

STORAGE NAME: h0373z.tr
DATE: May 15, 2000

****FAILED TO PASS THE LEGISLATURE****

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
TRANSPORTATION
FINAL ANALYSIS**

BILL #: CS/HB 373

RELATING TO: Aggressive Careless Driving

SPONSOR(S): Committee on Transportation and Representatives Russell, Bense, Prieguez, Andrews, Byrd, Kelly, Goodlette, and C. Green

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) TRANSPORTATION YEAS 11 NAYS 0
- (2) JUDICIARY YEAS 6 NAYS 0
- (3) LAW ENFORCEMENT AND CRIME PREVENTION YEAS 8 NAYS 0
- (4) CRIMINAL JUSTICE APPROPRIATIONS
- (5)

I. SUMMARY:

The bill creates a new traffic infraction called aggressive careless driving. A person is guilty of aggressive careless driving when he or she commits two or more specified moving violations simultaneously or in succession. The violations include speeding, improperly changing lanes, improperly passing, violating traffic control and signal devices, following another vehicle too closely, or failing to yield the right-of-way.

The bill provides a minimum six point assessment for a first conviction on the person's driver's license, a fine of not less than \$60, and a mandatory court appearance. The offender would have the option to attend an aggressive driver abatement course to reduce the point assessment to one point.

A second conviction would result in a minimum of a six point assessment on the person's driver's license, a fine of not less than \$250 and not more than \$500, a mandatory court appearance, and the possible revocation of the person's driver's license for not more than one year.

A person guilty of a third or subsequent violation would be treated as a habitual traffic offender resulting in a minimum of a six point assessment on the person's driver's license and a minimum five year license revocation, a fine of not less than \$500 and not more than \$1,000, and a mandatory court appearance. Furthermore, a sentence of 120 community service hours may be required if a third or subsequent violation of this provision causes or results in a crash.

The bill makes clear that a person charged with aggressive careless driving must appear in court and cannot use the provisions of chapter 318 to avoid appearing in court or to reduce point assessments, except as provided by the bill.

The bill will have an indeterminate fiscal impact since the number of citations issued for aggressive careless driving is unknown.

The bill has an effective date of January 1, 2001.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1. Less Government Yes No N/A

The bill creates a new traffic infraction which requires a mandatory court appearance.

2. Lower Taxes Yes No N/A

3. Individual Freedom Yes No N/A

4. Personal Responsibility Yes No N/A

5. Family Empowerment Yes No N/A

B. PRESENT SITUATION:

Currently, there is not a specific statute within the state's traffic laws that addresses aggressive driving when an offender violates one or more traffic laws simultaneously or in succession. According to the Department of Highway Safety and Motor Vehicles, law enforcement officers will usually cite an offender for the most serious traffic offense or the offense for which the best evidence exists. Further, some law enforcement agencies' policies prohibit the issuance of more than one traffic citation for hazardous or careless moving violations. In these cases, officers are required to issue citations for the most serious traffic offense committed and not issue a citation for other offenses.

C. EFFECT OF PROPOSED CHANGES:

Section 1 of the bill creates s. 316.1923, F.S., to provide a definition for aggressive careless driving and penalties for violations. The bill defines aggressive careless driving as violating two or more of the following moving violations simultaneously or in succession:

- ▶ Exceeding the posted speed,
- ▶ Unsafely or improperly changing lanes,
- ▶ Following another vehicle too closely,
- ▶ Failing to yield the right-of-way,
- ▶ Improperly passing, and
- ▶ Violating traffic-control and signal devices.

The bill provides a minimum of a six point assessment for a first conviction on the person's driver's license, a fine of not less than \$60, and a mandatory court appearance. The offender would have the option to attend an aggressive driver abatement course to reduce the point assessment to one point. This eight hour course would cover topics such as:

- ▶ How to control driving-related stress and anger;
- ▶ Education about the possible consequences of aggressive driving; and
- ▶ Intervention in self-destructive behavioral patterns specific to aggressive driving.

A second conviction would result in a minimum of a six point assessment on the person's driver's license, a fine of not less than \$250 and not more than \$500, and a mandatory court appearance. At the discretion of the court, the person's driver's license may be revoked for

not more than one year. The option of attending an aggressive driver abatement course to reduce the point assessment would not be available to a second offender.

A person guilty of a third or subsequent violation would be treated as a habitual traffic offender pursuant to s. 322.264, F.S. The person's driver's license would be revoked for a minimum of five years. In order to obtain reinstatement, the person must show proof of enrollment in an advanced driver improvement course. A third or subsequent conviction would result in a minimum of a six point assessment on the person's driver's license, a fine of not less than \$500 and not more than \$1,000, and a mandatory court appearance. Furthermore, a sentence of 120 community service hours may be required if a third or subsequent violation of this provision causes or results in a crash.

Section 2 of the bill amends s. 322.27, F.S., to show that persons convicted of aggressive careless driving shall receive six points on their driver's licenses for a first or second conviction. No points are assessed for a third or subsequent conviction but the offender's license is revoked for a minimum of five years. This is inconsistent with section 1 of the bill which assesses six points for a third conviction.

Section 3 of the bill requires the Department of Highway Safety and Motor Vehicles to approve all aggressive driver courses and requires that aggressive driver courses can only be provided by a government agency or a not-for-profit organization. In addition to the fee charged for the aggressive driver course, the offender shall pay \$2.50 for deposit in the Highway Safety Operating Trust Fund.

