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# **ROADS, BRIDGES & PORTS POLICY COMMITTEE**

## **Meeting Packet**

**Thursday, March 25, 2010**

**9:00 A.M. – 11:00 A.M.**

**404 HOB**

**LARRY CRETUL**  
Speaker

**GARY AUBUCHON**  
Chair

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Roads, Bridges & Ports Policy Committee

**Start Date and Time:** Thursday, March 25, 2010 09:00 am  
**End Date and Time:** Thursday, March 25, 2010 11:00 am  
**Location:** 404 HOB  
**Duration:** 2.00 hrs

**Consideration of the following bill(s):**

HB 801 Motor Vehicles by Kreegel  
HB 923 Homelessness by Reed

**Workshop on the following:**

HB 1141 Smoking in Vehicles with Minor Passengers by Ambler

Pursuant to rule 7.13, the deadline for amendments to bills on the agenda by non-appointed members shall be 6:00 pm, Wednesday, March 24, 2010.

By request of the Chair, all Committee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 pm, Wednesday, March 24, 2010.

**NOTICE FINALIZED on 03/23/2010 16:06 by ADEYEMO.MARTHA**



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 801

Motor Vehicles

**SPONSOR(S):** Kreegel

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 482

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Roads, Bridges & Ports Policy Committee		Brown <i>PJB</i>	Miller <i>PM</i>
2)	Full Appropriations Council on Education & Economic Development			
3)	Economic Development & Community Affairs Policy Council			
4)				
5)				

**SUMMARY ANALYSIS**

The bill, known as the "Highway Safety Act," declares the Legislature's finding that road rage and aggressive driving are a growing threat to the public's health, safety, and welfare, and the Legislature's intent to reduce road rage, aggressive careless driving, crashes, and interference with the movement of traffic. The bill:

- Prohibits a driver from continuing to operate a vehicle in the left lane of a multi-lane highway when the driver knows, or should reasonably know, he or she is being overtaken (and establishes exceptions to this prohibition);
- Increases from two to three, the number of driving infractions committed simultaneously in order to qualify as aggressive careless driving;
- Includes failure to yield to overtaking vehicles to the infractions considered acts of aggressive careless driving;
- Establishes penalties for aggressive careless driving and provides for the distribution of money received from increased fines associated with these penalties;
- Directs the Department of Highway Safety and Motor Vehicles (DHSMV) to provide information about this act in driver's license educational materials.

The bill could result in increased revenue to the state as a result of fines collected for violations of the act. The amount is indeterminate, based on future driver behavior.

Section 316.650, F.S., is reenacted for the purpose of incorporating amendments made by this act. The bill has an effective date of July 1, 2010.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### **Road Rage and Aggressive Driving**

The terms "aggressive driving" and "road rage" are often used interchangeably, but most experts agree the terms are not the same. According to the National Highway Traffic Safety Administration (NHTSA), aggressive driving comprises following too closely, driving at excessive speeds, weaving through traffic, running stop lights and signs, and other forms of negligent or inconsiderate driving.<sup>1</sup> Occasionally, aggressive driving transforms into confrontation, physical assault, and even murder. A study on road deaths and injuries shows that:

... road death and injury rates are the result, to a considerable extent, of the expression of aggressive behavior ...those societies with the greatest amount of violence and aggression in their structure will show this by externalizing some of this violence in the form of dangerous and aggressive driving....<sup>2</sup>

"Road Rage" is the label that has emerged to describe the angry and violent behaviors at the extreme of the aggressive driving continuum. A literature review commissioned by the American Automobile Association (AAA) Foundation for Traffic Safety defines road rage as:

...an incident in which an angry or impatient motorist or passenger intentionally injures or kills another motorist, passenger, or pedestrian, or attempts or threatens to injure or kill another motorist, passenger, or pedestrian.<sup>3</sup>

The willful intent to injure other individuals or to cause damage, although directed at a specific target, presents an immediate danger to all in the vicinity of those engaged in acts of road rage. There are numerous accounts in which road rage incidents inadvertently involve drivers or pedestrians not targeted in the incident.

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<sup>1</sup> NHTSA, "Aggressive Driving Enforcement: Evaluation of Two Demonstration Programs" (March 2004) DOT HS 809 707

<sup>2</sup> Whitlock, F.A., *Death on the Road: A Study in Social Violence*. London: Tavistock

<sup>3</sup> AAA Foundation for Traffic Safety "Controlling Road Rage: A Literature Review and Pilot Study (June 1999)

Aggressive driving maneuvers, such as tailgating and speeding, can also be seen as the result of the driving environment, and they are also connected with the issue of congestion.<sup>4</sup> Studies show most incidents happen between the hours of four and six o'clock in the evening, times in which traffic congestion is more than likely a factor or the primary cause of an accident. In addition, there is strong evidence correlating the number of lane change maneuvers to accidents, and speed to accidents. Some researchers have theorized the root cause of these aggressive behaviors is passive-aggressive driving, i.e., the failure to move to the right from a left lane of a multi-lane highway when being overtaken by faster traffic.<sup>5</sup> The theory contends that because slower moving traffic often refuses to yield to vehicles wishing to pass, those faster-moving vehicles resort to aggressive driving such as "bobbing and weaving" from lane to lane.<sup>6</sup>

On most roads, drivers are made relatively equal by the prescribed limits of the law regardless of individual differences in capability and status. The vast majority of cars are fully capable of exceeding 70 mph, yet all cars are directed by law to adhere to the same upper and lower limits. In relation, dense traffic which impedes progress is a natural and commonplace theme on most roads. Drivers must adhere to the limitations placed on their speed and movement, prescribed directly (by speed limits, or variations in the number of lanes available) and indirectly (by congestion). For this reason it is easier for the driver to ascribe frustration at being impeded by an ambiguous source, especially if there is no logical reason for the obstruction (to the impeded driver).<sup>7</sup> This is an example of the possible escalating frustration, which may transform from driving aggressively into an instance of road rage.

Current Florida law in relation to "driving on right side of roadway," does require vehicles moving at a lesser rate of speed to drive in the right hand lane as soon as it is reasonable to proceed into that lane. Exceptions and exemptions include: when overtaking and passing another vehicle proceeding in the same direction, when preparing for a left turn at an intersection or into a private road or driveway.<sup>8</sup> Violations of this law are non criminal offenses; however, enforcement of these provisions has been minimal.

Section 316.083, F.S., provides that drivers overtaking other drivers must use the proper signal, and those being overtaken must yield the right of way to the overtaking vehicle. In addition, vehicles being overtaken may not increase speed until the attempted pass is complete or it is reasonably safe to do so.

### **Aggressive Driving Laws**

Another important distinction is aggressive driving is considered a traffic violation, while road rage results in criminal offense(s). Currently nine states have laws pertaining to aggressive driving as described above (including Florida). Many states have criminal penalties for driving behavior such as *Criminal Damage; Using Threatening, Abusive, or Insulting Words or Behavior* (thereby causing fear or provocation; *Wounding with Intent; Common Assault; Assault with a Deadly Weapon; Murder; Manslaughter; and Vehicular Homicide.*<sup>9</sup>

The extent of laws actually using the term "road rage" is limited to statutes creating a definition. The defined act of "road rage" is not in and of itself considered a punishable crime in any existing statute, only criminal behaviors like those listed above.

Section 316.1923, F.S., describes "aggressive careless driving" as committing two or more of the following acts simultaneously or in succession:

- Exceeding the posted speed as defined in s. 322.27(3)(d)5.b, F.S.
- Unsafely or improperly changing lanes as defined in s. 316.085, F.S.

<sup>4</sup> D. Connell, M. Joint, "Driver Aggression" Road Safety Unit Group Public Policy (November 1996)

<sup>5</sup> D. Hennessy, D. Wiesenthal, "Traffic Congestion, Driver Stress, and Driver Aggression," *Aggressive Behavior*, Vol. 25 (1999).

