

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 Committee on Transportation

BILL: SB 166
 INTRODUCER: Senator Brandes
 SUBJECT: Neighborhood Vehicles
 DATE: October 3, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	Pre-meeting
2.	_____	_____	CA	_____
3.	_____	_____	RC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

SB 166 creates a new class of vehicle, “neighborhood vehicles” or NVs, and authorizes the operation of such vehicles on certain roads with speed limits up to 45 miles per hour pursuant to local ordinance. The bill:

- provides requirements for enactment of a local ordinance and posting of signs;
- authorizes a county, municipality, or the Florida Department of Transportation (FDOT) to prohibit the operation of NVs on roads under their respective jurisdictions in the interest of safety;
- revises the definition of “low-speed vehicle” to delete a reference to “neighborhood electric vehicles;”
- creates the definition of “neighborhood vehicle” (which does not specify the vehicle’s energy source) and requires such vehicles to comply with certain safety standards;
- specifies the license tax for NVs;
- requires the Florida Department of Highway Safety and Motor Vehicles (DHSMV) to issue license plates and decals for NVs;
- requires display of such decals on the NVs; and
- revises the definition of “recreational off-highway vehicle” to clarify that ROVs are not NVs..

This bill amends the following sections of the Florida Statutes: 261.03, 316.2122, 317.0003, 320.01, 320.08001, and 320.0847.

II. Present Situation:

Current federal and state law address certain types of vehicles in use on the public roadways which do not resemble the “conventional” passenger car, such as golf carts and low-speed vehicles (LSVs). While there are many types, LSVs often resemble golf carts cosmetically but differ in that LSVs are manufactured and configured for street use. These vehicles may be electrically or gasoline-powered. Neighborhood electric vehicles are a type of LSV.

Several manufacturers’ lines currently offer vehicles which are identical in outward appearance, but can be configured as either an LSV or a golf cart. In many instances, the only difference between the configurations is internal gearing which provides for a 20 miles per hour maximum speed in the golf cart configuration and a 25 miles per hour maximum speed for the LSV model. Other manufactured and modified vehicles identical or similar in outward appearance are capable of exceeding 25 miles per hour, but current state law does not address such vehicles. Because of the identical or similar appearance of the different types of vehicles, law enforcement officers are unable to ascertain whether a vehicle is required to be registered. Owners may be unaware of the need to title, register, and insure the vehicle, and unaware of the different allowable conditions under which the vehicles may be operated.

Federal Law

Golf Carts and Low-Speed Vehicles/Application of Federal Motor Vehicle Safety Standards

“Motor vehicle” is defined in 49 U.S.C. 30102(6) as a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line. Federal regulatory authority over “motor vehicles” is granted to the National Highway Traffic Safety Administration (NHTSA) in 49 U.S.C. 301, and all “motor vehicles” are subject to the Federal motor vehicle safety standards (FMVSSs) promulgated by NHTSA pursuant to 49 U.S.C. 30111.¹ “Conventional” passenger motor vehicles are required to comply with the full range of FMVSSs, including, for example, equipment such as air bags, to provide protection against passenger injury and death.

In a 1997 notice of proposed rulemaking, NHTSA explained its prior interpretations of this definition of “motor vehicle” and indicated that “...vehicles such as golf carts have not been regulated² by NHTSA because they were not considered to be manufactured for use on the public roads. Even when a vehicle is being used on the roads, NHTSA has not regulated if it had an unusual configuration, and if it had a top speed of 20 mph or less.”³ Noting that the design and use of these vehicles was evolving in previously unanticipated ways, NHTSA announced its decision to review its historical interpretations.⁴

¹ “Federal Motor Vehicle Safety Standards; Final Rule,” 63 Federal Register 116 (17 June 1998), pp. 33194 – 33217, at 33198.

² That is, required to comply with the FMVSSs.

³ “Federal Motor Vehicle Safety Standards; Proposed Rule,” 62 Federal Register 62 (8 January 1997), pp. 1077 – 1086, at 1077.

