

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 341 Motor Vehicles and Railroad Trains
SPONSOR(S): Transportation & Infrastructure Subcommittee, LaMarca and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 1002

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	13 Y, 0 N, As CS	Johnson	Vickers
2) Criminal Justice Subcommittee	13 Y, 0 N	Rochester	Hall
3) State Affairs Committee	19 Y, 0 N	Johnson	Williamson

SUMMARY ANALYSIS

In the event of a motor vehicle crash, Florida law requires a motor vehicle crash report to be filed with the Department of Highway Safety and Motor Vehicles. The law requires certain information from the parties involved, including the names and addresses of the drivers and passengers in the vehicles involved, and the names and addresses of witnesses to the crash. However, the law is unclear as to how to treat the passengers and crew of a railroad train involved in a motor vehicle crash.

The bill provides that a railroad train is not a motor vehicle for the purpose of Florida's Uniform Traffic Control Law. The bill provides law enforcement officers the discretion to decide whether to collect and report the names and addresses of "parties," "drivers," and "passengers" involved in a vehicle crash involving a railroad train. However, law enforcement personnel remain required, as under current law, to collect and report the names and addresses of "witnesses."

The bill also specifies that a member of a railroad train crew, or a passenger on a railroad train, is not a passenger for purposes of the motor vehicle crash report. However, members of the railroad train's crew must furnish certain information and, upon request, furnish his or her federal certification.

State and local law enforcement agencies may see a reduction in expenditures associated with not being required to collect the names and addresses of passengers of railroad trains in the event of a motor vehicle crash involving a railroad train.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Federal Railroad Investigations

The Federal Railroad Administration (FRA) conducts a wide range of regulatory oversight activities to promote safety in railroad operations and to reduce rail-related accidents, incidents, and casualties. As part of its regulatory oversight, the FRA investigates select railroad accidents to determine causation and any contributing factors so that parties can implement corrective actions to prevent similar incidents in the future.

Federal regulations require railroads to submit to the FRA the appropriate accident/incident report. Reports are required for all injuries, illnesses, fatalities, grade crossing collisions (of any nature), fires, derailments, collisions, property damage in excess of \$10,500, and evacuations of passenger trains. Initial reports are made within two hours to the National Response Center with initial written reports completed within 48 hours. Final reports are submitted to the FRA monthly and kept on file with the appropriate railroad.¹

The FRA or the National Transportation Safety Board may choose to investigate railroad accidents or incidents.

Florida's Uniform Traffic Control Law

For purposes of Florida's Uniform Traffic Control Law,² the term "motor vehicle" is defined as a self-propelled vehicle not operated upon rails or guideway, but not including any bicycle, motorized scooter, electric personal assistive mobility device, mobile carrier, personal delivery device, swamp buggy, or moped.³ The term "railroad train" is defined as a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails, except a streetcar.⁴

Section 316.066, F.S., relates to written reports of crashes. A Florida Traffic Crash Report, Long Form must be completed and submitted to the Department of Highway Safety and Motor Vehicles (DHSMV) within 10 days after an investigation is completed for certain motor vehicle crashes, including crashes that involve death, personal injury, damage to vehicles or other property, driving under the influence, or involving a commercial motor vehicle.⁵ The Florida Traffic Crash Report, Long Form must include:

- 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, and the identification of the vehicle in which each was a driver or a passenger.
- The names and addresses of witnesses.
- The name, badge number, and law enforcement agency of the officer investigating the crash.
- The names of the insurance companies for the respective parties involved in the crash.⁶

Section 316.068, F.S., requires DHSMV to prepare and supply to appropriate agencies or individuals forms for crash reports. The crash report form must call for sufficiently detailed information to disclose,

¹ 49 C.F.R. 225

² Ch. 316, F.S.

³ S. 316.003(42), F.S.

⁴ S. 316.003(63), F.S.

⁵ S. 316.066(1)(a), F.S. A short-form is required for motor-vehicle crashes that do not meet these criteria.

⁶ S. 316.066(1)(b), F.S.

with reference to a vehicle⁷ crash, the cause and conditions then existing and the persons and vehicles involved.⁸ Every required crash report must contain all the required information, including:

- The date, time, and location of the crash;
- A description of the vehicles involved;
- The names and addresses of the parties involved;
- The names and addresses of all drivers and passengers in the vehicles involved;
- The names and addresses of 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.