<sup>6</sup> Ibid.

<sup>7</sup> Ibid., and see Connell and Joint, "Driver Aggression"

<sup>8</sup> Section 316.081 (1)(3)(4), F.S.

<sup>9</sup> See generally the National Conference of State Legislatures' "State Aggressive Driving Laws" chart, available online at:

<http://www.ncsl.org/documents/transportation/aggressivedrive.pdf>

- Following another vehicle too closely as defined in s. 316.0895(1), F.S.
- Failing to yield the right-of-way as defined in ss. 316.079, 316.0815, or 316.123, F.S.
- Improperly passing as defined in ss. 316.083, 316.084, or 316.085, F.S.
- Violating traffic control and signal devices as defined in subsections 316.074 and 316.075, F.S.

These violations carry separate penalties for each offense. Section 316.1923, F.S., does not, however, provide for any penalties to be administered for the act of aggressive driving itself. Law enforcement officers, by law are to check off a box, which is included on a ticket or an accident report form, when the officer believes the traffic violation or crash was due to aggressive driving.<sup>10</sup> The information is recorded and used by DHSMV.

Section 318.19, F.S., provides a list of infractions for which a court appearance is mandatory. These include:

- Any infraction which results in a crash that causes the death of another;
- Any infraction which results in a crash that causes “serious bodily injury” of another, as that term is defined in s. 316.1933(1);
- Any infraction of s. 316.172(1)(b) – failing to stop for a school bus, and passing on the side from which children exit the vehicle;
- Any infraction of s. 316.520(1) or (2) – failing to secure a load or overloading a motor vehicle; or
- Any infraction of s. 316.183(2), s. 316.187, or s. 316.189 of exceeding the speed limit by 30 m.p.h. or more.

### Proposed Changes

HB 801 creates the “Highway Safety Act.” The bill provides that the legislative intent of the Highway Safety Act is the reduction of road rage, aggressive careless driving, and traffic crashes by reducing impediments to the free flow of traffic.

The bill defines “road rage” to mean “the act of a driver or passenger to intentionally or unintentionally, due to a loss of emotional control, injure or kill another driver, passenger, or pedestrian, or to attempt or threaten to injure or kill another driver, passenger, or pedestrian.”

The bill amends s. 316.083, F.S., to provide that on roads, streets, or highways having two or more lanes that allow movement in the same direction, a driver may not continue to operate a motor vehicle in the furthestmost left-hand lane if the driver knows, or reasonably should know, that he or she is being overtaken in that lane from the rear by a motor vehicle traveling at a higher rate of speed. This prohibition does not apply to a driver operating a motor vehicle in the furthestmost left-hand lane if:

- The driver is driving the legal speed limit and is not impeding the flow of traffic in the furthestmost left-hand lane;
- The driver is in the process of overtaking a slower motor vehicle in the adjacent right-hand lane for the purpose of passing the slower moving vehicle so that the driver may move to the adjacent right-hand lane;
- Conditions make the flow of traffic substantially the same in all lanes or preclude the driver from moving to the adjacent right-hand lane;
- The driver’s movement to the adjacent right-hand lane could endanger the driver or other drivers;
- The driver is directed by a law enforcement officer, road sign, or road crew to remain in the furthestmost left-hand lane; or
- The driver is preparing to make a left turn.

The bill specifies that a driver violating both this new provision and the provisions of s. 316.183, F.S., (unlawful speed), shall receive a uniform traffic citation for only the unlawful speed violation.

<sup>10</sup> Section 316.650 F.S.

HB 801 adds "failing to yield to overtaking vehicles" to the list of offenses that constitute aggressive careless driving in s. 316.1923, F.S. In addition, the number of acts performed simultaneously or in succession constituting aggressive careless driving is raised from two to three.

The bill provides that any person convicted of aggressive careless driving is to be cited for a moving violation and punished as provided in Chapter 318, F.S., and by the accumulation of points as provided in s. 322.27, F.S., for each act of aggressive careless driving. In addition to any fine or points administered as specified, a person convicted of aggressive careless driving must also pay:

- Upon a first violation, a fine of \$100.
- Upon a second or subsequent conviction, a fine of not less than \$250 but not more than \$500. The violator is also subject to a mandatory hearing under s. 318.19, F.S.

In the first year after the act takes effect, the bill provides that proceeds from the increased fine shall be remitted to DHSMV for the cost of providing educational materials related to the act. For the first year the bill allots \$200,000, and in the second and third years, \$50,000, from this increased fine for educational purposes (described below). Any additional moneys received from this increased fine are to be remitted to the Department of Revenue and deposited into the Department of Health Administrative Trust Fund to provide financial support to verified trauma centers to ensure the availability and accessibility of trauma services throughout the state. Funds deposited into the Administrative Trust Fund are to be allocated as follows:

- Twenty-five percent is to be allocated equally among all Level I, Level II, and pediatric trauma centers in recognition of readiness costs for maintaining trauma services.
- Twenty-five percent is to be allocated among Level I, Level II, and pediatric trauma centers based on each center's relative volume of trauma cases as reported in the Department of Health Trauma Registry.
- Twenty-five percent is to be transferred to the Emergency Medical Services Trust Fund and used by the Department of Health for making matching grants to emergency medical services organizations as defined in s. 401.107(4), F.S.
- Twenty-five percent is to be transferred to the Emergency Medical Services Trust Fund and made available to rural emergency medical services as defined in s. 401.107(5), F.S., and must be used solely to improve and expand pre-hospital emergency medical services in this state. Additionally, these moneys may be used for the improvement, expansion, or continuation of services provided.

The bill requires DHSMV to provide an educational awareness campaign informing the driving community about this act. DHSMV must provide information about the act in all newly printed driver's license educational materials after October 1, 2010.

For purposes of incorporating the amendments made by the Highway Safety Act, the bill re-enacts s. 316.650, F.S. The bill establishes an effective date of July 1, 2010.

**B. SECTION DIRECTORY:**

- Section 1** Provides that the act may be cited as the "Highway Safety Act."
- Section 2** Provides legislative intent relating to road rage and aggressive careless driving.
- Section 3** Amends s. 316.003, F.S.; defining the term "road rage."
- Section 4** Amends s. 316.083, F.S.; requiring an operator of a motor vehicle to yield the left lane when being overtaken on a multilane highway; providing exceptions.
- Section 5** Amends s. 316.1923, F.S.; revising the number of specified acts necessary to qualify as an aggressive careless driver; providing specified punishments for aggressive careless



driving; specifying the allocation of moneys received from the increased fine imposed for aggressive careless driving.

- Section 6** Amends s. 318.19, F.S.; providing that a second or subsequent infraction as an aggressive careless driver requires attendance at a mandatory hearing; providing for the disposition of the increased penalties;
- Section 7** Requires the Department of Highway Safety and Motor Vehicles to provide information about the Highway Safety Act in driver's license educational materials.
- Section 8** Re-enacts s. 316.650(1)(a), F.S., relating to traffic citations, to incorporate the amendments made to s. 316.1923, F.S., in a reference thereto.
- Section 9** Provides an effective date of July 1, 2010.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill could result in increased revenue to the state as a result of fines collected for violations of the act. The amount is indeterminate and based on the future action of drivers.

#### 2. Expenditures:

See Fiscal Comments, below.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

The bill could result in increased revenue to local governments as a result of fines collected for violations of the act. The amount is indeterminate and based on the future action of drivers.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons convicted of aggressive careless driving are to pay \$100 in addition to all fines associated with each individual violation. Upon a second or subsequent conviction, violators will have to pay a fine of no less than \$250 and no more than \$500 in addition to any other fines associated with each individual violation.

