeking legislative authorization to request the creation of a new voluntary contribution fee and establish a corresponding voluntary check-off on a motor vehicle registration application. The check-off allows a registered owner or registrant of a motor vehicle to voluntarily contribute to one or more of the authorized organizations during a motor vehicle registration transaction. Before the organization is eligible, it must submit the following requirements to DHSMV at least 90 days before the convening of the Regular Session of the Legislature:

- A request for the particular voluntary contribution being sought, describing it in general terms.
- An application fee of up to \$10,000 to defray DHSMV's costs for reviewing the application and developing the check-off, if authorized. State funds may not be used to pay the application fee.
- A short and long-term marketing strategy and a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the voluntary contributions.

DHSMV must discontinue the check-off if less than \$25,000 has been contributed by the end of the fifth year, or if less than \$25,000 is contributed during any subsequent five-year period.⁹

Driver's License Check-offs

Section 322.081, F.S., outlines the procedures an organization must follow prior to seeking legislative authorization to request the creation of a new voluntary contribution fee and establish a corresponding voluntary check-off on a driver's license application. The check-off allows a person applying for or renewing a Florida driver's license to voluntarily contribute to one or more of the authorized organizations during the driver's license transaction. Before the organization is eligible, it must submit the following to the DHSMV at least 90 days before the convening of the regular session of the Legislature:

- A request for the particular voluntary contribution being sought, describing it in general terms.
- An application fee of up to \$10,000 to defray the DHSMV's costs for reviewing the application and developing the check-off, if authorized. State funds may not be used to pay the application fee.
- A short and long-term marketing strategy and a financial analysis outlining the anticipated revenues and the planned expenditures of the revenues to be derived from the voluntary contributions.

DHSMV must discontinue the check-off if less than \$25,000 has been contributed by the end of the fifth year, or if less than \$25,000 is contributed during any subsequent 5-year period.¹⁰

Moratorium on Check-offs

Chapter 2010-223, L.O.F., established a moratorium on new voluntary check offs. DHSMV "may not establish any new voluntary contributions on the motor vehicle registration application form under

⁹ Section 320.023(4)(a), F.S.

¹⁰ Section 322.081(4)(a), F.S.

s. 320.023, F.S., or the driver's license application form under s. 322.081, F.S., between July 1, 2010, and July 1, 2013." An exemption to the moratorium allows those charities that were in the process of complying with s. 322.081, F.S., in 2010 to continue to seek a check-off. DHSMV has identified five charitable organizations that fall within the exemption from the moratorium.¹¹

At this time, there is no voluntary contribution for the Auto Club South Traffic Safety Foundation available to persons applying for or renewing a motor vehicle registration or driver's license. Sections 322.081 and 320.023, F.S., establishes the requirements for driver's license applications and registrations, respectively. The requirement includes submitting a letter describing the contribution, a \$10,000 application fee, a long and short-term marketing plan addressing revenue and expenditures, and a copy of the Solicitation of Contributions Act.

According to DHSMV, the Division of Driver Licenses has not received the necessary documentation and \$10,000 application fee from AAA Foundation for Traffic Safety, a nonprofit organization, nor does it meet the other requirements for "grandfathering" a voluntary contribution.¹²

Graduated Licensing

According to the DHSMV, drivers age 15 to 19 in the state of Florida have the highest rate per 10,000 licensed drivers of crash involvement and the second highest rate in fatal crashes. Sixteen-year-old drivers have crash rates three times greater than 17-year-old drivers, five times greater than 18-year-old drivers, and twice the rate of 85-year-old drivers, according to National Highway Traffic Safety Administration (NHTSA). Based on research by NHTSA, "immaturity and inexperience are primary factors contributing to these deadly crashes by young drivers."¹³

"Graduated licensing" is a system designed to delay full licensure while allowing beginners to obtain their initial experience under lower risk conditions¹⁴ and introduce them to more complex driving situations. There are three stages: a minimum supervised learner's period, an intermediate license (once the driving test is passed) that limits unsupervised driving in high-risk situations, and finally a full-privilege driver's license available after completion of the first two stages. Beginners must remain in each of the first two stages for set minimum time periods. Forty-six U.S. states and the District of Columbia currently have all three stages, but the systems vary in strength.¹⁵ According the Insurance Institute for Highway Safety, in an optimal system, the minimum age for a learner's permit is 16; the learner stage lasts at least 6 months, during which parents must certify at least 30-50 hours of supervised driving; and the intermediate stage lasts until at least age 18 and includes both a night driving restriction starting at 9 or 10 p.m. and a strict teenage passenger restriction allowing no teenage passengers, or no more than one teenage passenger.