⁴ *Id.*

In 1998, NHTSA promulgated a final rule, after receiving comments on its historical interpretations, establishing a limited set of safety standards for LSVs intended for vehicles used “to make short trips for shopping, social and recreational purposes primarily within retirement or other planned communities with golf courses.”⁵ In its discussion, NHTSA explained its determination to exclude conventional golf carts from application of the limited safety standards and to limit application to LSVs:

“The crash forces that 20 to 25 mile-per-hour vehicles will experience are significantly greater than those for 15 to 20 mile-per-hour golf cars and much greater than those for sub-15 mile-per-hour golf cars. Those greater forces make it necessary to require that LSVs be equipped with more safety features than the states and their local jurisdictions currently require for conventional golf cars used on-road.”⁶

“Low-speed vehicle” is defined as a four-wheeled motor vehicle whose speed attainable in 1 mile is more than 20 miles per hour and not more than 25 miles per hour on a paved level surface and whose gross vehicle weight rating (GVWR) is less than 3,000 pounds.⁷ Neighborhood electric vehicles are a type or subset of LSV under federal rule.⁸ “The terms differ only in that not all low speed vehicles are electric.”⁹

The rule requires that LSVs be equipped with headlamps, front and rear turn signal lamps, tail lamps, stop lamps, reflex reflectors, mirrors, parking brakes, windshields, seat belts, and vehicle identification numbers, but not, for example, air bags. LSVs are not required to meet any criteria for vehicle crashworthiness.¹⁰

Declined request to increase GVWR of LSVs and to create a class of “medium speed vehicles”

In 2008, NHTSA denied a petition to increase the GVWR limit for LSVs from 3,000 to 4,000 pounds for two reasons: First, NHTSA believes that “vehicles over 3,000 pounds GVWR are capable of complying with the full requirements of FMVSSs that apply to conventional passenger motor vehicles,” and, second, (the administration) believes that “increasing the GVWR limit would encourage the use of LSVs in circumstances that could pose an unreasonable risk to safety.”¹¹ For reference, a 2013 Honda Civic has a curb weight of 2,815 pounds.

NHTSA in the same year also denied petitions to create a new class of motor vehicles called “medium speed vehicles,” with a maximum speed of 35 miles per hour. “The petitioners’ wanted NHTSA to establish [the class] to meet the environmental objective of having more fuel efficient vehicles on more roads to provide transportation for relatively short trips.”¹² This class of

⁵ “Federal Motor Vehicle Safety Standards; Final Rule,” 63 Federal Register 116 (17 June 1998), pp. 33194 – 33217, at 33194.

⁶ *Id.* at 33198.

⁷ 49 C.F.R. s. 571.3.

⁸ U.S. Department of Transportation Report to Congress, *Operation of Neighborhood Electric Vehicles (NEVs) on Roadways with Maximum Speed Limit of 40 mph (64 kph): Fuel Consumption Savings and Safety Ramifications*, June 2012, p.7. On file with the Senate Transportation Committee.

⁹ *Id.* at 4. Thus, the report’s analysis equally applies to LSVs that are not electrically powered.

¹⁰ 49 C.F.R. s. 571.500.

¹¹ U.S. Department of Transportation Report to Congress, *supra*, at 30. On file with the Senate Transportation Committee.

¹² *Id.*

vehicles would be subject to standards more stringent than those for LSVs, "...but substantially less than the full set of safety standards that apply to light vehicles such as passenger cars."¹³

In its Report to Congress, the U.S. Department of Transportation noted with respect to NHTSA's denials:

"NHTSA also considers fuel conservation an important goal. However, we believe that it is neither necessary nor appropriate to significantly increase the risk of deaths and serious injuries to save fuel.' The Department, with safety as its highest priority, continues to believe this statement to be true.

"When NHTSA created FMVSS No. 500 in 1998 as the sole Federal motor vehicle safety standard applicable to low speed vehicles, nearly all of which are Neighborhood Electric Vehicles (NEVs), it did so in the firm belief that these vehicles would be restricted to operation in controlled, low speed environments, not in mixed traffic found on roadways used for normal vehicle traffic. Limiting the safety equipment required on NEVs was supported by the evidence then which indicated these vehicles were being operated predominantly in such environments. Even under the conditions that existed in 1998, NHTSA recognized the importance of monitoring sources of data and anecdotal information for indications of a NEV safety problem.