Sections 4 and 5 amend ss. 318.17 and 318.19, F.S., to add aggressive careless driving to a list of offenses for which an offender cannot use the provisions of chapter 318 to avoid appearing in court. For other traffic offenses, a driver can avoid a court appearance by simply paying a fine or attending driving school. Attendance at driving school can, in other situations, prevent points from being assessed on a driving record. This bill makes clear that persons charged for aggressive careless driving must appear in court and cannot avoid the assessment of points by means other than those stated in the bill.

Section 6 amends s. 322.264, F.S., and designates someone convicted of aggressive careless driving as a habitual traffic offender. This is inconsistent with Section 1 of the bill, which requires three convictions.

Section 7 provides an effective date of January 1, 2001.

D. SECTION-BY-SECTION ANALYSIS:

See Section II.C. - Effect of Proposed Changes

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Department of Highway Safety and Motor Vehicles could not estimate revenues generated by creation of this offense since it did not know how many citations would be issued.

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2. Expenditures:

According to the Department of Highway Safety and Motor Vehicles, 910 hours of contracted programming modifications at \$135 per hour will be required to modify the Driver License Software System with a total cost of \$122,850.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

The department will absorb costs associated with license software system modifications.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require a city or county to spend funds or to take any action requiring the expenditure of any funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the revenue raising authority of any city or county.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the amount of state tax shared with any city or county.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

There are two internal inconsistencies in the bill. First, section 1 of the bill designates someone a habitual traffic offender upon a third conviction for aggressive careless driving while section 6 designates a first time offender as a habitual traffic offender. Second, section 1 of the bill assesses six points for a third or subsequent conviction of aggressive careless driving, while section 2 of the bill amends the statutory provisions regarding the assessment of points but does not include points for a third or subsequent conviction of aggressive careless driving.

According to the Department of Highway Safety and Motor Vehicles, aggressive driving and associated road rage endangers millions of drivers traveling the streets and highways. The bill would create a specific statute defining and providing strict penalties for aggressive careless driving which would be an aid to law enforcement officers and could reduce the number of accidents resulting from aggressive driving. The severe penalties are thought, by the department, to become a discouragement in those who exhibit aggressive tendencies in their driving behavior.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Transportation adopted an amendment to provide clarification of the penalties associated with violations. In particular, the amendment provides:

- ▶ An aggressive driver abatement course for first offenders covering topics such as how to control driving related stress and anger, education about the possible consequences of aggressive driving, and intervention in self-destructive behavioral patterns specific to aggressive driving;
- ▶ References to the statutes relating to the revocation of a habitual traffic offender's license for a minimum of five years and the requirement of an ADI course prior to having his or her license reinstated;
- ▶ Eliminating the DUI court provisions and the DUI program substance abuse course and evaluation;
- ▶ A section which allows the department to assess the fees associated with the aggressive driver abatement and ADI courses;
- ▶ Technical changes throughout the bill; and
- ▶ A new effective date of January 1, 2001.

The bill was reported favorably as a committee substitute.

On March 22, 2000, the Committee on Judiciary adopted an amendment to make clear how a person can be designated a habitual traffic offender for committing aggressive careless driving and to delete the word "criminal" from the bill's title to eliminate any ambiguity as to whether aggressive careless driving is a criminal offense or a traffic infraction. Under the amendment, a person can

be designated as a habitual traffic offender if he or she commits aggressive careless driving three times or if the person commits a combination of aggressive careless driving and other specified offenses three times in a five year period. The bill was reported favorably and the amendment is traveling with the bill.

On April 11, 2000, the Committee on Law Enforcement & Crime Prevention adopted a strike all amendment to HB 373. The following changes were made to CS/HB 373.

- The name of the course has been changed in the bill from "aggressive driver abatement course" to "aggressive driver modification course". The course must be authorized by experts in the field of behavioral psychology.

- All aggressive driver behavior modification courses related to s. 316.1923, F.S., shall be exempt from the provisions of s. 318.1451(5)(a),F.S.. This exemption will permit a government agency or court to provide an offender with information pertaining to the providers of aggressive driver behavior modification courses. Currently, government agencies and courts cannot provide offenders with information relating to drivers schools, other than to direct inquiries to the local telephone book.

- Any conviction under 316.1923 F.S., (as opposed to a conviction 316.1923(a)&(b) in CS/HB 373) shall result in assessment of 6 points on the license of the driver, provided that a reduction in points may be awarded for attendance in the aggressive behavior modification course.

- The amendment deletes "all aggressive driving courses, as the courses relate to s. 316.1923" from HB 373. This will exempt all aggressive driving course providers from the requirement of approval from the Department of Highway Safety and Motor Vehicles. The bill also states that a course provider may operate for profit as long as the courses are approved by and operated within a Florida judicial circuit.

- The amendment provides that a person who is convicted three or more times of aggressive careless driving shall be defined as a Habitual Traffic Offender.

- The amendment also provides that upon all future printings of the traffic citation, the form shall include a special box which is to be checked by the law enforcement officer when the traffic violation and/or crash was caused due to aggressive driving as defined in s. 316.1923,F.S.

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

Jennifer L. Sexton-Bartelme

Staff Director:

John R. Johnston

AS REVISED BY THE COMMITTEE ON JUDICIARY:

Prepared by:

L. Michael Billmeier, J.D.

Staff Director:

P.K. Jameson, J.D.

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AS FURTHER REVISED BY THE COMMITTEE ON LAW ENFORCEMENT AND CRIME
PREVENTION:

Prepared by:

Staff Director:

Allen Mortham Jr.

Kurt E. Ahrendt

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON TRANSPORTATION:

Prepared by:

Staff Director:

Jennifer L. Sexton-Bartelme

John R. Johnston