### D. FISCAL COMMENTS:

According to DHSMV, 30 hours of programming would be required to include "aggressive careless driving" as a moving violation for the purpose of assessing points specified in s. 322.27, F.S. This would be absorbed in DHSMV's normal course of work without the need for additional appropriation.

The bill provides that \$200,000 of fine revenues collected will be distributed to DHSMV in the first year and \$50,000 for the two subsequent years to fund the cost of developing educational materials related to this bill. Additional fine revenue collected will be distributed to the Department of Health Administrative Trust Fund for use by certain trauma centers, of which the amount is indeterminate.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

STORAGE NAME: h0801.RBP.doc  
DATE: 3/19/2010

PAGE: 6

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to: require counties or cities to spend funds or take action requiring the expenditure of funds; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

HB 801

2010

1                                   A bill to be entitled  
 2           An act relating to motor vehicles; creating the "Highway  
 3           Safety Act"; providing legislative intent relating to road  
 4           rage and aggressive careless driving; amending s. 316.003,  
 5           F.S.; defining the term "road rage"; amending s. 316.083,  
 6           F.S.; requiring an operator of a motor vehicle to yield  
 7           the left lane when being overtaken on a multilane highway;  
 8           providing exceptions; amending s. 316.1923, F.S.; revising  
 9           the number of specified acts necessary to qualify as an  
 10          aggressive careless driver; providing specified  
 11          punishments for aggressive careless driving; specifying  
 12          the allocation of moneys received from the increased fine  
 13          imposed for aggressive careless driving; amending s.  
 14          318.19, F.S.; providing that a second or subsequent  
 15          infraction as an aggressive careless driver requires  
 16          attendance at a mandatory hearing; providing for the  
 17          disposition of the increased penalties; requiring the  
 18          Department of Highway Safety and Motor Vehicles to provide  
 19          information about the Highway Safety Act in driver's  
 20          license educational materials; reenacting s.  
 21          316.650(1)(a), F.S., relating to traffic citations, to  
 22          incorporate the amendments made to s. 316.1923, F.S., in a  
 23          reference thereto; providing an effective date.

24  
 25   Be It Enacted by the Legislature of the State of Florida:

26  
 27           Section 1. This act may be cited as the "Highway Safety  
 28           Act."

HB 801

2010

29           Section 2. The Legislature finds that road rage and  
 30 aggressive careless driving are a growing threat to the health,  
 31 safety, and welfare of the public. The intent of the Legislature  
 32 is to reduce road rage and aggressive careless driving, reduce  
 33 the incidence of drivers' interfering with the movement of  
 34 traffic, minimize crashes, and promote the orderly, free flow of  
 35 traffic on the roads and highways of the state.

36           Section 3. Subsection (86) is added to section 316.003,  
 37 Florida Statutes, to read:

38           316.003 Definitions.—The following words and phrases, when  
 39 used in this chapter, shall have the meanings respectively  
 40 ascribed to them in this section, except where the context  
 41 otherwise requires:

42           (86) ROAD RAGE.—The act of a driver or passenger to  
 43 intentionally or unintentionally, due to a loss of emotional  
 44 control, injure or kill another driver, passenger, or  
 45 pedestrian, or to attempt or threaten to injure or kill another  
 46 driver, passenger, or pedestrian.

47           Section 4. Present subsection (3) of section 316.083,  
 48 Florida Statutes, is redesignated as subsection (4), and a new  
 49 subsection (3) is added to that section, to read:

50           316.083 Overtaking and passing a vehicle.—The following  
 51 rules shall govern the overtaking and passing of vehicles  
 52 proceeding in the same direction, subject to those limitations,  
 53 exceptions, and special rules hereinafter stated:

54           (3) (a) On roads, streets, or highways having two or more  
 55 lanes that allow movement in the same direction, a driver may  
 56 not continue to operate a motor vehicle in the furthestmost left-

57 hand lane if the driver knows, or reasonably should know, that  
 58 he or she is being overtaken in that lane from the rear by a  
 59 motor vehicle traveling at a higher rate of speed.

60 (b) Paragraph (a) does not apply to a driver operating a  
 61 motor vehicle in the furthestmost left-hand lane if:

62 1. The driver is driving the legal speed limit and is not  
 63 impeding the flow of traffic in the furthestmost left-hand lane;

64 2. The driver is in the process of overtaking a slower  
 65 motor vehicle in the adjacent right-hand lane for the purpose of  
 66 passing the slower moving vehicle so that the driver may move to  
 67 the adjacent right-hand lane;

68 3. Conditions make the flow of traffic substantially the  
 69 same in all lanes or preclude the driver from moving to the  
 70 adjacent right-hand lane;

71 4. The driver's movement to the adjacent right-hand lane  
 72 could endanger the driver or other drivers;

73 5. The driver is directed by a law enforcement officer,  
 74 road sign, or road crew to remain in the furthestmost left-hand  
 75 lane; or

76 6. The driver is preparing to make a left turn.

77 (c) A driver who violates s. 316.183 and this subsection  
 78 simultaneously shall receive a uniform traffic citation solely  
 79 under s. 316.183.

80 Section 5. Section 316.1923, Florida Statutes, is amended  
 81 to read:

82 316.1923 Aggressive careless driving.—

83 (1) "Aggressive careless driving" means committing three  
 84 ~~two~~ or more of the following acts simultaneously or in

HB 801

2010

85 succession:  
 86 (a)~~(1)~~ Exceeding the posted speed as defined in s.  
 87 322.27(3)(d)5.b.  
 88 (b)~~(2)~~ Unsafely or improperly changing lanes as defined in  
 89 s. 316.085.  
 90 (c)~~(3)~~ Following another vehicle too closely as defined in  
 91 s. 316.0895(1).  
 92 (d)~~(4)~~ Failing to yield the right-of-way as defined in s.  
 93 316.079, s. 316.0815, or s. 316.123.  
 94 (e)~~(5)~~ Improperly passing or failing to yield to  
 95 overtaking vehicles as defined in s. 316.083, s. 316.084, or s.  
 96 316.085.  
 97 (f)~~(6)~~ Violating traffic control and signal devices as  
 98 defined in ss. 316.074 and 316.075.  
 99 (2) Any person convicted of aggressive careless driving  
 100 shall be cited for a moving violation and punished as provided  
 101 in chapter 318, and by the accumulation of points as provided in  
 102 s. 322.27, for each act of aggressive careless driving.  
 103 (3) In addition to any fine or points administered under  
 104 subsection (2), a person convicted of aggressive careless  
 105 driving shall also pay:  
 106 (a) Upon a first violation, a fine of \$100.  
 107 (b) Upon a second or subsequent conviction, a fine of not  
 108 less than \$250 but not more than \$500 and be subject to a  
 109 mandatory hearing under s. 318.19.  
 110 (4) Of the moneys received from the increased fine imposed  
 111 by subsection (3), \$200,000 in the first year after this act  
 112 takes effect and \$50,000 in the second and third years shall be

113 remitted to the Department of Highway Safety and Motor Vehicles  
 114 to offset the cost of providing educational materials related to  
 115 this act. Any additional moneys shall be remitted to the  
 116 Department of Revenue and deposited into the Department of  
 117 Health Administrative Trust Fund to provide financial support to  
 118 verified trauma centers to ensure the availability and  
 119 accessibility of trauma services throughout the state. Funds  
 120 deposited into the Administrative Trust Fund under this section  
 121 shall be allocated as follows:

122 (a) Twenty-five percent shall be allocated equally among  
 123 all Level I, Level II, and pediatric trauma centers in  
 124 recognition of readiness costs for maintaining trauma services.

125 (b) Twenty-five percent shall be allocated among Level I,  
 126 Level II, and pediatric trauma centers based on each center's  
 127 relative volume of trauma cases as reported in the Department of  
 128 Health Trauma Registry.

