

**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.)

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Prepared By: The Professional Staff of the Committee on Judiciary

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BILL: CS/SB 1482

INTRODUCER: Judiciary Committee and Senator Young

SUBJECT: Motor Vehicles and Railroad Trains

DATE: February 8, 2018

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Jones</u>	<u>Miller</u>	<u>TR</u>	<b>Favorable</b>
2.	<u>Stallard</u>	<u>Cibula</u>	<u>JU</u>	<b>Fav/CS</b>
3.	_____	_____	<u>RC</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1482 specifies that law enforcement personnel may decide whether to collect and report the names and addresses of “parties,” “drivers,” and “passengers” involved in a vehicle crash involving a train. Law enforcement personnel, however, remain required as under existing law to collect and report the names and addresses of “witnesses.”

As such, to the extent that “witnesses” is not interpreted broadly by law enforcement personnel, the bill could assure law enforcement personnel that they are not required to gather information from every passenger on a train that is involved in a crash.

**II. Present Situation:**

**Overview**

Within 10 days after a serious motor vehicle crash, the statutes require a report to be filed with the Department of Highway Safety and Motor Vehicles (DHSMV). This report must include, among other things, the name, address, and insurance information of every passenger and the name and address of every witness. In the case of a motor vehicle crash involving a train, the statutes can be read to include every person on the train as a “passenger” and “witness” for the purposes of the report. Accordingly, initial investigations of these incidents can take many hours, while every passenger on the train is required to remain at the scene.

## The Florida Uniform Traffic Control Law

The Florida Uniform Traffic Control Law, ch. 316, F.S., is intended “to make uniform traffic laws to apply throughout the state.”<sup>1</sup> Section 316.003, F.S., defines terms used throughout the chapter.

Section 316.003(61), F.S., defines “railroad train” as “a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except a streetcar.” “Motor vehicle” is defined to exclude a vehicle that is “operated upon rails or guideway.” Similarly, “vehicle” is defined to exclude a device “used exclusively upon stationary rails or tracks.” Additionally, the terms “driver”<sup>2</sup> and “operator”<sup>3</sup> are defined as any person in actual physical control of a vehicle or motor vehicle on the highway or who is exercising control over or steering a vehicle being towed by a motor vehicle.

## Crash Reports

Law enforcement personnel must complete a report of each motor vehicle crash and provide it to the Department of Highway Safety and Motor Vehicles (DHSMV). This report must include the following information:

- The date, time, and location of the crash;
- A description of the vehicles involved;
- The names and addresses of the parties involved, including all drivers and passengers in the vehicles involved;
- The names and addresses of any witnesses;
- The name, badge number, and law enforcement agency of the officer investigating the crash; and
- The names of the insurance companies for the respective parties involved in the crash.<sup>4</sup>

A traffic crash report form must be completed and submitted to the DHSMV in the event of a traffic crash involving a motor vehicle.<sup>5</sup> A train is not considered a motor vehicle for purposes of a crash report.<sup>6</sup> According to the DHSMV, a Florida Traffic Crash Report is only completed in a train crash if the crash also involves a motor vehicle.<sup>7</sup> However, the DHSMV does not specify whether the report needs to include information regarding the train and its occupants. For example, the DHSMV does not specify whether the people who were riding the train are considered “passengers” for the purpose of the report, or whether every train passenger is considered a “witness.”

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<sup>1</sup> Section 316.002, F.S.

<sup>2</sup> Section 316.003(19), F.S.

<sup>3</sup> Section 316.003(46), F.S.

<sup>4</sup> See ss. 316.066(1) and 316.068, F.S.

<sup>5</sup> Section 316.066(1)(a), F.S.

<sup>6</sup> See DHSMV, *Uniform Traffic Crash Report Manual* (Feb. 2018), available at <https://www.flhsmv.gov/dcl/ecrash/CrashManualComplete.pdf> at p. 98 (last visited Feb. 6, 2018) and s. 316.003(40), F.S.

<sup>7</sup> DHSMV, *Frequently Asked Questions Related to CRASH Reports*, available at <https://www.flhsmv.gov/dcl/ecrash/Crash-FAQ.pdf> at 12 (last visited Feb. 6, 2018).