"Among the factors that concern the Department and require that NEVs be operated only in carefully controlled low speed environments are:

- The kinetic energy produced by a conventional passenger motor vehicle, which weighs appreciably more than the typical NEV and is capable of travelling at speeds higher than a NEV, is considerably higher than that produced by a NEV at speeds between 25 mph and 40 mph. This means that in a crash between a conventional motor vehicle and a NEV, the occupants of the NEV will be at greater risk of serious or fatal injury.
- Conventional passenger motor vehicles comply with all applicable Federal motor vehicle safety standards, which include those aimed at protecting vehicle occupants during a crash. NEVs currently do not. These standards save lives. NHTSA estimates that in 2005, on roads posted at 35 mph or lower, 1,921 crash victims survived because the vehicles were compliant with all FMVSSs, including 278 saved by air bags. In crashes posted at 45 mph or lower, 3,163 lives were saved because the vehicles involved were compliant with all FMVSSs. Of those, 414 were saved by air bags.
- National crash data make clear that the number of crashes, fatalities, and injuries on roads with a speed limit of 35 or 40 mph has been consistently and significantly higher than the number of similar incidents on roads with a speed limit of 30 mph or less. If NEV use were to expand considerably because of additional NEVs operating on or near roadways with a maximum speed limit of 40 mph, the Department is concerned that additional NEVs would begin showing up in the statistics for crashes on these roads. While NHTSA has not crash tested

¹³ *Id.*

NEVs to date, based on test results from the Insurance Institute for Highway Safety and Transport Canada, it is apparent there is significant risk for serious injury to NEV occupants at speeds above 25 mph.

“As we have since FMVSS No. 500 was adopted, we will continue to monitor data and anecdotal information for any signs of a developing NEV safety problem. If it determines a safety problem exists, NHTSA, to fulfill its mission to reduce deaths and injuries resulting from traffic crashes, would consider increasing the safety requirements for NEVs, including possibly requiring that they meet the same Federal motor vehicle safety standards as conventional passenger motor vehicles.”¹⁴

State Law

In 1999, the Legislature first authorized the operation of LSVs and set speed limits for LSVs and golf carts consistent with the final federal rule.¹⁵ Current state law is described below.

Low-speed Vehicles

Section 320.01(42), F.S., defines “low-speed vehicle” as any four-wheeled vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour, including, but not limited to, neighborhood electric vehicles. A revision by the 2012 Legislature removed language restricting LSVs to electrical power, effectively expanding the definition to include gasoline-powered vehicles. LSVs must comply with the safety standards in 49 C.F.R. s. 571.500 and s. 316.2122, F.S.

Section 316.2122, F.S., authorizes the operation of LSVs on any road with the following restrictions:

- An LSV may be operated only on streets where the posted speed limit is 35 miles per hour or less. This does not prohibit an LSV from crossing a road or street at an intersection where the road or street has a posted limit of more than 35 miles per hour.
- An LSV must be equipped with headlamps, stop lamps, turn signal lamps, tail lamps, reflex reflectors, parking brakes, rearview mirrors, windshields, seat belts, and vehicle identification numbers.
- An LSV must be registered and insured in accordance with s. 320.02, F.S., and titled pursuant to ch. 319, F.S. An LSV must display a valid license plate.
- Any person operating an LSV must have in his or her possession a valid driver’s license.
- A county or municipality may prohibit the operation of LSVs on any road under its jurisdiction if the governing body of the county or municipality determines that such prohibition is necessary in the interest of safety.
- The FDOT may prohibit the operation of LSVs on any road under its jurisdiction if it determines that such prohibition is necessary in the interest of safety.

Operation of an LSV on sidewalks or sidewalk areas is not authorized under Florida law.

¹⁴ *Id.* at 46-47.

¹⁵ Chapter 99-163, L.O.F.

Golf Carts

Florida law defines a golf cart as a motor vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and is not capable of exceeding speeds of 20 miles per hour.¹⁶

Section 322.04(1)(d), F.S., exempts a person operating a golf cart from provisions requiring the operator to have a driver license, and s. 320.105, F.S., exempts golf carts from provisions requiring the registration of vehicles or the display of license plates when operated in accordance with s. 316.212, F.S., or s. 316.2126, F.S.

Generally, golf carts may not be used on the public roads or streets. Section 316.212, F.S., prohibits the operation of a golf cart upon the public roads or streets except that:

- A golf cart may be operated only upon a county road or municipal street that has been designated by the respective county or municipality for use by golf carts provided that certain actions are taken by the local government.
- A golf cart may be operated on a part of the State Highway System (SHS) only under the following conditions:
 - To cross a portion of the SHS if FDOT has reviewed and approved the location and design.
 - To cross, at midblock, a part of the SHS where a golf course is constructed on both sides of the highway if FDOT has reviewed and approved the location and design.
- A golf cart may be operated for the purpose of crossing a street or highway where a single mobile home park is located on both sides and is divided by that street or highway, provided that the location of the crossing is approved by the appropriate governmental authority.
- A golf cart may be operated on a road that is part of the State Park Road System if the posted speed limit is 35 miles per hour or less, when approved by the Department of Environmental Protection.