129 (c) Twenty-five percent shall be transferred to the  
 130 Emergency Medical Services Trust Fund and used by the department  
 131 for making matching grants to emergency medical services  
 132 organizations as defined in s. 401.107.

133 (d) Twenty-five percent shall be transferred to the  
 134 Emergency Medical Services Trust Fund and made available to  
 135 rural emergency medical services as defined in s. 401.107, and  
 136 shall be used solely to improve and expand prehospital emergency  
 137 medical services in this state. Additionally, these moneys may  
 138 be used for the improvement, expansion, or continuation of  
 139 services provided.

140 Section 6. Section 318.19, Florida Statutes, is amended to

141 read:

142 318.19 Infractions requiring a mandatory hearing.—Any  
 143 person cited for the infractions listed in this section shall  
 144 not have the provisions of s. 318.14(2), (4), and (9) available  
 145 to him or her but must appear before the designated official at  
 146 the time and location of the scheduled hearing:

147 (1) Any infraction which results in a crash that causes  
 148 the death of another;

149 (2) Any infraction which results in a crash that causes  
 150 "serious bodily injury" of another as defined in s. 316.1933(1);

151 (3) Any infraction of s. 316.172(1)(b);

152 (4) Any infraction of s. 316.520(1) or (2); ~~or~~

153 (5) Any infraction of s. 316.183(2), s. 316.187, or s.  
 154 316.189 of exceeding the speed limit by 30 m.p.h. or more; or—

155 (6) A second or subsequent infraction of s. 316.1923(1).

156 Section 7. The Department of Highway Safety and Motor  
 157 Vehicles shall provide information about the Highway Safety Act  
 158 in all newly printed driver's license educational materials  
 159 after October 1, 2010.

160 Section 8. For the purpose of incorporating the amendments  
 161 made by this act to section 316.1923, Florida Statutes, in a  
 162 reference thereto, paragraph (a) of subsection (1) of section  
 163 316.650, Florida Statutes, is reenacted to read:

164 316.650 Traffic citations.—

165 (1)(a) The department shall prepare and supply to every  
 166 traffic enforcement agency in this state an appropriate form  
 167 traffic citation that contains a notice to appear, is issued in  
 168 prenumbered books, meets the requirements of this chapter or any



HB 801

2010

169 | laws of this state regulating traffic, and is consistent with  
 170 | the state traffic court rules and the procedures established by  
 171 | the department. The form shall include a box that is to be  
 172 | checked by the law enforcement officer when the officer believes  
 173 | that the traffic violation or crash was due to aggressive  
 174 | careless driving as defined in s. 316.1923. The form shall also  
 175 | include a box that is to be checked by the law enforcement  
 176 | officer when the officer writes a uniform traffic citation for a  
 177 | violation of s. 316.074(1) or s. 316.075(1)(c)1. as a result of  
 178 | the driver failing to stop at a traffic signal.

179 |         Section 9. This act shall take effect July 1, 2010.



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 923

Homelessness

SPONSOR(S): Reed

TIED BILLS:

IDEN./SIM. BILLS: SB 2654

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Health Care Services Policy Committee	13 Y, 0 N	Schoonover	Schoolfield
2)	Roads, Bridges & Ports Policy Committee		Brown <i>PLB</i>	Miller <i>P.M.</i>
3)	Health & Family Services Policy Council			
4)				
5)				

SUMMARY ANALYSIS

The bill creates and revises multiple sections of the Florida Statutes relating to homelessness. These changes include:

- Authorizing the collection of voluntary contributions in the amount of \$1 to be added to the issuance and renewal of motor vehicle registrations and drivers licenses to aid the homeless.
- Replaces the existing Emergency Financial Assistance for Housing program with a homeless prevention grant program to be administered by local homeless continuums of care to provide emergency financial assistance to families facing the loss of their current home due to financial or other crises.
- Limits the amount a lead agency may spend on administrative costs under a Challenge Grant.
- Directs funding for homeless housing assistance grants to be appropriated as a fixed capital outlay item.
- Eliminates statute enacted in 2009 relating to Housing First.

The bill is expected to result in a savings of approximately \$200,000 in administrative costs for the Office on Homelessness from the elimination of temporary staff. The bill may generate an indeterminate amount of revenue from voluntary donations for grant programs to help the homeless.

The bill is effective July 1, 2010.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

The Council on Homelessness (council) and the State Office on Homelessness (office) were created in 2001 within the Department of Children and Family Services (DCF).<sup>1</sup> The office coordinates state agency responses to homelessness, serves as a single point of contact on homeless issues in the state, and administers state-funded grant programs that support the activities of the 27 local homeless coalitions.<sup>2</sup> The 17 members of the council represent state agencies, counties, homeless advocacy organizations, and volunteers.<sup>3</sup> The council's duties include developing policy and advising the office.<sup>4</sup>

##### *Emergency Financial Assistance Program*

DCF administers this program and provides support to families with at least one minor child that are totally without shelter or face the loss of shelter because of the following:<sup>5</sup>

- Nonpayment of rent or mortgage resulting in eviction or notice of eviction;
- Household disaster, which renders the home uninhabitable;
- Other emergency situations defined in rule.<sup>6</sup>

Families may receive up to \$400 during 1 period of 30 consecutive days in any 12 consecutive months.<sup>7</sup> DCF serves approximately 4,000 families a year under this program and utilizes seven temporary employees to assess eligibility and process payments.<sup>8</sup>

##### *Challenge Grant*

The Office on Homelessness may award grants of up to \$500,000 to lead agencies who have developed and implemented a local homeless assistance continuum of care plan for its area to provide services including outreach, emergency shelter, support services, and permanent shelter.<sup>9</sup> Current law does not limit administrative costs under this grant.

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<sup>1</sup> Chapter 2001-98, L.O.F.

<sup>2</sup> s. 420.622(3), F.S.

<sup>3</sup> s. 420.622(2), F.S.

<sup>4</sup> Id.

<sup>5</sup> s. 414.16(1), F.S.

<sup>6</sup> 65A-33.004, F.A.C.

<sup>7</sup> 65A-33.011, F.A.C.

<sup>8</sup> Staff Analysis (HB 923), Department of Children and Families. (On file with committee staff).

<sup>9</sup> s. 420.622(4), F.S.

## *Homeless Housing Assistance Grant*

The Office on Homelessness may administer moneys appropriated to it to provide homeless housing assistance grants up to \$750,000 annually to lead agencies to acquire, construct, or rehabilitate transitional or permanent housing units for homeless persons.<sup>10</sup> Administrative costs are capped at 5% of the funds awarded.<sup>11</sup>

## *Housing First*

Solutions to homelessness in both the public and private sectors have primarily been focused on providing individuals and families experiencing homelessness with housing.<sup>12</sup> While emergency shelter may provide access to services for individuals and families in crisis, it often fails to address long-term needs.<sup>13</sup> The approach is premised on the belief that vulnerable and at-risk individuals and families who are homeless are more responsive to interventions and social services support after they are in their own housing, rather than while living in temporary/transitional facilities or housing programs.<sup>14</sup> In 2009, the Governor signed the Housing First model into law with the intention to address the long term needs of homeless individuals and families.<sup>15</sup>

## *Voluntary Checkoffs*

Section 320.023, F.S., provides the procedures which an organization must follow prior to seeking Legislative authorization to request the creation of a new voluntary contribution fee and establish a corresponding voluntary check-off on a motor vehicle registration application.

Section 322.081, F.S., provides the procedures an organization must follow prior to seeking legislative authorization to request the creation of a new voluntary contribution fee and establish a corresponding voluntary check-off on a driver's license application.

