

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: SB 244

INTRODUCER: Senator Bennett

SUBJECT: Motor Vehicles/Highway Safety Act

DATE: February 1, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Eichin	Spalla	TR	Pre-meeting
2.	_____	_____	HR	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This 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 and aggressive careless driving, minimize crashes, and promote the orderly free flow of traffic in Florida.

The bill:

- Directs the Department of Highway Safety and Motor Vehicles (DHSMV) to provide information about this act in driver’s license educational materials;
- 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 penalties, including financial support of trauma centers and emergency medical services organizations throughout Florida.

This bill substantially amends the following sections of the Florida Statutes: 316.003, 316.083, 316.1923, and 318.19. The bill creates two previously unnamed sections of Florida Law.

Section 316.650, Florida Statutes, is reenacted for the purpose of incorporating amendments made by this act.

II. Present Situation:

Road Rage and Aggressive Driving

According to the National Highway Traffic Safety Administration (NHTSA), “aggressive driving” comprises following too closely, driving at excessive speeds, weaving through traffic, running stoplights 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.

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

¹ National Highway Traffic Safety Administration, *Aggressive Driving Enforcement: Evaluations of Two Demonstration Programs* (Mar. 2004) (DOT HS 809 707), available at <http://www.nhtsa.dot.gov/people/injury/research/AggDrivingEnf/images/AggresDrvngEnforce-5.0.pdf> (last visited Feb. 1, 2011).

² Whitlock, F.A., *Death on the Road: A Study in Social Violence*. London (Tavistock Publications 1971).

³ Daniel B. Rathbone and Jorg C. Huckabee, AAA Foundation for Traffic Safety, *Controlling Road Rage: A Literature Review and Pilot Study* (June 1999), available at <http://www.aaafoundation.org/resources/index.cfm?button=roadrage> (last visited Feb. 1, 2011).

⁴ Dominic Connell and Matthew Joint, *Driver Aggression*, Road Safety Unit Group Public Policy (Nov. 1996), available at <http://www.aaafoundation.org/resources/index.cfm?button=agdrtext#Driver%20Aggression> (last visited Feb. 1, 2011).

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. 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.

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. 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).⁵ 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 or when preparing for a left turn at an intersection or into a private road or driveway.⁶ Violations of this law are noncriminal offenses. However, enforcement of these provisions has been minimal.

Another important distinction is that 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). Most, if not all acts under the umbrella of what is considered road rage, are labeled criminal offenses with applicable punishments. Road rage, if not accompanied by some other type of violation, is not considered a punishable crime in any existing statute. Some crimes considered to be an act of road rage if carried out while driving include: *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*.

Florida Aggressive Driving Laws

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.;
- 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.;

⁵ *Id.*

⁶ Section 316.081(1), (2), and (3), F.S.

- Improperly passing as defined in ss. 316.083, 316.084, or 316.085, F.S.; or
- Violating traffic control and signal devices as defined in ss. 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 careless driving.⁷ The information is recorded and used by DHSMV.

Current law 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.⁸ Some of the infractions may require a mandatory court hearing.⁹

Trauma Centers, Emergency Medical Services/Funding from Traffic Violations

Funds credited to the Department of Health (DOH) Administrative Trust Fund, as codified in s. 20.435, F.S., are to be used for the purpose of supporting the regulatory activities of the DOH. Trauma centers are regulated by the DOH under part II of ch. 395, F.S.

Recognizing the Legislature's intent to provide financial support to current trauma centers and to provide incentives for the establishment of additional trauma centers, s. 395.4036, F.S, provides that the DOH is to utilize funds collected under s. 318.18(15), F.S., and deposited into the DOH Administrative Trust Fund to ensure availability and accessibility of trauma services throughout Florida.

Chapter 401, F.S., provides that it is the legislative intent that emergency medical services are essential to the health and well-being of all citizens and that private and public expenditures for adequate emergency medical services represent a constructive and essential investment in the future of the state and our democratic society. Existing sources of funding from traffic violations deposited into the Emergency Medical Services Trust Fund, as provided in ss. 316.061 (crashes involving damage to vehicle or property), 316.192 (reckless driving), 318.21 (county court civil penalties) and 938.07 (driving under the influence), F.S., must be used solely to improve and expand prehospital emergency medical services in Florida.¹⁰

III. Effect of Proposed Changes:

Section 1. Creates the "Highway Safety Act."

