

**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 Transportation

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BILL: CS/SB 346

INTRODUCER: Transportation Committee and Senator Perry

SUBJECT: Motorcycle and Moped Riders

DATE: November 14, 2017      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Miller	TR	Fav/CS
2.			ATD	
3.			AP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 346 requires riders and operators under the age of 21 years old to wear protective headgear and eye-protection when operating or riding upon motorcycles powered by a motor of 50 cubic centimeters (CCs) or less or rated at two horsepower or less, which is not capable of propelling the motorcycle more than 30 miles per hour (mph). In addition, a person under 21 years old must wear protective headgear when operating or riding upon a moped. Currently these protective equipment requirements only apply to riders and operators who are under 16 years old. A violation is a noncriminal traffic infraction, punishable as a nonmoving violation, which is a fine of up to \$108.

The bill does not appear to have a significant fiscal impact on state or local government.

The bill takes effect July 1, 2018.

**II. Present Situation:**

Section 316.211, F.S., requires a person operating or riding upon a motorcycle to wear protective headgear securely fastened upon his or her head as well as an eye-protective device. The headgear must comply with Federal Motorcycle Vehicle Safety Standards<sup>1</sup>, and the eye-

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<sup>1</sup> See 49 CFR s. 571.218 – Standard No. 218; Motorcycle Helmets (2011), available at <https://www.gpo.gov/fdsys/pkg/CFR-2011-title49-vol6/pdf/CFR-2011-title49-vol6-sec571-218.pdf> (last visited Oct. 16, 2017).

protective device must be approved by the Department of Highway Safety and Motor Vehicles (DHSMV)<sup>2</sup>. However, this section does not apply to:

- Persons riding within an enclosed cab;
- Any person *16 years of age or older* operating or riding upon a motorcycle powered by a motor with a displacement of 50CCs or less or is rated not in excess of two brake horsepower and not capable of propelling the motorcycle at a speed greater than 30 mph;
- A person at least 21 years of age, if such person is covered by an insurance policy providing at least \$10,000 in medical benefits for injuries incurred as a result of a motorcycle crash.

Additionally, s. 316.211, F.S., prohibits a person under 16 years of age from operating or riding upon a moped without protective headgear. A “moped” is defined as a vehicle with pedals to permit propulsion by human power, having a seat or saddle for the use of the rider and designed to travel on not more than three wheels, with a motor rated not in excess of two brake horsepower and not capable of propelling the moped at a speed greater than 30 mph and with a power-drive system that functions directly or automatically without clutching or shifting gears by the operator after the drive system is engaged. If an internal combustion engine is used, the displacement may not exceed 50CCs.<sup>3</sup>

This section also requires motorcycles registered to persons under 21 years of age to display an “Under 21” license plate. The current design of this license plate features a motorcycle-sized plate with a white background and with letters and numbers in a red font.<sup>4</sup>

A violation of any of the provisions of s. 316.211, F.S., is a noncriminal traffic infraction, punishable as a nonmoving violation, which is a fine of up to \$108.<sup>5</sup> In 2016, there were 3,098 citations issued in Florida for a violation of this section.<sup>6</sup>

According to the DHSMV, motorcycles manufactured with a motor of 50CCs or less can be altered in order to make the motorcycle more powerful than is displayed on the motorcycle’s body or included on the manufacturer’s certificate of origin.<sup>7</sup> This can make enforcement of the helmet law difficult for law enforcement, since the helmet requirement differs based on the power of the motorcycle and age of the individual.

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<sup>2</sup> Approved eye-protective devices are “goggles, faces shields designed for use with, and as part of an approved helmet or eyeglasses including sunglasses,” which must be “in good repair, free of sharp edges or projections...free from cracks, waves, bubbles, or any other defect which may impair its normal visibility.” See 2013 Florida Motorcycle Handbook at 9, (Sept. 2012), available at <https://www.flhsmv.gov/handbooks/EnglishMotorcycleHandbook.pdf> (last visited Oct. 16, 2017).

<sup>3</sup> Section 316.003(38), F.S.

<sup>4</sup> An image of this license plate and of all other current Florida license plates can be viewed in DHSMV’s “Tag Brochure”, available at <http://www.flhsmv.gov/html/tagbrochure.pdf> (last visited Oct. 20, 2017).

<sup>5</sup> Section 318.18, F.S., provides a \$30 fine for a noncriminal traffic infraction, plus court costs.

<sup>6</sup> See DHSMV website, *Annual Uniform Traffic Citation Report* (2016), available at <https://services.flhsmv.gov/specialtyplates/uniformtrafficcitationreport> (last visited Oct. 20, 2017).

<sup>7</sup> Email from DHSMV (Aug. 31, 2017) (on file with the Senate Committee on Transportation).

**III. Effect of Proposed Changes:**

The bill requires riders and operators under the age of 21 years old to wear protective headgear which complies with Federal Motorcycle Vehicle Safety Standards, and eye-protection approved by the DHSMV when operating or riding upon a motorcycle powered by a motor:

- With a displacement of 50CCs or less or is rated not in excess of two brake horsepower, and;
- Which is not capable of propelling the motorcycle at a speed greater than 30 mph on level ground.

The bill also requires a person under 21 years old to wear protective headgear when operating or riding upon a moped. Additionally, a moped registered to a person under 21 years old must display a unique license plate. According to the DHSMV, this “under 21” license plate requirement is already current practice.<sup>8</sup>

A violation of this law is a noncriminal traffic infraction, punishable as a nonmoving violation, which is a fine of up to \$108.

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.

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

None.

**B. Private Sector Impact:**

Individuals may incur costs associated with acquiring required protective headgear. A person who violates this law may be subject to a fine of up to \$108.

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<sup>8</sup> Email from DHSMV (Oct. 13, 2017) (on file with the Senate Committee on Transportation).

C. **Government Sector Impact:**

The bill does not appear to have a significant fiscal impact on state or local government. DHSMV may incur minimal programming costs to implement the bill.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends section 316.211 of the Florida Statutes.

IX. **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 on October 24, 2017:**

The CS adds that individuals who are under 21 years old must wear protective headgear when operating or riding upon a moped.

In addition, the bill requires a moped registered to a person under 21 years old to display a unique license plate, which is already current practice.

B. **Amendments:**

None.