The Department of Highway Safety and Motor Vehicles must discontinue the check-off if less than \$25,000 has been contributed by the end of the fifth year, or if less than \$25,000 is contributed during any subsequent 5-year period.<sup>16</sup>

## **Effect of Proposed Changes**

The bill authorizes the collection of voluntary contributions in the amount of \$1.00 to be added to the issuance and renewal of motor vehicle registrations or drivers licenses. The bill does not require the voluntary contributions be subject to the check-off procedures and limitations of s. 320.023, F.S., and s. 322.081, F.S.

The funds would be placed in a grants and donations trust fund for use by the Office on Homelessness to supplement Challenge Grants and homeless housing assistance grants and to also provide information on homelessness to the public. The effect of this change could potentially raise an indeterminate amount of money.

The bill replaces the existing Emergency Financial Assistance for Housing program with a homelessness prevention grant program. The program will be administered by local homeless assistance continuums of care to provide financial assistance to families facing the loss of their current home due to financial or other crises. The grants, which would be capped at \$300,000, may be used to pay past due rent and mortgage payments, past due utility costs and bills, and case management. Program administrative costs are limited to 3 percent of the grant award. While the Office on

<sup>10</sup> s. 420.622(5), F.S.

<sup>11</sup> s. 420.622(5)(f), F.S.

<sup>12</sup> s. 420.6275(1)(b), F.S.

<sup>13</sup> Id.

<sup>14</sup> Beyond Shelter. Founded in 1988. The mission of Beyond Shelter is to develop systemic approaches to combat poverty and homelessness among families with children and enhance family economic security and well-being.

<sup>15</sup> HB 597 (2009)

<sup>16</sup> s. 320.023(4)(a), F.S.; s. 322.081(4)(a), F.S.

Homelessness will administer the grant to the local prevention programs, tracking and reporting on progress will be the responsibility of those local programs. DCF estimates that this change in grant programs will result in a savings of about \$200,000 in administrative costs for the Office on Homelessness since the seven OPS employees would no longer be needed.

The bill sets a maximum of 8 percent a lead agency may spend of its Challenge Grant funding on administrative costs. Challenge Grants may be awarded up to \$500,000 per lead agency.<sup>17</sup>

The bill directs all funding for homeless housing assistance grants to be appropriated as a fixed capital outlay item. The use of homeless housing assistance grants are limited by statute to acquire, construct, or rehabilitate transitional or permanent housing units for housing persons. Currently, funding for these grants is classified as a grant in aid under general revenue, which must be used by the end of the fiscal year. The effect of this change to fixed capital outlay will permit the use of grants for construction and housing purposes beyond the limitations of one fiscal year.

The bill also eliminates from the Housing First Methodology a provision that mandates background checks and addiction rehabilitation as a condition for an effective program. The effect of this change eliminates a statute enacted in 2009.

## B. SECTION DIRECTORY:

Section 1. Amends s. 320.02, F.S., relating to registration required; application for registration; forms

Section 2. Amends s. 322.08, F.S., relating to application for license.

Section 3. Amends s. 322.18, F.S., relating to original applications, licenses, and renewals; expiration of licenses; delinquent licenses.

Section 4. Creates s. 414.161, F.S., relating to homelessness prevention grants.

Section 5. Amends s. 420.622, F.S., relating to State Office on Homelessness; Council on Homelessness.

Section 6. Amends s. 420.625, F.S., relating to grant-in-aid program.

Section 7. Amends s. 420.6275, F.S., relating to Housing First.

Section 8. Repeals s. 414.16, F.S., relating to emergency assistance program.

Section 9. Provides an effective date of July 1, 2010.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

DCF reported that the voluntary contributions authorized by the bill could provide new revenue for the Challenge Grants and Homeless Housing Assistance Grants. Based on other voluntary contributions on motor vehicle registrations and driver's license applications and renewals, a conservative estimate would be a minimum of \$20,000. In fiscal year 2008-09, a total of \$1.5M was received in the voluntary contributions for the existing 24 entities in statute.<sup>18</sup>

<sup>17</sup> s. 420.622(4), F.S.

<sup>18</sup> Staff Analysis, Economic Development & Community Affairs Policy Council, HB 263 (2010).

2. Expenditures:  
None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:  
None.
2. Expenditures:  
None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor 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:**

As mentioned in the "Proposed Changes" section of this analysis, the bill sets a maximum of 8 percent a lead agency may spend of its Challenge Grant funding on administrative costs. Challenge Grants may be awarded up to \$500,000 per lead agency.<sup>19</sup> In comparison, the homeless prevention grants created by this bill are capped at \$300,000 and administrative costs limited to 3 percent. The homeless housing assistance grants in current statute and are capped at \$750,000 and have administrative costs limited to 5%.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

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<sup>19</sup> s. 420.622(4), F.S.

HB 923

2010

1 A bill to be entitled  
 2 An act relating to homelessness; amending ss. 320.02,  
 3 322.08, and 322.18, F.S.; requiring the motor vehicle  
 4 registration form and registration renewal form, the  
 5 driver license application form, and the driver license  
 6 application form for renewal issuance or renewal extension  
 7 to include an option to make a voluntary contribution to  
 8 aid the homeless; providing for such contributions to be  
 9 deposited into the Grants and Donations Trust Fund of the  
 10 Department of Children and Family Services and used by the  
 11 State Office on Homelessness for certain purposes;  
 12 providing that voluntary contributions for the homeless  
 13 are not income of a revenue nature for the purpose of  
 14 applying certain service charges; creating s. 414.161,  
 15 F.S.; establishing a homelessness prevention grant  
 16 program; requiring grant applicants to be ranked  
 17 competitively; providing preference for certain grant  
 18 applicants; providing eligibility requirements; providing  
 19 grant limitations and restrictions; requiring lead  
 20 agencies for local homeless assistance continuums of care  
 21 to track, monitor, and report on assisted families for a  
 22 specified period of time; amending s. 420.622, F.S.;  
 23 limiting the percentage of funding that lead agencies may  
 24 spend on administrative costs; providing that funding  
 25 shall be appropriated as a fixed capital outlay item;  
 26 amending s. 420.625, F.S.; deleting a cross-reference to  
 27 conform; amending s. 420.6275, F.S.; revising legislative  
 28 findings relating to the Housing First approach to



HB 923

2010

29 homeless; repealing s. 414.16, F.S., relating to the  
 30 emergency assistance program for families with children  
 31 that have lost shelter or face loss of shelter due to an  
 32 emergency; providing an effective date.

33

34 Be It Enacted by the Legislature of the State of Florida:

35

36 Section 1. Paragraph (i) is added to subsection (15) of  
 37 section 320.02, Florida Statutes, to read:

38 320.02 Registration required; application for  
 39 registration; forms.—

40 (15)

41 (i) Notwithstanding s. 320.023, the application form for  
 42 motor vehicle registration and renewal of registration must  
 43 include language permitting a voluntary contribution of \$1 per  
 44 applicant to aid the homeless. Contributions made pursuant to  
 45 this paragraph shall be deposited into the Grants and Donations  
 46 Trust Fund of the Department of Children and Family Services and  
 47 used by the State Office on Homelessness to supplement grants  
 48 made under s. 420.622(4) and (5), provide information to the  
 49 public about homelessness in the state, and provide literature  
 50 for homeless persons seeking assistance.

51

52 For the purpose of applying the service charge provided in s.  
 53 215.20, contributions received under this subsection are not  
 54 income of a revenue nature.

55 Section 2. Subsection (7) of section 322.08, Florida  
 56 Statutes, is amended to read:

57 322.08 Application for license.—

58 (7) The application form for a driver's license or  
 59 duplicate thereof shall include language permitting the  
 60 following:

61 (a) A voluntary contribution of \$1 per applicant, which  
 62 contribution shall be deposited into the Health Care Trust Fund  
 63 for organ and tissue donor education and for maintaining the  
 64 organ and tissue donor registry.

65 (b) A voluntary contribution of \$1 per applicant, which  
 66 contribution shall be distributed to the Florida Council of the  
 67 Blind.