The absence of information in such written crash reports regarding the existence of passengers in the vehicles involved in the crash constitutes a rebuttable presumption that no such passengers were involved in the reported crash.⁹

When a crash involves a railroad train, oftentimes law enforcement will board the railroad train and interview every passenger and crewmember as a potential witness. However, due to the linear, fixed-route nature of railroad trains, passengers often do not witness the actual crash and, in these cases, existing law can be interpreted to include every person on the railroad train as a “passenger” or “witness” for purposes of the crash report.

The process of interviewing every passenger and crewmember on a railroad train may detain the train at the crash scene for hours. The crash scene may be in an area where passengers cannot safely disembark the railroad train. In such instances, passengers may attempt to disembark the railroad train in an unsafe manner, experience medical emergencies, suffer from the loss of air conditioning, and incur potential economic losses due to being detained on the railroad train for prolonged periods of time. Railroad crossings may also be closed for extended periods since the railroad train cannot move to a location where passengers can safely disembark and be transported by other means.

Effect of Proposed Changes

The bill amends the definition of “railroad train,” in s. 316.003(63), F.S., to clarify that it is not a motor vehicle for purposes of the Florida Uniform Traffic Control Law.

The bill amends s. 316.068, F.S., relating to crash report forms. The bill provides that in the event of a crash involving a railroad train, including crashes involving death, bodily injury, or property damage, collecting the required information is at the discretion of the law enforcement officer having jurisdiction to investigate the crash.

Additionally, the bill provides that a member of a railroad train crew or a passenger on a railroad train is not a passenger for purposes of the crash report form. However, in the event a crash involves a railroad train, a member of the railroad train crew must furnish certain information regarding the crash, including the date, time, and location of the crash; a description of the vehicles; the names and addresses of the parties involved; and the names and addresses of witnesses. Upon request of the law enforcement officer having jurisdiction to investigate the crash, the railroad train engineer or conductor must furnish his or her federal certification.¹⁰

⁷ Section 316.003(99), F.S., defines the term “vehicle” as every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except personal delivery devices, mobile carriers, and devices used exclusively upon stationary rails or tracks.

⁸ S. 316.068(1), F.S.

⁹ S. 316.068(2), F.S.

¹⁰ These federal certifications are pursuant to 49 C.F.R. part 240 or part 242.

B. SECTION DIRECTORY:

Section 1 amends s. 316.003, F.S., relating to definitions.

Section 2 amends s. 316.068, F.S., relating to crash report forms.

Section 3 provides an effective date of July 1, 2019.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The state may see a reduction in expenditures associated with investigating crashes involving railroad trains. State law enforcement will no longer be required to obtain the name and address of each person on the railroad train, unless these persons are considered witnesses.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Local governments may see a reduction in expenditures associated with investigating crashes involving railroad trains. Local law enforcement agencies will no longer be required to obtain the name and address of each person on the railroad train, unless these persons are considered witnesses.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

In the event of certain crashes, railroad companies may benefit due to reduced delays. To the extent that the bill expedites the ability for railroad train passengers to disembark the train and motorists to avoid railroad crossings being closed for an extended period, there may be a reduction in lost time and pay.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Sections 316.066 and 316.068, F.S., require law enforcement officers to complete certain reports for vehicle and motor vehicles crashes. As previously discussed, a railroad train is not considered a vehicle or motor vehicle; however, a railroad train may be involved in a crash involving a vehicle or motor vehicle, arguably making those on board the railroad train “drivers,” “passengers,” “parties,” or “witnesses” whose names and addresses must be reported in the motor vehicle crash report or vehicle crash report. To address the reporting requirements for crashes involving railroad trains, the bill only amends s. 316.068, F.S. By leaving s. 316.066, F.S., unchanged, the crash reporting requirements for crashes involving railroad trains may remain unclear.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 6, 2019, the Transportation & Infrastructure Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment required members of a railroad train crew to furnish certain information to the law enforcement officer investigating the crash and to provide federal certifications upon request.

This analysis is drafted to the committee substitute as reported favorably by the Transportation & Infrastructure Subcommittee.