In all cases where a golf cart may be used on a public road, the golf cart must be equipped with efficient brakes, reliable steering apparatus, safe tires, a rearview mirror, and red reflectorized warning devices in both the front and rear.¹⁷ Further, a golf cart may be operated only during the hours between sunrise and sunset, unless the responsible governmental entity determines that a golf cart may be operated during the hours between sunset and sunrise and the golf cart is equipped with headlights, brake lights, turn signals, and a windshield.¹⁸ In no case may a golf cart be operated on a public road by any person under the age of 14.¹⁹

Under certain conditions, a local governmental entity may enact an ordinance allowing golf cart operation on sidewalks adjacent to public roads.²⁰ Where allowed, golf carts may not be operated at speeds above 15 miles per hour.

¹⁶ ss. 316.003(68) and 320.01(22), F.S.

¹⁷ s. 316.212(6), F.S.

¹⁸ s. 316.212(5), F.S.

¹⁹ s. 316.212(7), F.S.

²⁰ s. 316.212(8)(b), F.S.

Retirement Communities

Section 316.2125, F.S., authorizes the reasonable operation of a golf cart, equipped and operated as provided in s. 316.212(5), (6), and (7), F.S., within any self-contained retirement community unless a county, municipality, or FDOT, for any street or highway under their respective jurisdictions, prohibits such operation in the interest of safety. A local governmental entity may enact a more restrictive ordinance regarding golf cart operation and equipment that applies only to an unlicensed driver and, upon enactment, must post appropriate signs or otherwise inform residents that such an ordinance exists and will be enforced.

Municipal, State Park, and Seasonal Delivery Personnel; Law Enforcement Agencies

Current law provides additional authorized uses of both LSVs and golf carts. Section 316.2126, F.S., authorizes municipal employees to operate golf carts upon any state, county, or municipal road within the corporate limits of such municipalities, upon certain sidewalks, and to cross a portion of the SHS under specified conditions; and state employees, state park volunteers, and state park visitors are authorized to operate golf carts upon public roads within the boundaries of state parks subject to specified conditions. Seasonal delivery personnel are also authorized to use LSVs and golf carts under the conditions specified from midnight October 15 until midnight December 31 of each year. Lastly, s. 316.21265, F.S., authorizes law enforcement agencies to operate LSVs and golf carts, under the conditions specified, on any street, road, or highway in this state while carrying out its official duties.

Golf Cart and LSV Conversions

The DHSMV currently maintains a procedure allowing golf carts to be converted to LSVs, consistent with existing federal law. The 2012 Legislature authorized a vehicle titled or branded and registered as an LSV to be converted to a golf cart under specified conditions, including without limitation a requirement for an owner's affidavit attesting that the vehicle has been modified so that it is not capable of exceeding 20 miles per hour.²¹ Once converted to a golf cart, the vehicle must clearly display a "CONVERTED VEHICLE" decal noting the maximum speed and must then be operated only as a golf cart under the conditions outlined above.

Recreational Off-Road Vehicles

Golf carts and LSVs are currently excluded from the definitions of "recreational off-highway vehicle" (ROV) contained in ss. 261.03 and 317.0003, F.S. ROV is defined to mean any motorized off-highway vehicle 64 inches or less in width, having a dry weight of 2,000 pounds or less, designed to travel on four or more nonhighway tires, having nonstraddle seating and a steering wheel, and manufactured for recreational use by one or more persons.

The license tax for an electric vehicle or a low-speed vehicle is the same as that for a vehicle that is not electrically powered.²²

²¹ s. 319.14(10), F.S.

²² s. 320.08001, F.S.

III. Effect of Proposed Changes:

Sections 1, 3, and 4: Definitions

Section 4 of the bill amends s. 320.01(41), F.S., to eliminate from the definition of “low-speed vehicle” the phrase, “including, but not limited to, neighborhood electric vehicles.”

Neighborhood electric vehicles, as discussed above, are already recognized as LSVs (which are classified irrespective of energy source,) provided that their top speed is greater than 20 miles per hour but not greater than 25 miles per hour.

