

PCS for HB 7043

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29 | been rejected; amending s. 316.2065, F.S.; removing a
 30 | requirement to keep one hand on the handlebars while
 31 | operating a bicycle; amending ss. 322.27, 627.6686 and
 32 | 641.31098, F.S.; conforming cross-references to
 33 | changes made by the act; providing an effective date.
 34 |

35 | Be It Enacted by the Legislature of the State of Florida:

36 | Section 1. Subsection (13) of section 110.123, Florida
 37 | Statutes, is repealed.

38 | Section 2. Section 258.155, Florida Statutes, is repealed.

39 | Section 3. Section 288.7001, Florida Statutes, is
 40 | repealed.

41 | Section 4. Section 288.7002, Florida Statutes, is
 42 | repealed.

43 | Section 5. Subsection (5) of section 339.64, Florida
 44 | Statutes, is repealed.

45 | Section 6. Section 381.90, Florida Statutes, is repealed.

46 | Section 7. Section 624.916, Florida Statutes, is repealed.

47 | Section 8. Section 1004.63, Florida Statutes, is repealed.

48 | Section 9. Paragraph (b) of subsection (3) of section
 49 | 120.54, Florida Statutes, is amended to read:

50 | 120.54 Rulemaking.—

51 | (3) ADOPTION PROCEDURES.—

52 | (b) Special matters to be considered in rule adoption.—

53 | 1. Statement of estimated regulatory costs.—Before the
 54 | adoption, amendment, or repeal of any rule other than an
 55 | emergency rule, an agency is encouraged to prepare a statement
 56 | of estimated regulatory costs of the proposed rule, as provided

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57 | by s. 120.541. However, an agency must prepare a statement of
 58 | estimated regulatory costs of the proposed rule, as provided by
 59 | s. 120.541, if:

60 | a. The proposed rule will have an adverse impact on small
 61 | business; or

62 | b. The proposed rule is likely to directly or indirectly
 63 | increase regulatory costs in excess of \$200,000 in the aggregate
 64 | in this state within 1 year after the implementation of the
 65 | rule.

66 | 2. Small businesses, small counties, and small cities.—

67 | a. Each agency, before the adoption, amendment, or repeal
 68 | of a rule, shall consider the impact of the rule on small
 69 | businesses as defined by s. 288.703 and the impact of the rule
 70 | on small counties or small cities as defined by s. 120.52.
 71 | Whenever practicable, an agency shall tier its rules to reduce
 72 | disproportionate impacts on small businesses, small counties, or
 73 | small cities to avoid regulating small businesses, small
 74 | counties, or small cities that do not contribute significantly
 75 | to the problem the rule is designed to address. An agency may
 76 | define "small business" to include businesses employing more
 77 | than 200 persons, may define "small county" to include those
 78 | with populations of more than 75,000, and may define "small
 79 | city" to include those with populations of more than 10,000, if
 80 | it finds that such a definition is necessary to adapt a rule to
 81 | the needs and problems of small businesses, small counties, or
 82 | small cities. The agency shall consider each of the following
 83 | methods for reducing the impact of the proposed rule on small
 84 | businesses, small counties, and small cities, or any combination

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85 of these entities:

86 (I) Establishing less stringent compliance or reporting
87 requirements in the rule.

88 (II) Establishing less stringent schedules or deadlines in
89 the rule for compliance or reporting requirements.

90 (III) Consolidating or simplifying the rule's compliance
91 or reporting requirements.

92 (IV) Establishing performance standards or best management
93 practices to replace design or operational standards in the
94 rule.

95 (V) Exempting small businesses, small counties, or small
96 cities from any or all requirements of the rule.

97 b.(I) If the agency determines that the proposed action
98 will affect small businesses as defined by the agency as
99 provided in sub-subparagraph a., the agency shall send written
100 notice of the rule to the rules ombudsman in the Executive
101 Office of the Governor ~~Small Business Regulatory Advisory~~
102 ~~Council and the Department of Economic Opportunity~~ at least 28
103 days before the intended action.

104 (II) Each agency shall adopt those regulatory alternatives
105 offered by the rules ombudsman in the Executive Office of the
106 Governor ~~Small Business Regulatory Advisory Council~~ and provided
107 to the agency no later than 21 days after the council's receipt
108 of the written notice of the rule which it finds are feasible
109 and consistent with the stated objectives of the proposed rule
110 and which would reduce the impact on small businesses. When
111 regulatory alternatives are offered by the rules ombudsman in
112 the Executive Office of the Governor ~~Small Business Regulatory~~

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113 ~~Advisory Council~~, the 90-day period for filing the rule in
 114 subparagraph (e)2. is extended for a period of 21 days.

