

FINAL BILL ANALYSIS

BILL #: CS/CS/HB 689

FINAL HOUSE FLOOR ACTION:

94 Y's 16 N's

SPONSOR: Rep. Berman

GOVERNOR'S ACTION: Vetoed

COMPANION BILLS: CS/SB 1974

SUMMARY ANALYSIS

CS/CS/HB 689 passed the House on May 2, 2011, and subsequently passed the Senate on May 3, 2011. The bill was vetoed by the Governor on June 27, 2011. The bill amends ss. 318.1451 and 322.095, F.S., relating to driver improvement schools and education programs for driver's license applicants. The bill amends these sections to include course content regarding the risks associated with the use of handheld electronic communication devices while operating a motor vehicle. The Department of Highway Safety and Motor Vehicles is required to consider whether such information is included in a provider's curriculum when determining whether to approve the courses.

The bill amends s. 322.12, F.S., to require driver's license exams and commercial driver's license exams to include one question testing the applicant's knowledge of traffic regulations to assist blind persons. The questions developed by the Department must emphasize pedestrian right of way when a driver is making a right turn at an intersection.

The bill also amends s. 322.56, F.S., to provide that applicants for a learner's driver's license shall have the ability to take the necessary written examination via a third-party provider. The bill requires the Department to contract with such providers to conduct knowledge tests required by ss. 322.12 and 322.1615, F.S. The bill provides certain requirements for online learner's driver's license testing administered by third party providers, including a requirement that an applicant's parent, guardian, or other responsible adult sign an affidavit prior to the applicant's examination, authorizing the applicant to take the exam online. The Department may not issue a license to the applicant until the affidavit has been submitted.

The bill does not have a fiscal impact.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Current Situation

Driver Improvement Schools

Section 318.1451, F.S., requires the Department of Highway Safety and Motor Vehicles (DHSMV) 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.¹

Currently, s. 318.1451, F.S., does not include specific criteria for course curricula pertaining to the risks associated with the use of handheld electronic devices used for communication purposes while operating a motor vehicle. However, DHSMV notes that "hazardous acts while driving are discussed in any driver improvement course curricula."²

Traffic Law and Substance Abuse Education Programs

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 risks associated with the use of handheld electronic devices used for communication purposes while operating a motor vehicle. As with driver improvement schools (discussed above), DHSMV notes that "hazardous acts while driving are discussed in the TLSAE curricula."³

Traffic Regulations to Assist Blind Persons

Section 316.1301, F.S., provides traffic regulations relating to blind persons. The statute provides that whenever a pedestrian is crossing or attempting to cross a public street or highway, guided by a dog guide or a using a white cane with a red tip, the driver of every vehicle approaching the intersection or place where the pedestrian is attempting to cross shall bring his or her vehicle to a full stop before arriving at such intersection or place of crossing and, before proceeding, shall take such precautions as may be necessary to avoid injuring such pedestrian.⁴ A person violating this provision is guilty of a moving violation.⁵

¹ Section 318.1451(2)(a), F.S.

² *Department of Highway Safety and Motor Vehicles Agency Bill Analysis: HB 689*, Feb. 16, 2011.

³ *Id.*

⁴ Section 316.1301(2), F.S.

⁵ Section 318.18(3)(a), F.S., provides a \$60 fine for moving violations. Additional court costs and fees vary by jurisdiction.

Driver Examinations

Section 322.12, F.S., provides requirements for examination of applicants for a driver's license. The examination for a standard Class E license or a commercial driver's license must include a test of:

- the applicant's ability to read and understand highway signs regulating, warning, and directing traffic;
- his or her knowledge of the traffic laws of this state, including laws regulating driving under the influence of alcohol or controlled substances, driving with an unlawful blood-alcohol level, and driving while intoxicated; and
- his or her knowledge of the effects of alcohol and controlled substances upon persons and the dangers of driving a motor vehicle while under the influence of alcohol or controlled substances.

The test must also include an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle,⁶ or combination of vehicles of the type covered by the license which the applicant is seeking, in the case of a commercial motor vehicle license.⁷

Third-Party Testing Administrators

Section 322.56, F.S., provides that DHSMV may contract with other governmental entities, public or private corporations, schools, or other groups, in order "to administer written and driving skills portions of an examination for all classes and types of driver's licenses...."⁸ Such agreements must include contract provisions that:⁹

- allow the Federal Highway Administration, or its representative, to conduct random examinations, inspections, and audits without prior notice;
- allow the department, or its representative, to conduct random examinations, inspections, and audits without prior notice;
- allow the department to conduct onsite inspections at least annually;
- require that all third-party administrators meet the same qualifications and education and training standards as department examiners, to the extent necessary to conduct the written and driving skills portions of the examination;
- allow the department to test, at least annually, a random sample of the drivers approved by the third party for licensure; and
- reserve to the department the right to take prompt and appropriate action against a third party that fails to comply with state or federal standards for a driver's license examination or that fails to comply with any terms of the contract.

DHSMV is directed to monitor all examinations administered by third-party providers, in keeping with the points above.¹⁰

⁶ Section 322.12(3)-(4), F.S.

⁷ Section 322.12(4), F.S.

⁸ Section 322.56(1), F.S.

⁹ Section 322.56(3), F.S.

¹⁰ Section 322.56(4), F.S.

In order to qualify as a third-party provider of testing, the entity must demonstrate to the satisfaction of the department that it has the necessary qualified personnel, equipment, and facilities to administer the written and driving skills portions of the driver's license examination.¹¹

Effect of the Bill:

The bill amends ss. 318.1451 and 322.095, F.S., to include "awareness of the risks associated with using a handheld electronic communications device while operating a motor vehicle," in the curriculum requirement for both Driver Improvement Schools and Traffic Law and Substance Abuse Education Programs.

The bill amends s. 322.12, F.S., to require that all driver's license exams and commercial driver's license exams include one question testing the applicant's knowledge of traffic regulations to assist blind persons. The questions developed by DHSMV must emphasize pedestrian right of way when a driver is making a right turn at an intersection.

The bill amends s. 322.56, F.S., to provide that learner's driver's license applicants must have the opportunity to take written examinations with third-party providers. The bill requires DHSMV to contract with providers of approved traffic law and substance abuse education courses to serve as third-party administrators to conduct these examinations online. The bill provides that an online testing program must require the applicant's parent, guardian, or other responsible adult to provide his or her driver's license number to the third-party administrator prior to the examination. Before DHSMV may issue a learner's driver's license to an applicant, the applicant's parent, guardian, or other responsible adult must submit an affidavit stating that the parent, guardian, or other responsible adult was aware of and allowed the applicant to take the examination online. The affidavit must be signed and dated prior to the time the applicant took the test.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

¹¹ Section 322.56(6), F.S.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Course 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.

D. FISCAL COMMENTS:

None.