68 (c) A voluntary contribution of \$2 per applicant, which  
 69 shall be distributed to the Hearing Research Institute,  
 70 Incorporated.

71 (d) A voluntary contribution of \$1 per applicant, which  
 72 shall be distributed to the Juvenile Diabetes Foundation  
 73 International.

74 (e) A voluntary contribution of \$1 per applicant, which  
 75 shall be distributed to the Children's Hearing Help Fund.

76 (f) A voluntary contribution of \$1 per applicant, which  
 77 shall be distributed to Family First, a nonprofit organization.

78 (g) A voluntary contribution of \$1 per applicant, to Stop  
 79 Heart Disease, which shall be distributed to the Florida Heart  
 80 Research Institute, a nonprofit organization.

81 (h) Notwithstanding s. 322.081, a voluntary contribution  
 82 of \$1 per applicant to aid the homeless. Contributions made  
 83 pursuant to this paragraph shall be deposited into the Grants  
 84 and Donations Trust Fund of the Department of Children and

85 Family Services and used by the State Office on Homelessness to  
 86 supplement grants made under s. 420.622(4) and (5), provide  
 87 information to the public about homelessness in the state, and  
 88 provide literature for homeless persons seeking assistance.

89  
 90 A statement providing an explanation of the purpose of the trust  
 91 funds shall also be included. For the purpose of applying the  
 92 service charge provided in s. 215.20, contributions received  
 93 under paragraphs (b), (c), (d), (e), (f), ~~and (g)~~, and (h) and  
 94 under s. 322.18(9) are not income of a revenue nature.

95 Section 3. Paragraph (c) is added to subsection (9) of  
 96 section 322.18, Florida Statutes, to read:

97 322.18 Original applications, licenses, and renewals;  
 98 expiration of licenses; delinquent licenses.—

99 (9)

100 (c) The application form for a renewal issuance or renewal  
 101 extension shall include language permitting a voluntary  
 102 contribution of \$1 per applicant to aid the homeless.  
 103 Contributions made pursuant to this paragraph shall be deposited  
 104 into the Grants and Donations Trust Fund of the Department of  
 105 Children and Family Services and used by the State Office on  
 106 Homelessness to supplement grants made under s. 420.622(4) and  
 107 (5), provide information to the public about homelessness in the  
 108 state, and provide literature for homeless persons seeking  
 109 assistance. For the purpose of applying the service charge  
 110 provided in s. 215.20, contributions received under this  
 111 paragraph are not income of a revenue nature.

112 Section 4. Section 414.161, Florida Statutes, is created  
 113 to read:

114 414.161 Homelessness prevention grants.-

115 (1) ESTABLISHMENT OF PROGRAM.-There is created a grant  
 116 program to provide emergency financial assistance to families  
 117 facing the loss of their current home due to a financial or  
 118 other crisis. The State Office on Homelessness, with the  
 119 concurrence of the Council on Homelessness, may accept and  
 120 administer moneys appropriated to it to provide homelessness  
 121 prevention grants annually to lead agencies for local homeless  
 122 assistance continuums of care, as recognized by the State Office  
 123 on Homelessness. These moneys shall consist of any sums that the  
 124 state may appropriate, as well as money received from donations,  
 125 gifts, bequests, or otherwise from any public or private source  
 126 that is intended to assist families to prevent them from  
 127 becoming homeless.

128 (2) GRANT APPLICATIONS.-Grant applicants shall be ranked  
 129 competitively. Preference shall be given to applicants who  
 130 leverage additional private funds and public funds, who  
 131 demonstrate the effectiveness of their homelessness prevention  
 132 programs in keeping families housed, and who demonstrate the  
 133 commitment of other assistance and services to address family  
 134 health, employment, and education needs.

135 (3) ELIGIBILITY.-In order to qualify for a grant, a lead  
 136 agency must develop and implement a local homeless assistance  
 137 continuum of care plan for its designated catchment area. The  
 138 homelessness prevention program must be included in the  
 139 continuum of care plan.

140       (4) GRANT LIMITS.—The maximum grant amount per lead agency  
 141 may not exceed \$300,000. The grant assistance may be used to pay  
 142 past due rent or mortgage payments, past due utility costs,  
 143 other past due bills creating a family's financial crisis,  
 144 provision of case management services, and program  
 145 administration costs not to exceed 3 percent of the grant award.  
 146 The homelessness prevention program must develop a case plan for  
 147 each family to be assisted setting forth what costs will be  
 148 covered and the maximum level of assistance to be offered.

149       (5) PERFORMANCE.—The lead agency shall be required to  
 150 track, monitor, and report on each family assisted for at least  
 151 12 months after the last assistance provided to the family. The  
 152 goal for the homelessness prevention program shall be to enable  
 153 at least 85 percent of the families assisted to remain in their  
 154 homes and avoid becoming homeless during the ensuing year.

155       Section 5. Paragraph (d) is added to subsection (4) of  
 156 section 420.622, Florida Statutes, and paragraph (g) is added to  
 157 subsection (5) of that section, to read:

158       420.622 State Office on Homelessness; Council on  
 159 Homelessness.—

160       (4) Not less than 120 days after the effective date of  
 161 this act, the State Office on Homelessness, with the concurrence  
 162 of the Council on Homelessness, may accept and administer moneys  
 163 appropriated to it to provide "Challenge Grants" annually to  
 164 lead agencies for homeless assistance continuums of care  
 165 designated by the State Office on Homelessness. A lead agency  
 166 may be a local homeless coalition, municipal or county

167 government, or other public agency or private, not-for-profit  
 168 corporation. Such grants may be up to \$500,000 per lead agency.

169 (d) A lead agency may spend a maximum of 8 percent of its  
 170 funding on administrative costs.

171 (5) The State Office on Homelessness, with the concurrence  
 172 of the Council on Homelessness, may administer moneys  
 173 appropriated to it to provide homeless housing assistance grants  
 174 annually to lead agencies for local homeless assistance  
 175 continuum of care, as recognized by the State Office on  
 176 Homelessness, to acquire, construct, or rehabilitate  
 177 transitional or permanent housing units for homeless persons.  
 178 These moneys shall consist of any sums that the state may  
 179 appropriate, as well as money received from donations, gifts,  
 180 bequests, or otherwise from any public or private source, which  
 181 are intended to acquire, construct, or rehabilitate transitional  
 182 or permanent housing units for homeless persons.

183 (g) Funding shall be appropriated as a fixed capital  
 184 outlay item.

185 Section 6. Paragraph (d) of subsection (3) of section  
 186 420.625, Florida Statutes, is amended to read:

187 420.625 Grant-in-aid program.—

188 (3) ESTABLISHMENT.—There is hereby established a grant-in-  
 189 aid program to help local communities in serving the needs of  
 190 the homeless through a variety of supportive services, which may  
 191 include, but are not limited to:

192 (d) Emergency financial assistance for persons who are  
 193 totally without shelter or facing loss of shelter, ~~but who are~~  
 194 ~~not eligible for such assistance under s. 414.16.~~

HB 923

2010

195 Section 7. Paragraph (a) of subsection (2) of section  
 196 420.6275, Florida Statutes, is amended to read:

197 420.6275 Housing First.—

198 (2) HOUSING FIRST METHODOLOGY.—

199 (a) The Housing First approach to homelessness differs  
 200 from traditional approaches by providing housing assistance,  
 201 case management, and support services responsive to individual  
 202 or family needs after housing is obtained. By using this  
 203 approach when appropriate, communities can significantly reduce  
 204 the amount of time that individuals and families are homeless  
 205 and prevent further episodes of homelessness. Housing First  
 206 emphasizes that social services provided to enhance individual  
 207 and family well-being can be more effective when people are in  
 208 their own home, and:

209 1. The housing is not time-limited.