¹¹ Letter from DHSMV Executive Director Julie L. Jones to the Senate Transportation, Tourism, and Economic Development Appropriations Committee, January 19, 2011. This letter is on file with the Transportation Committee.

¹² Department of Highway Safety and Motor Vehicles Agency Analysis dated March 10, 2011.

¹³ <http://www.nhtsa.gov/Driving+Safety/Driver+Education/Teen+Drivers/Teen+Drivers+-+Graduated+Driver+Licensing> (last visited April 3, 2011.)

¹⁴ See <http://www.iihs.org/laws/GraduatedLicenseIntro.aspx> (last visited April 2, 2011.)

¹⁵ *Id.*

State Graduated Licensing Laws, as of March 2011¹⁶

<i>State/ Jurisdiction</i>	<i>Minimum Entry Age for a Learners Permit</i>	<i>Learner Stage with a Minimum Amount of Supervised Driving Required - # of hours of supervised drive time</i>	<i>Intermediate Stage with Passenger Restrictions (family members excepted unless otherwise noted) What those restrictions are</i>
Alabama	15	30 hr (none with driver education)	No more than 1 passenger
Alaska	14	40 hr, 10 of which must be at night or in inclement weather	First 6 mo: No passengers
Arizona	15, 6 mo	30 hr, 10 of which must be at night (none with driver education)	First 6 mo: No more than 1 passenger younger than 18 (secondary ¹⁷)
Arkansas	14	None	No more than 1 passenger (eff 7/30/09)
California	15, 6 mo	50 hr, 10 of which must be at night	First 12 mo: No passengers younger than 20 (limited exceptions for immediate family) (secondary)
Colorado	15	50 hr, 10 of which must be at night	First 6 mo: No passengers. Second 6 mo: No more than 1 passenger (secondary)
Connecticut	16	40 hr	First 6 mo: No passenger other than parents or driving instructor. Second 6 mo: No passengers other than parents, driving instructor, or members of immediate family
Delaware	16	50 hr, 10 of which must be at night	No more than 1 passenger
District of Columbia	16	40 hr in learner's stage, 10 hr at night in intermediate stage	First 6 mo: No passengers. Thereafter, no more than 2 passengers.
Florida	15	50 hr, 10 of which must be at night	None
Georgia	15	40 hr, 6 of which must be at night	First 6 mo: No passengers. Second 6 mo: No more than 1 passenger younger than 21. Thereafter, no more than 3 passengers (secondary)
Hawaii	15, 6 mo	50 hr, 10 of which must be at night	No more than 1 passenger younger than 18 (household members excepted)
Idaho	14, 6 mo	50 hr, 10 of which must be at night	First 6 mo: Licensees 16 and younger can have no more than 1 passenger younger than 17
Illinois	15	50 hr, 10 of which must be at night	First 12 mo: No more than 1 passenger younger than 20
Indiana	15, 6 mo	50 hr, 10 of which must be at night	First 180 days: No passengers
Iowa	14	20 hr, 2 of which must be at night	None
Kansas	14	25 hr in learner phase; 25 hr before age 16; 10 of the 50 hr must be at night	First 6 mo: No more than 1 passenger younger than 18
Kentucky	16	60 hr, 10 of which must be at night	No more than 1 passenger younger than 20 unless supervised by a driving instructor (secondary)

¹⁶ Insurance Institute for Highway Safety, *Licensing Ages and Graduated Licensing Systems*. See http://www.iihs.org/laws/pdf/us_licensing_systems.pdf (last visited April 2, 2011.)

¹⁷ Some states prohibit police from stopping young drivers solely for violating night driving or passenger restrictions. These secondary enforcement restrictions are labeled.