115 (III) If an agency does not adopt all alternatives offered
 116 pursuant to this sub-subparagraph, it shall, before rule
 117 adoption or amendment and pursuant to subparagraph (d)1., file a
 118 detailed written statement with the committee explaining the
 119 reasons for failure to adopt such alternatives. Within 3 working
 120 days after the filing of such notice, the agency shall send a
 121 copy of such notice to the rules ombudsman in the Executive
 122 Office of the Governor ~~Small Business Regulatory Advisory~~
 123 ~~Council~~. ~~The Small Business Regulatory Advisory Council may make~~
 124 ~~a request of the President of the Senate and the Speaker of the~~
 125 ~~House of Representatives that the presiding officers direct the~~
 126 ~~Office of Program Policy Analysis and Government Accountability~~
 127 ~~to determine whether the rejected alternatives reduce the impact~~
 128 ~~on small business while meeting the stated objectives of the~~
 129 ~~proposed rule. Within 60 days after the date of the directive~~
 130 ~~from the presiding officers, the Office of Program Policy~~
 131 ~~Analysis and Government Accountability shall report to the~~
 132 ~~Administrative Procedures Committee its findings as to whether~~
 133 ~~an alternative reduces the impact on small business while~~
 134 ~~meeting the stated objectives of the proposed rule. The Office~~
 135 ~~of Program Policy Analysis and Government Accountability shall~~
 136 ~~consider the proposed rule, the economic impact statement, the~~
 137 ~~written statement of the agency, the proposed alternatives, and~~
 138 ~~any comment submitted during the comment period on the proposed~~
 139 ~~rule. The Office of Program Policy Analysis and Government~~
 140 ~~Accountability shall submit a report of its findings and~~

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141 ~~recommendations to the Governor, the President of the Senate,~~
 142 ~~and the Speaker of the House of Representatives. The~~
 143 ~~Administrative Procedures Committee shall report such findings~~
 144 ~~to the agency, and the agency shall respond in writing to the~~
 145 ~~Administrative Procedures Committee if the Office of Program~~
 146 ~~Policy Analysis and Government Accountability found that the~~
 147 ~~alternative reduced the impact on small business while meeting~~
 148 ~~the stated objectives of the proposed rule. If the agency will~~
 149 ~~not adopt the alternative, it must also provide a detailed~~
 150 ~~written statement to the committee as to why it will not adopt~~
 151 ~~the alternative.~~

152 Section 10. Paragraphs (a) and (c) of subsection (5) of
 153 section 120.745, Florida Statutes, are amended to read:

154 120.745 Legislative review of agency rules in effect on or
 155 before November 16, 2010.—

156 (5) COMPLIANCE ECONOMIC REVIEW OF RULES AND REQUIRED
 157 REPORT.—Each agency shall perform a compliance economic review
 158 and report for all rules, including separate reviews of
 159 subparts, listed under Group 1 "Group 1 rules" or Group 2 "Group
 160 2 rules" pursuant to subparagraph (2)(g)3. Group 1 rules shall
 161 be reviewed and reported on in 2012, and Group 2 rules shall be
 162 reviewed and reported on in 2013.

163 (a) No later than May 1, each agency shall:

164 1. Complete a compliance economic review for each entire
 165 rule or subpart in the appropriate group.

166 2. File the written certification of the agency head with
 167 the committee verifying the completion of each compliance
 168 economic review required for the respective year. The

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169 certification shall be dated and published as an addendum to the
 170 report required in subsection (3). The duty to certify
 171 completion of the required compliance economic reviews is the
 172 responsibility solely of the agency head as defined in s.
 173 120.52(3) and may not be delegated to any other person. If the
 174 defined agency head is a collegial body, the written
 175 certification must be prepared by the chair or equivalent
 176 presiding officer of that body.

177 3. Publish a copy of the compliance economic review,
 178 directions on how and when interested parties may submit lower
 179 cost regulatory alternatives to the agency, and the date the
 180 notice is published in the manner provided in subsection (7).

181 4. Publish notice of the publications required in
 182 subparagraphs 2. and 3. in the manner provided in subsection
 183 (7).