210 2. The housing is not contingent on compliance with  
 211 services. Instead, participants must comply with a standard  
 212 lease agreement and are provided with the services and support  
 213 that are necessary to help them do so successfully.

214 ~~3. A background check and any rehabilitation necessary to~~  
 215 ~~combat an addiction related to alcoholism or substance abuse has~~  
 216 ~~been completed by the individual for whom assistance or support~~  
 217 ~~services are provided.~~

218 Section 8. Section 414.16, Florida Statutes, is repealed.

219 Section 9. This act shall take effect July 1, 2010.





HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1141

Smoking in Vehicles with Minor Passengers

SPONSOR(S): Ambler

TIED BILLS:

IDEN./SIM. BILLS: SB 2596

**DRAFT**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Roads, Bridges & Ports Policy Committee		Brown	Miller
2)	Criminal & Civil Justice Policy Council			
3)	Transportation & Economic Development Appropriations Committee			
4)	Economic Development & Community Affairs Policy Council			
5)				

**SUMMARY ANALYSIS**

HB 1141 creates a new noncriminal traffic infraction. The bill prohibits a person from operating or having actual physical control of a motor vehicle, if a minor under the age of 16 is present in the vehicle, and if a person in the vehicle is smoking.

The infraction is committed regardless of whether the motor vehicle is in operation or parked. The bill permits an officer to issue a warning in lieu of a citation, and to issue materials relating to the dangers of smoking in a vehicle with children present.

The bill provides for secondary enforcement of the infraction, and creates a \$100 "enhanced penalty" for all nonmoving and moving violations that are committed by operating a motor vehicle while a person in the vehicle is smoking and a minor is present.

The bill has an effective date of October 1, 2010.

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

Section 316.6135, F.S., prohibits a parent, legal guardian, or other person responsible for a child younger than 6 from leaving the child unattended or unsupervised in a motor vehicle, for:

- A period in excess of 15 minutes, or
- For *any* period of time, if the motor of the vehicle is running or the health of the child is in danger.

A violation of the '15 minute' prohibition is a crime, punishable as a second degree misdemeanor. A violation of the 'engine-running' prohibition is a non-criminal traffic infraction punishable by a fine of not less than \$50 and not to exceed \$500. A violation of either prohibition that causes great bodily harm, permanent disability or permanent disfigurement to a child is a third-degree felony.

##### Proposed Changes

HB 1141 amends s. 316.6135, F.S., to create a prohibition regarding persons smoking in the presence of a minor, in a motor vehicle.

The bill prohibits any person from driving or having actual physical control of a motor vehicle, if:

- A minor under 16 years of age is present in the vehicle, and
- If any person in the vehicle is smoking.

The bill provides that this infraction is committed regardless of whether the motor vehicle is in operation or parked.

The bill permits a law enforcement officer to issue a warning in lieu of a citation. The bill also provide that the officer may elect to provide a violator with:

- Materials relating to the dangers of smoking in a vehicle with children present, or
- Available smoking cessation programs.

The bill provides for secondary enforcement of the infraction.

A violation of the infraction results in a \$100 "enhanced penalty" for all nonmoving and moving violations that are committed by operating a motor vehicle while a person in the vehicle is smoking and a minor is present. The bill states that, notwithstanding any other provision of law, no enhanced penalty may be assessed for the new infraction committed before January 1, 2011.

The effective date of the bill is October 1, 2010.

**DRAFT**

**B. SECTION DIRECTORY:**

- Section 1 Amends s. 316.6135, F.S.; reorganizing existing provisions; providing a definition; providing for enhanced penalties for any moving or nonmoving violation committed by a person driving or in control of a motor vehicle while a person in the vehicle is smoking when a minor is in the vehicle, regardless of whether the vehicle is in operation or parked; providing that an officer may issue a warning to a violator; providing that an officer may elect to distribute specified materials; providing that enforcement must only be a secondary action when the driver of the motor vehicle has been detained for another violation of specified provisions.
- Section 2 Amends s. 318.18, F.S.; providing the enhanced penalty; providing that no enhanced penalty may be assessed for violations committed before a specified date.
- Section 3 Provides an effective date of October 1, 2010.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

There could be an increase in revenue based on citations issued for violations of the infraction. The number of potential citations is indeterminate and based on future behavior by motor vehicle operators.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The bill would have a negative fiscal impact on drivers who operate or take actual physical control of a motor vehicle while a minor under 16 is in the vehicle and a person is smoking in the vehicle.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to: require counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

**DRAFT**

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

1                                   A bill to be entitled  
 2           An act relating to smoking in vehicles with minor  
 3           passengers; amending s. 316.6135, F.S.; reorganizing  
 4           existing provisions; providing a definition; providing for  
 5           enhanced penalties for any moving or nonmoving violation  
 6           committed by a person driving or in control of a motor  
 7           vehicle while a person in the vehicle is smoking when a  
 8           minor is in the vehicle, regardless of whether the vehicle  
 9           is in operation or parked; providing that an officer may  
 10          issue a warning to a violator; providing that an officer  
 11          may elect to distribute specified materials; providing  
 12          that enforcement must only be a secondary action when the  
 13          driver of the motor vehicle has been detained for another  
 14          violation of specified provisions; amending s. 318.18,  
 15          F.S.; providing the enhanced penalty; providing that no  
 16          enhanced penalty may be assessed for violations committed  
 17          before a specified date; providing an effective date.

18  
 19   Be It Enacted by the Legislature of the State of Florida:

20  
 21           Section 1.   Section 316.6135, Florida Statutes, is amended  
 22   to read:

23           316.6135   Endangering ~~Leaving~~ children ~~unattended or~~  
 24   ~~unsupervised~~ in motor vehicles; penalties ~~penalty~~; authority of  
 25   law enforcement officer.—

26           (1) (a)   A parent, legal guardian, or other person  
 27   responsible for a child younger than 6 years of age may not  
 28   leave such child unattended or unsupervised in a motor vehicle:

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

HB 1141

2010

29        1.~~(a)~~ For a period in excess of 15 minutes;  
 30        2.~~(b)~~ For any period of time if the motor of the vehicle  
 31 is running or the health of the child is in danger.

32        (b)1.~~(2)~~ Any person who violates subparagraph (a)1. ~~the~~  
 33 ~~provisions of paragraph (1)(a)~~ commits a misdemeanor of the  
 34 second degree punishable as provided in s. 775.082 or s.  
 35 775.083.

36        2.~~(3)~~ Any person who violates subparagraph (a)2. ~~commits~~  
 37 ~~the provisions of paragraph (1)(b)~~ is guilty of a noncriminal  
 38 traffic infraction, punishable by a fine not less than \$50 and  
 39 not more than \$500.

40        3.~~(4)~~ Any person who violates paragraph (a) ~~subsection (1)~~  
 41 and in so doing causes great bodily harm, permanent disability,  
 42 or permanent disfigurement to a child commits a felony of the  
 43 third degree, punishable as provided in s. 775.082, s. 775.083,  
 44 or s. 775.084.

45        (c)1.~~(5)~~ Any law enforcement officer who observes a child  
 46 left unattended or unsupervised in a motor vehicle in violation  
 47 of paragraph (a) ~~subsection (1)~~ may use whatever means are  
 48 reasonably necessary to protect the minor child and to remove  
 49 the child from the vehicle.

50        2.~~(6)~~ If the child is removed from the immediate area,  
 51 notification should be placed on the vehicle.

52        3.~~(7)~~ The child shall be remanded to the custody of the  
 53 Department of Children and Family Services pursuant to chapter  
 54 39, unless the law enforcement officer is able to locate the  
 55 parents or legal guardian or other person responsible for the  
 56 child.

57 (2) (a) As used in this subsection, the term "smoking" has  
 58 the same meaning as provided in s. 386.203.