### **Railroad Train Accident Reports**

Florida law does not address railroad company reporting requirements related to accident reports. However, federal regulations generally require railroad companies to submit a monthly report to the Federal Railroad Authority (FRA) of all railroad accidents or incidents that are:

- Highway-rail grade crossing accidents;
- Rail equipment accidents; and
- Death, injury, or occupational illness.<sup>8</sup>

In addition, each railroad must immediately report certain types of accidents or incidents by calling the National Response Center.<sup>9</sup> The FRA or the National Transportation Safety Board may choose to investigate such train accidents or incidents.<sup>10</sup>

### **III. Effect of Proposed Changes:**

The bill specifies that law enforcement personnel may decide whether to collect and report the names and addresses of “parties,” “drivers,” and “passengers” involved in a motor vehicle crash involving a train. Law enforcement personnel continue to be required to collect and report the names and addresses of “witnesses,” just as under existing law.

As such, to the extent that *witnesses* is not interpreted broadly, the bill could assure law enforcement personnel that they are not required to gather information from every passenger on a train that is involved in a crash.

The bill takes effect July 1, 2018.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

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<sup>8</sup> 49 C.F.R. §§ 225.11 and 225.19.

<sup>9</sup> 49 C.F.R. § 225.9.

<sup>10</sup> See FRA, *FRA Investigations of Railroad Accidents*, <https://www.fra.dot.gov/Page/P0474> and NTSB, *The Investigative Process*, <https://www.ntsb.gov/investigations/process/Pages/default.aspx> (last visited Feb. 6, 2018).

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

None.

**B. Private Sector Impact:**

The bill may positively impact railroad train companies and their operations if all crew members and passengers of the train are not required to be interviewed in the event of a motor vehicle crash involving a train.

**C. Government Sector Impact:**

The bill may have a positive fiscal impact on government personnel involved in the investigation of train accidents. These persons will no longer need to get the name and address of each person on the train, unless these persons are still considered witnesses.

**VI. Technical Deficiencies:**

This bill is intended to minimize disruptions to train passengers and train schedules due to overly extensive accident investigative practices. These practices stem from a belief by some persons that existing law requires law enforcement officers to interview every passenger on a train that is involved in a crash, even passengers who have no relevant information about the cause of the crash.

The two relevant statutes, which are in chapter 316, F.S., require law enforcement officers to complete accident reports for vehicle crashes and motor vehicles crashes. But a railroad train, according to the definitions in chapter 316, F.S., is not a vehicle or motor vehicle. Nonetheless a railroad train may be involved in a crash with a vehicle or motor vehicle, arguably making those on board the train “drivers,” “passengers,” “parties,” and “witnesses” whose names and addresses need to be reported in the motor vehicle crash report or vehicle crash report.

To address the reporting requirements for train crashes, the bill amends only one of the crash reporting statutes, s. 316.068, F.S. By leaving unchanged s. 316.066, F.S., which is the other crash reporting statute, the crash reporting requirements for train crashes may remain unclear.

The bill also retains the requirement in existing law that law enforcement officers report the name and address of every “witness.” Thus, an officer could believe that he or she must report the name of every train passenger, given that these people are, in some sense, witnesses to what happened. Also, the language of the bill makes it seem as if law enforcement officers do not need to report the name of the driver or passengers of a vehicle or motor vehicle involved in a crash with a train, which was likely not intended.

As such, the Legislature may wish to further revise the bill to clarify that law enforcement personnel need not record the name and address of every person on the train as a “witness” but must continue to record the name and address of each vehicle passenger or motor vehicle passenger.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 316.003 and 316.068.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Judiciary on February 6, 2018:**

The underlying bill appeared intended to stop investigations of motor vehicle crashes involving trains from being protracted because of ambiguities in existing law. The bill sought to achieve this goal by repeatedly saying in two applicable statutes that people on trains are not passengers or drivers for the purposes of statutes requiring law enforcement officers to complete crash reports. However, the committee substitute attempts to achieve this goal by letting law enforcement officers decide whether to collect the names and addresses of the drivers and passengers of the train and of the motor vehicle.

**B. Amendments:**

None.