184 5. Submit each compliance economic review to the rules
 185 ombudsman in the Executive Office of the Governor ~~Small Business~~
 186 ~~Regulatory Advisory Council~~ for its review.

187 (c) No later than August 1, the rules ombudsman in the
 188 Executive Office of the Governor ~~Small Business Regulatory~~
 189 ~~Advisory Council~~ may submit lower cost regulatory alternatives
 190 to any rule to the agency that adopted the rule. No later than
 191 June 15, other interested parties may submit lower cost
 192 regulatory alternatives to any rule.

193 Section 11. Subsections (7) through (20) of section
 194 316.2065, Florida Statutes, are amended to read:

195 316.2065 Bicycle regulations.—

196 ~~(7) Any person operating a bicycle shall keep at least one~~

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197 | ~~hand upon the handlebars.~~

198 | (7)~~(8)~~ Every bicycle in use between sunset and sunrise
 199 | shall be equipped with a lamp on the front exhibiting a white
 200 | light visible from a distance of at least 500 feet to the front
 201 | and a lamp and reflector on the rear each exhibiting a red light
 202 | visible from a distance of 600 feet to the rear. A bicycle or
 203 | its rider may be equipped with lights or reflectors in addition
 204 | to those required by this section.

205 | (8)~~(9)~~ No parent of any minor child and no guardian of any
 206 | minor ward may authorize or knowingly permit any such minor
 207 | child or ward to violate any of the provisions of this section.

208 | (9)~~(10)~~ A person propelling a vehicle by human power upon
 209 | and along a sidewalk, or across a roadway upon and along a
 210 | crosswalk, has all the rights and duties applicable to a
 211 | pedestrian under the same circumstances.

212 | (10)~~(11)~~ A person propelling a bicycle upon and along a
 213 | sidewalk, or across a roadway upon and along a crosswalk, shall
 214 | yield the right-of-way to any pedestrian and shall give an
 215 | audible signal before overtaking and passing such pedestrian.

216 | (11)~~(12)~~ No person upon roller skates, or riding in or by
 217 | means of any coaster, toy vehicle, or similar device, may go
 218 | upon any roadway except while crossing a street on a crosswalk;
 219 | and, when so crossing, such person shall be granted all rights
 220 | and shall be subject to all of the duties applicable to
 221 | pedestrians.

222 | (12)~~(13)~~ This section shall not apply upon any street
 223 | while set aside as a play street authorized herein or as
 224 | designated by state, county, or municipal authority.

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225 (13)~~(14)~~ Every bicycle shall be equipped with a brake or
 226 brakes which will enable its rider to stop the bicycle within 25
 227 feet from a speed of 10 miles per hour on dry, level, clean
 228 pavement.

229 (14)~~(15)~~ A person engaged in the business of selling
 230 bicycles at retail shall not sell any bicycle unless the bicycle
 231 has an identifying number permanently stamped or cast on its
 232 frame.

233 (15)~~(16)~~(a) A person may not knowingly rent or lease any
 234 bicycle to be ridden by a child who is under the age of 16 years
 235 unless:

- 236 1. The child possesses a bicycle helmet; or
- 237 2. The lessor provides a bicycle helmet for the child to
- 238 wear.

239 (b) A violation of this subsection is a nonmoving
 240 violation, punishable as provided in s. 318.18.

241 (16)~~(17)~~ The court may waive, reduce, or suspend payment
 242 of any fine imposed under subsection (3) or subsection (15) ~~(16)~~
 243 and may impose any other conditions on the waiver, reduction, or
 244 suspension. If the court finds that a person does not have
 245 sufficient funds to pay the fine, the court may require the
 246 performance of a specified number of hours of community service
 247 or attendance at a safety seminar.

248 (17)~~(18)~~ Notwithstanding s. 318.21, all proceeds collected
 249 pursuant to s. 318.18 for violations under paragraphs (3) (e) and
 250 (15) (b) ~~(16) (b)~~ shall be deposited into the State Transportation
 251 Trust Fund.

252 (18)~~(19)~~ The failure of a person to wear a bicycle helmet

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253 | or the failure of a parent or guardian to prevent a child from
 254 | riding a bicycle without a bicycle helmet may not be considered
 255 | evidence of negligence or contributory negligence.