In addition, s. 320.01(42), F.S., is created to define “neighborhood vehicle” to mean a four-wheeled vehicle with a top speed of greater than 25 miles per hour but not greater than 35 miles per hour, effectively creating a new class of medium speed vehicle similar to the class that NHTSA addressed in 2008, as discussed above. The bill applies the same limited set of safety standards to NVs as is currently applied to LSVs, meaning that NVs, like LSVs, will not currently be required to comply with the full range of FMVSSs, which include, for example, air bags.

Sections 1 and 3 of the bill exclude NVs from the definition of ROV contained in ss. 261.03(8) and 317.0003,(9), F.S., along with the currently excluded LSVs and golf carts.

Section 2: Local Ordinance/35 mph vs. 45 mph

The bill amends s. 316.2122, F.S., to address operation of NVs as follows:

- NVs are included in the existing statutory authority to operate LSVs on streets where the posted speed limit is 35 miles per hour or less, with no requirement for a local ordinance.
- Counties and cities are authorized to enact ordinances allowing the counties and cities to designate county and city streets with posted speed limits of 45 miles per hour or less for the operation of NVs, provided that prior to making such a designation, the local government must first determine that an NV may safely travel on or cross the road or street, considering factors, including without limitation, the speed, volume, and character of motor vehicle traffic using the road or street.
- Counties and cities must post appropriate signs to indicate that such operation is authorized.
- Like LSVs, NVs must be registered and insured, and any person operating an NV must possess a valid driver license.
- NV operation may be prohibited on roads under the respective jurisdictions of the counties, the cities, and the FDOT in the interest of safety.

If authorized by local ordinance and not otherwise prohibited, NVs will not be restricted to operation in what NHTSA considers to be “controlled, low speed environments” but will be authorized to operate in mixed traffic, with much larger, heavier, and faster vehicles, on roadways with speed limits up to 45 miles per hour. The national crash data cited in the U.S. Department of Transportation’s report suggests that the bill will result in an increase in crashes, injuries, and fatalities.

Section 5: License Tax

The bill amends s. 320.08001, F.S., to impose on NVs the same license tax imposed on LSVs, depending upon the weight of the vehicle.

Section 6: License Plate and Decals

The bill amends s. 320.0847, F.S., to require DHSMV to issue a license plate to the owner or lessee of any vehicle registered as an NV. In addition, DHSMV is required to issue a decal to the owner or lessee of an LSV or of an NV, upon which the abbreviation "LSV" or "NV," as appropriate, is clearly legible. The decal must be displayed and plainly visible on the rear of the LSV or the NV. Law enforcement officers would be able to distinguish between golf carts converted to LSVs, LSVs, and NVs.

The bill takes effect July 1, 2014.

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:**

The bill imposes a license tax on the owner or lessee of an NV, ranging from a flat fee of \$19.50 to a flat fee of \$44, depending upon the vehicle's weight.

B. Private Sector Impact:

Owners and lessees of NVs may enjoy increased mobility at a price lower than that for a conventional passenger motor vehicle. Owners and lessees of NVs will incur expenses associated with license plates and decals and with the purchase of insurance to cover the NVs.

Occupants of NVs may be exposed to property damage and serious injury or fatality, which exposure is expected to increase substantially to the extent that NVs are authorized for operation on roads with mixed traffic at speeds higher than normally found in "controlled, low speed environments." As stated above, NHTSA has indicated it may at

some point impose on NVs the full range of FMVSSs. In such event, the price of NVs would significantly increase and likely be comparable to any other “conventional” passenger motor vehicle.

C. Government Sector Impact:

No fiscal impact is expected in terms of any loss of federal funds, as speed limits and other conditions under which vehicles are permitted to operate on public roads are the jurisdiction of the states and localities in which the roads are located. However, potentially significant societal negative fiscal impacts may occur as a result of increased property damage, serious injuries and fatalities, and increased use of the court system.

DHSMV will incur additional workload as a result of NV registration and decal issuance, which is expected to be absorbed within existing resources. A positive fiscal impact is expected as a result of the imposition of a license tax, but the net amount is unknown because it is unknown how many neighborhood vehicles will ultimately be registered. The same result is expected with respect to the decals.

VI. Technical Deficiencies:

None.

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.)

None.

B. Amendments:

None.