Louisiana	15	50 hr, 15 of which must be at night	No passenger restrictions 5am-6pm; no more than 1 passenger 6pm-5am.
Maine	15	35 hr, 5 of which must be at night	First 180 days: No passengers
Maryland	15, 9 mo	60 hr, 10 of which must be at night	First 5 mo: No passengers younger than 18 (secondary)
Massachusetts	16	40 hr	First 6 mo: No passengers younger than 18
Michigan	14, 9 mo	50 hr, 10 of which must be at night	No more than 1 passenger younger than 21
Minnesota	15	30 hr, 10 of which must be at night	First 6 mo: No more than 1 passenger younger than 20. Second 6 mo: no more than 3 passengers younger than 20
Mississippi	15	None	None
Missouri	15	40 hr, 10 of which must be at night	First 6 mo: No more than 1 passenger younger than 19. Thereafter: No more than 3 passengers younger than 19
Montana	14, 6 mo	50 hr, 10 of which must be at night	First 6 mo: No more than 1 passenger younger than 18. Second 6 mo: no more than 3 passengers younger than 18
Nebraska	15	50 hr, 10 of which must be at night (none with driver education)	First 6 mo: No more than 1 passenger younger than 19 (secondary)
Nevada	15, 6 mo	50 hr, 10 of which must be at night	First 6 mo: No passengers younger than 18 (secondary)
New Hampshire	15, 6 mo ¹⁸	40 hr, 10 of which must be at night	First 6 mo: No more than 1 passenger younger than 25
New Jersey	16	None	No more than 1 passenger (only the drivers' dependents exempted)
New Mexico	15	50 hr, 10 of which must be at night	No more than 1 passenger younger than 21
New York	16	50 hours, 15 of which must be at night	No more than 1 passenger younger than 21
North Carolina	15	None	No more than 1 passenger younger than 21. If a family member younger than 21 is already a passenger then no other passengers younger than 21 who are not family members
North Dakota	14	None	None
Ohio	15, 6 mo	50 hr, 10 of which must be at night	No more than 1 passenger
Oklahoma	15, 6 mo	50 hr, 10 of which must be at night	No more than 1 passenger
Oregon	15	50 hr (100 hr without driver education)	First 6 mo: No passengers younger than 20. Second 6 mo: No more than 3 passengers younger than 20
Pennsylvania	16	50 hr	None
Rhode Island	16	50 hr, 10 of which must be at night	First 12 mo: No more than 1 passenger younger than 21
South Carolina	15	40 hr, 10 of which must be at night	No more than 2 passengers younger than 21 (driving to and from school excepted)
South Dakota	14	None	None
Tennessee	15	50 hr, 10 of which must be at	No more than 1 passenger

¹⁸ In New Hampshire, learner's permits are not issued. At age 15, and six months, a person can drive while supervised by a licensed driver 25 or older.

		night	
Texas	15	20 hr, 10 of which must be at night	No more than 1 passenger younger than 21 (secondary)
Utah	15	40 hr, 10 of which must be at night	First 6 mo: No passengers (secondary)
Vermont	15	40 hr, 10 of which must be at night	First 3 mo: No passengers without exception. Second 3 mo: No passengers with family exception
Virginia	15, 6 mo	45 hr, 15 of which must be at night	First 12 mo: No more than 1 passenger younger than 18. Thereafter, no more than 3 passengers younger than 18 (secondary)
Washington	15	50 hr, 10 of which must be at night	First 6 mo: No passengers younger than 20. Second 6 mo: no more than 3 passengers younger than 20 (secondary)
West Virginia	15	50 hr, 10 of which must be at night (none with driver education)	First 6 mo: No passengers younger than 20. Second 6 mo: no more than 1 passenger younger than 20
Wisconsin	15, 6 mo	30 hr, 10 of which must be at night	No more than 1 passenger
Wyoming	15	50 hr, 10 of which must be at night	No more than 1 passenger younger than 18

Under current Florida law, the following operating restrictions are placed on a minor’s driver’s license:

- 15 years old (learner’s permit) - May operate a vehicle only during daylight hours, but after 3 months, may operate a vehicle until 10 p.m. Must be accompanied by a holder of a valid driver’s license who is at least 21 years of age.
- Under the age of 17 - Must be accompanied by a holder of a valid driver’s license who is at least 21 years of age during the hours of 11:01 p.m. and 5:59 a.m., unless driving to or from work.
- 17 years old - Must be accompanied by a holder of a valid driver’s license who is at least 21 years of age during the hours of 1:01 a.m. and 4:59 a.m., unless driving to or from work.

Florida Learner Driver’s License

Section 322.1615, F.S., provides the requirements for, and limitations of, a learner’s driver’s license. Specifically, in order to obtain a learner’s driver’s license issued by DHSMV, a person must be at least 15 years of age and have:

- Passed the written examination for a learner’s license;
- Passed the vision and hearing tests;
- Completed the traffic law and substance abuse course; and
- Meets all other requirements in law.