59 (b) It is unlawful for any person to drive or be in actual  
 60 physical control of a motor vehicle in this state while a person  
 61 in the vehicle is smoking if a minor under 16 years of age is  
 62 present in the vehicle, regardless of whether the vehicle is in  
 63 operation or parked.

64 (c) A person who violates this subsection shall, unless  
 65 issued a warning, pay an enhanced penalty under s. 318.18(21).  
 66 An officer may elect to issue a warning to a violator.  
 67 Additionally, an officer may elect to provide a violator with  
 68 materials relating to the dangers of smoking in a vehicle with  
 69 children or available smoking cessation programs.

70 (d) Enforcement of this subsection by state or local law  
 71 enforcement agencies must only be accomplished as a secondary  
 72 action when the driver of the motor vehicle has been detained  
 73 for another violation of this chapter, chapter 320, or chapter  
 74 322.

75 Section 2. Subsection (21) is added to section 318.18,  
 76 Florida Statutes, to read:

77 318.18 Amount of penalties.—The penalties required for a  
 78 noncriminal disposition pursuant to s. 318.14 or a criminal  
 79 offense listed in s. 318.17 are as follows:

80 (21) In addition to any penalties imposed, an additional  
 81 \$100 must be paid for any noncriminal moving or nonmoving  
 82 traffic violation committed by operating a motor vehicle in this  
 83 state while a person in the vehicle is smoking if a minor under

HB 1141

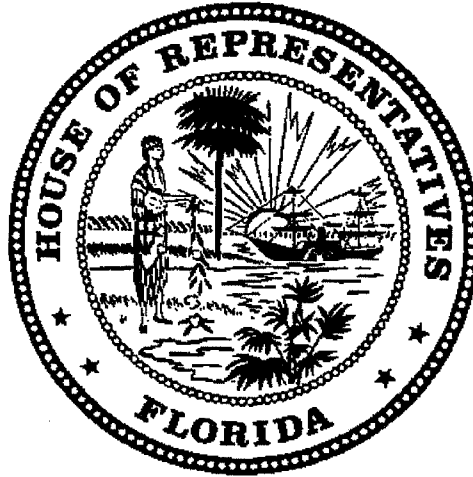
2010

84 16 years of age is present in the vehicle as provided in s.  
85 316.6135(2).

86 Section 3. Notwithstanding any other provision of law, no  
87 enhanced penalty may be assessed for a violation of s.  
88 316.6135(2), Florida Statutes, as created by this act, committed  
89 before January 1, 2011.

90 Section 4. This act shall take effect October 1, 2010.





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# **ROADS, BRIDGES & PORTS POLICY COMMITTEE**

## **Amendment Packet**

**Thursday, March 25, 2010  
9:00 A.M. – 11:00 A.M.  
404 HOB**

**Larry Cretul  
Speaker**

**Gary Aubuchon  
Chair**

**HB 0801  
Amendments (2)**

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 801 (2010)

Amendment No. 1

COUNCIL/COMMITTEE ACTION

ADOPTED                   \_\_\_ (Y/N)  
ADOPTED AS AMENDED       \_\_\_ (Y/N)  
ADOPTED W/O OBJECTION   \_\_\_ (Y/N)  
FAILED TO ADOPT           \_\_\_ (Y/N)  
WITHDRAWN                 \_\_\_ (Y/N)  
OTHER                      \_\_\_\_\_

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1 Council/Committee hearing bill: Roads, Bridges & Ports Policy  
2 Committee

3 Representative Kreegel offered the following:  
4

5       **Amendment**

6       Remove lines 110-120 and insert:

7       (4) The clerk of the court shall remit the moneys  
8 collected from the increased fine imposed by subsection (3) to  
9 the Department of Revenue for deposit into the Department of  
10 Health Administrative Trust Fund. Of the funds deposited into  
11 the Department of Health Administrative Trust Fund, \$200,000 in  
12 the first year after this act takes effect, and \$50,000 in the  
13 second and third years, shall be transferred to the Department  
14 of Highway Safety and Motor Vehicles and deposited in the  
15 Highway Safety Operating Trust Fund to offset the cost of  
16 providing educational materials related to this act. All other  
17 funds deposited into the Department of Health Administrative  
18 Trust Fund under this section shall be used to provide financial

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 801 (2010)

Amendment No. 1

19 support to verified trauma centers to ensure the availability  
20 and accessibility of trauma services throughout the state and

Amendment No. 2

COUNCIL/COMMITTEE ACTION

ADOPTED                   \_\_\_ (Y/N)  
ADOPTED AS AMENDED           \_\_\_ (Y/N)  
ADOPTED W/O OBJECTION       \_\_\_ (Y/N)  
FAILED TO ADOPT               \_\_\_ (Y/N)  
WITHDRAWN               \_\_\_ (Y/N)  
OTHER                   \_\_\_\_\_

1 Council/Committee hearing bill: Roads, Bridges & Ports Policy  
2 Committee

3 Representative Kreegel offered the following:

4  
5       **Amendment (with title amendment)**

6       Between lines 155 and 156, insert:

7       Section 7. Subsection (4) of section 318.1451, Florida  
8 Statutes, is amended to read:

9       318.1451 Driver improvement schools.—

10       (4) (a) In addition to a regular course fee, an assessment  
11 fee in the amount of \$2.50 shall be collected by the school from  
12 each person who elects to attend a course, as it relates to ss.  
13 318.14(9), 322.0261, 322.291, and 627.06501, which shall be  
14 remitted to the Department of Highway Safety and Motor Vehicles  
15 and deposited in the Highway Safety Operating Trust Fund to  
16 administer this program and to fund the general operations of  
17 the department.

18       (b) In addition to a regular course fee, an assessment fee  
19 in the amount of \$2.50 shall be collected by the school from.

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 801 (2010)

Amendment No. 2

20 each person who attends a course, as it relates to s. 322.05(3),  
21 which shall be remitted to the Department of Highway Safety and  
22 Motor Vehicles and deposited in the Highway Safety Operating  
23 Trust Fund to fund the educational requirements of section 9 of  
24 this act.

25 Section 8. Subsection (3) of section 322.05, Florida  
26 Statutes, is amended to read:

27 322.05 Persons not to be licensed.—The department may not  
28 issue a license:

29 (3) To a person who is at least 16 years of age but who  
30 has not attained 19 ~~is under 18~~ years of age, unless:

31 (a) The person provides proof of successfully completing a  
32 basic driver improvement course that meets the requirements of  
33 s. 318.1451 within 3 months before the date the person applied  
34 for licensure; and

35 (b) The parent, guardian, or other responsible adult  
36 meeting the requirements of s. 322.09 certifies that he or she,  
37 or another licensed driver 21 years of age or older, has  
38 accompanied the applicant for a total of not less than 50 hours'  
39 behind-the-wheel experience, of which not less than 10 hours  
40 must be at night. This ~~paragraph subsection~~ is not intended to  
41 create a private cause of action as a result of the  
42 certification. The certification is inadmissible for any purpose  
43 in any civil proceeding.

44  
45 Paragraph (a) does not apply to a person who has been licensed  
46 in any other jurisdiction or who has satisfactorily completed a

Amendment No. 2

47 Department of Education driver education course offered pursuant  
48 to s. 1003.48.

49

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52

**T I T L E   A M E N D M E N T**

53

Remove line 17 and insert:

54

disposition of the increased penalties; amending s. 318.1451,

55

F.S.; requiring driver improvement schools to collect a fee from

56

certain persons taking a basic driver improvement course;

57

providing for such fees to be used to provide educational

58

materials relating to this act; amending s. 322.05, F.S.;

59

requiring a person who is at least 16 but less than 19 years of

60

age to complete a basic driver improvement course and complete

61

50 hours of behind-the-wheel experience before being issued a

62

driver's license; requiring the