256 | (19)~~(20)~~ Except as otherwise provided in this section, a
 257 | violation of this section is a noncriminal traffic infraction,
 258 | punishable as a pedestrian violation as provided in chapter 318.
 259 | A law enforcement officer may issue traffic citations for a
 260 | violation of subsection (3) or subsection (15) ~~(16)~~ only if the
 261 | violation occurs on a bicycle path or road, as defined in s.
 262 | 334.03. However, a law enforcement officer may not issue
 263 | citations to persons on private property, except any part
 264 | thereof which is open to the use of the public for purposes of
 265 | vehicular traffic.

266 | Section 12. Paragraph (d) of subsection (3) of section
 267 | 322.27, Florida Statutes, is amended to read:

268 | 322.27 Authority of department to suspend or revoke
 269 | license.—

270 | (3) There is established a point system for evaluation of
 271 | convictions of violations of motor vehicle laws or ordinances,
 272 | and violations of applicable provisions of s. 403.413(6) (b) when
 273 | such violations involve the use of motor vehicles, for the
 274 | determination of the continuing qualification of any person to
 275 | operate a motor vehicle. The department is authorized to suspend
 276 | the license of any person upon showing of its records or other
 277 | good and sufficient evidence that the licensee has been
 278 | convicted of violation of motor vehicle laws or ordinances, or
 279 | applicable provisions of s. 403.413(6) (b), amounting to 12 or
 280 | more points as determined by the point system. The suspension

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281 shall be for a period of not more than 1 year.

282 (d) The point system shall have as its basic element a

283 graduated scale of points assigning relative values to

284 convictions of the following violations:

285 1. Reckless driving, willful and wanton—4 points.

286 2. Leaving the scene of a crash resulting in property

287 damage of more than \$50—6 points.

288 3. Unlawful speed resulting in a crash—6 points.

289 4. Passing a stopped school bus—4 points.

290 5. Unlawful speed:

291 a. Not in excess of 15 miles per hour of lawful or posted

292 speed—3 points.

293 b. In excess of 15 miles per hour of lawful or posted

294 speed—4 points.

295 6. A violation of a traffic control signal device as

296 provided in s. 316.074(1) or s. 316.075(1)(c)1.—4 points.

297 However, no points shall be imposed for a violation of s.

298 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to

299 stop at a traffic signal and when enforced by a traffic

300 infraction enforcement officer. In addition, a violation of s.

301 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to

302 stop at a traffic signal and when enforced by a traffic

303 infraction enforcement officer may not be used for purposes of

304 setting motor vehicle insurance rates.

305 7. All other moving violations (including parking on a

306 highway outside the limits of a municipality)—3 points. However,

307 no points shall be imposed for a violation of s. 316.0741 or s.

308 316.2065(11) ~~316.2065(12)~~; and points shall be imposed for a

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309 violation of s. 316.1001 only when imposed by the court after a
310 hearing pursuant to s. 318.14(5).

311 8. Any moving violation covered above, excluding unlawful
312 speed, resulting in a crash-4 points.

313 9. Any conviction under s. 403.413(6)(b)-3 points.

314 10. Any conviction under s. 316.0775(2)-4 points.

315 Section 13. Subsection (10) of section 627.6686, Florida
316 Statutes, is amended to read:

317 627.6686 Coverage for individuals with autism spectrum
318 disorder required; exception.-

319 ~~(10) The Office of Insurance Regulation may not enforce~~
320 ~~this section against an insurer that is a signatory no later~~
321 ~~than April 1, 2009, to the developmental disabilities compact~~
322 ~~established under s. 624.916. The Office of Insurance Regulation~~
323 ~~shall enforce this section against an insurer that is a~~
324 ~~signatory to the compact established under s. 624.916 if the~~
325 ~~insurer has not complied with the terms of the compact for all~~
326 ~~health insurance plans by April 1, 2010.~~

327 Section 14. Subsection (9) of section 641.31098, Florida
328 Statutes, is amended to read:

329 641.31098 Coverage for individuals with developmental
330 disabilities.-

331 ~~(9) The Office of Insurance Regulation may not enforce~~
332 ~~this section against a health maintenance organization that is a~~
333 ~~signatory no later than April 1, 2009, to the developmental~~
334 ~~disabilities compact established under s. 624.916. The Office of~~
335 ~~Insurance Regulation shall enforce this section against a health~~
336 ~~maintenance organization that is a signatory to the compact~~

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337 ~~established under s. 624.916 if the health maintenance~~
338 ~~organization has not complied with the terms of the compact for~~
339 ~~all health maintenance contracts by April 1, 2010.~~

340 Section 15. This act shall take effect July 1, 2012.