Drivers holding a learner driver’s license must be accompanied by a fully licensed driver who is at least 21 years old and occupies the nearest seat to the right of the learning driver.¹⁹ Holders of a learner driver’s license may only operate a vehicle during daylight hours for the first 3 months of their licensure. Following the first three months, learning drivers may operate a vehicle from

¹⁹ Section 322.1615(2), F.S.

dawn until 10 p.m.²⁰ A licensee who violates these requirements is subject to the civil penalty imposed for a moving violation, as provided in chapter 318, F.S.²¹

III. **Effect of Proposed Changes:**

Section 1 establishes the title of the bill as the “Minor Traffic Safety Act.

Use of Cell Phones by Minor Drivers

Section 2 creates s. 316.3035, F.S., which prohibits persons younger than 18 years of age from using a wireless communications device while driving.

Driver Improvement Schools and Traffic Law and Substance Abuse Education Programs

Section 4 amends s. 318.1451, F.S., to require DHSMV to consider whether a driver improvement school’s curriculum includes awareness of the risks associated with the use of handheld electronic communication devices while operating a motor vehicle when the department is approving such courses.

Sections 6 and 8 amend ss. 322.0261 and 322.095, F.S., respectively, to require an additional minimum course requirement to traffic law and substance abuse education courses. The bill requires such courses to include the risks associated with the use of handheld electronic communication devices while operating a motor vehicle.

Voluntary Check-off for AAA Traffic Safety Foundation

Sections 5 and 7 amends ss. 320.02, and 322.08, F.S., respectively, to create a \$1 voluntary contribution option for persons applying for or renewing a motor vehicle registration or driver’s license. Revenue collected from this contribution will be disbursed to the Auto Club South Traffic Safety Foundation. DHSMV has not received the appropriate documentation and \$20,000 fee (\$10,000 for drivers license application and \$10,000 for motor vehicle registration application) from the Auto Club South Traffic Safety Foundation, nor has this foundation met the moratorium requirements.

Limitation on Number of Minor Passengers

Section 9 amends s. 322.16, F.S., providing a person younger than 18 years of age may not operate a motor vehicle if more than three passengers in the vehicle are younger than 18 years of age unless also accompanied by a valid licensed driver who is at least 21 years of age. However, the bill exempts passengers under 18 from this requirement who are siblings or children of the driver, whether by whole or half blood, affinity or adoption.

The bill also provides a violation of this provision is punishable as a moving violation (\$60 plus applicable court costs and 3 points assessed on the driver’s license). This bill provides state and local law enforcement agencies shall enforce this as a secondary action only when the driver of a motor vehicle has been detained for a suspected violation of another section of chs. 316, 320, or 322, F.S.

²⁰ Section 322.1615(3), F.S.

²¹ Section 322.1615(4), F.S.

This bill applies to any person younger than 18 years of age who is issued a driver's license on or after October 1, 2011.

Section 3 amends s. 318.14, F.S., to conform a cross-reference to changes made in s. 322.16, F.S., relating to the restriction on the number of minor passengers.

This bill will take effect July 1, 2011.

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:

Operators of a motor vehicle under the age of 18 found in violation of using a handheld communication device will have to pay additional costs and fees.

There are currently 22 different organizations who are providers of driver improvement schools, some of which are multiple course providers. Providers not currently including such information in their curricula will likely experience a direct, but indeterminate fiscal impact due to the need to expand the curricula to meet the bill requirements.

Persons under 18 years of age who operate a motor vehicle in violation of the proposed passenger restrictions commits a moving violation (\$60 plus applicable court costs and 3 points assessed on the driver's license).

To the extent the bill could prevent or reduce vehicular crashes resulting in injuries or fatalities, associated medical and insurance costs could be reduced, thus impacting the public and private sectors.

C. Government Sector Impact:

DHSMV estimates a \$20,000 cost to develop a driver license and motor vehicle voluntary contribution application for the Auto Club South Traffic Safety Foundation which will be offset by the fee collected by Auto Club South Traffic Safety Foundation. To date, the foundation has not paid this fee.

The bill may result in the issuance of an increased number of citations. However, because it is impossible to forecast how many additional violations will occur and be cited, the fiscal impact on state and local governments is unknown.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 9 of the bill exempts passengers under 18 who are siblings or children of the driver, whether by whole or half blood, affinity, or adoption. Proof of such a relationship could be difficult to determine by a law enforcement officer since minors may or may not have state-issued identification cards. Also, even with an identification card, a law enforcement officer may not be able to determine family relationships due to different last names and residential addresses. An officer unable to make a positive familial identification would have to use his or her best judgment.

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 Transportation Committee on April 12, 2011:**

The committee substitute removed the minimum number of hours of driving time a minor driver's license applicant must have in order to apply for a Class E driver's license. This requirement is already statute.

B. Amendments:

None.