Section 2. Provides findings and expresses the legislative intent of the Highway Safety Act to reduce road rage and aggressive careless driving, reduce the incidence of drivers' interfering with the movement of traffic, minimize crashes, and promote the orderly, free flow of traffic on the roads and highways of Florida.

⁷ Section 316.650, F.S.

⁸ Section 316.083, F.S.

⁹ Section 318.19, F.S.

¹⁰ Section 401.113, F.S.

Section 3. Amends s. 316.003, F.S., by defining the term “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.

Section 4. 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.

The bill provides that 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.

A driver simultaneously violating these provisions and the provisions of s. 316.183, F.S. (relating to Unlawful Speed) shall receive a uniform noncriminal traffic citation for the unlawful speed violation.

Section 5. Amends s. 316.1923, F.S., by adding “failing to yield to overtaking vehicles” to the list of offenses that constitute aggressive careless driving. In addition, the number of acts performed simultaneously, or in succession, constituting aggressive careless driving is changed 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 ch. 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 conviction, a fine of \$100.
- Upon a second or subsequent “conviction,” a fine of not less than \$250 but not more than \$500 and be subject to a mandatory hearing under s. 318.19, F.S.

Of the moneys collected from the increased fine, \$200,000 in the first year and \$50,000 in the second and third years after this bill takes effect, are to be remitted by the clerk of court to DHSMV to offset the cost of providing educational materials related to the act. The remainder are to be remitted by the clerk of the court to the Department of Revenue (DOR) for deposit into the DOH Administrative Trust Fund to be for ensuring the availability and accessibility of trauma services throughout the state and for improving and expanding prehospital emergency medical services. The additional funds deposited into the DOH 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 DOH Trauma Registry;
- Twenty-five percent is to be transferred to the Emergency Medical Services Trust Fund and used by the DOH for making matching grants to emergency medical services organizations as defined in s. 401.107(4), F.S.; and
- 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 prehospital emergency medical services in Florida. Additionally, these moneys may be used for the improvement, expansion, or continuation of services provided.

Section 6. Amends s. 318.19, F.S., to include second or subsequent violations of s. 316.1923(1), F.S., (Aggressive Careless Driving) in the list of infractions requiring a mandatory court hearing.

Section 7. Requires DHSMV to provide information about the Highway Safety Act in all newly printed driver's license educational materials after October 1, 2011.

Section 8. Reenacts s. 316.650, F.S., for the purpose of incorporating the amendments made by this act.

Section 9. Establishes an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

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.

C. Government Sector Impact:

According to DHSMV, 40 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 the DHSMV’s normal course of work without the need for an additional appropriation.¹¹ The department recommends revising the effective date to October 1, 2011 to allow for the programmatic updates to be implemented.

The bill provides that \$200,000 will be transferred to the DHSMV General Revenue Fund 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 DOH Administrative Trust Fund for use by certain trauma centers and emergency medical services organizations, of which the total amount is indeterminate.

VI. Technical Deficiencies:

A review¹² by DOR identified a potential deficiency¹² in the bill as originally drafted. The bill provides that specified amounts (i.e., the first \$200,000 collected in year one and the first \$50,000 collected in years two and three) of the fines are to be remitted to the DHSMV first. However, no specific fund is designated. Further, it would not be clear to a clerk acting individually when the fines remitted by other clerks of the court reach the \$200,000 or \$50,000 level. Thus a clerk would not know whether to remit funds to DHSMV or to the DOH Administrative Trust Fund.

VII. Related Issues:

None.

¹¹ Department of Highway Safety and Motor Vehicles, *Agency Bill Analysis: SB 244*, 6 (Dec. 17, 2010).

¹² Department of Revenue, *2011 Bill Analysis: SB 244*, 3 (Jan. 10, 2011)

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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