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DATE: April 3, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
INSURANCE
ANALYSIS**

BILL #: HB 1203
RELATING TO: Motor vehicles
SPONSOR(S): Representative Mealor

TIED BILL(S):

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

- (1) INSURANCE
 - (2) TRANSPORTATION
 - (3) CHILD & FAMILY SECURITY
 - (4) COUNCIL FOR COMPETITIVE COMMERCE
 - (5)
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I. SUMMARY:

Under the Application of Minors statute, when an adult signs a learner's permit application for a minor driver they assume liability for the minor's negligence and willful misconduct. This bill would carve out an exception for an application signed by a foster parent or an authorized group home representative.

This bill would also prohibit motor vehicle insurers from charging parents an additional premium for insuring drivers operating their parent's vehicle with a learner's permit. Under current law, an insurance company is not prohibited from charging the parent an additional premium for insuring drivers with learner's permits. The majority of motor vehicle insurers do not charge an additional premium. The motor vehicle insurers that do charge the additional premium tend to be the companies that insure higher risk individuals or families.

The bill would take effect on July 1, 2001.

SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1. Less Government Yes No N/A

The bill creates more government by prohibiting insurance companies from charging additional premiums for drivers with a learner's permit.

2. Lower Taxes Yes No N/A

3. Individual Freedom Yes No N/A

4. Personal Responsibility Yes No N/A

This bill reduces personal responsibility by relieving the foster parent or group home representative of liability for the minor's negligence or willful misconduct when driving with a learner's permit.

5. Family Empowerment Yes No N/A

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

What are the eligibility requirements for obtaining a motor vehicle learner's permit?

A driver under the age of 18 must have the signature of their father, their mother, or their guardian to obtain a driver's license unless they are emancipated by marriage. If the minor does not have a parent or guardian they must obtain the signature of a responsible adult.¹

There are certain eligibility requirements for a minor to be granted driving privileges. The minor must:

- Be enrolled in a public school, nonpublic school, or home school satisfying certain attendance requirements;
- If not in school, have received a high school diploma, the equivalent of a high school diploma, or be enrolled in a study program for the Test of the General Education Development; or
- Receive a hardship waiver.²

In addition, a person must fulfill other criteria to obtain a learner's permit. The person must:

- Be at least 15 years old;
- Pass the written driver's examination; and
- Pass the vision and hearing examination.³

¹ s. 322.09(1)(a) F.S.

² s. 322.091, F.S.

³ s. 322.1615 F.S.

The holder of the learner's permit may only operate a motor vehicle in the presence of a person at least 21 years of age holding a valid driver's license and seated in the closest seat to the right of the driver.

Who is liable for a minor driving with a learner's permit?

The adult who signs the application for the learner's permit is liable for the negligence or willful misconduct of the minor driving with a learner's permit.⁴ This concept is derived from the vicarious liability doctrine. Vicarious liability is the liability that a supervisory party bears for the actionable conduct of a subordinate or associate because of the relationship between the two parties (for example, parent-child or employer-employee).⁵

When the owner of a vehicle allows someone other than himself, herself, or a person who is insured under his insurance policy to drive his or her vehicle, he or she is liable for that person's actions. Florida case law states "an owner who gives authority to another to operate the owner's vehicle, by either express or implied consent, has a nondelegable obligation to ensure that the vehicle is operated safely." Moreover, case law states "knowledge and consent constitute an essential element in establishing liability of the owner and must be proven before the owner can be subjected to liability for damages proximately caused by the negligence of the driver."⁶

What are the requirements for driver's education enrollment in public schools?

According to the Department of Education's Driver's Education Curriculum Specialist, a driver must have a valid learner's permit and proof of insurance to qualify to take a driver's education course at a public high school. Each school district generally has insurance to cover damages to the vehicles used in the class, but not insurance to cover the damage to the drivers or damage they may do to others.

What is the standard practice for auto insurers when a driver obtains a learner's permit?

An insurance company is not prohibited from charging an additional premium when a driver obtains a learner's permit in an insured household. The state's two largest motor vehicle insurers⁷ do not charge a premium for a driver with a learner's permit, although most insurers reportedly do require a policy holder to report if there is new driver with a learner's permit in the household. The insurance companies that do not charge an additional premium for a driver with a learner's permit do charge a premium when the driver obtains his or her regular driver's license.

⁴ s. 322.09(2) F.S.

⁵ BLACK'S LAW DICTIONARY (7th ed. 1999).

⁶ See Christenson-Sullins v. Raymer, 765 So. 2d 955, 2 (2000).

⁷ According to number of total direct written premium for calendar year 1999.

Insurer Practice: Premium for those with Learner's Permits

	Preferred Insurers	Standard Companies	Nonstandard Companies
Who do they insure?	Lowest risk people and families	People with flaws on their record, but mid-range risk	Highest risk people for a host of reasons
What share of the market do they represent?	The largest companies that represent about 40 percent of the market	Also represent about 40 percent of the market	Represent 10-20 percent of the market
Do they charge a premium for a driver with a learner's permit?	Rarely, if ever	Rarely charge	Usually charge a premium for any driver over the age of 14 in the household and are likely to rate the driver with a learner's permit

The Department of Highway Safety and Motor Vehicles reported in the 1999 Florida Traffic Crash Report, the most current statistics to date, that there are currently 57,615 15-year-old drivers licensed with a learner's permit. In the 15-year-old age group, there were only 642 crashes, 8 of them fatal. Sixteen year olds were involved in 7,426 crashes. This translates to a rate per 10,000 drivers of 111.43 for 15 year olds, as compared to a rate of 619.68 for 16-year-olds.

C. EFFECT OF PROPOSED CHANGES:

Under the Application of Minors statute,⁸ when an adult signs a learner's permit application for a minor driver they assume liability for the minor's negligence and willful misconduct. This bill would carve out an exception for an application signed by a foster parent or an authorized group home representative.

Motor vehicle insurers would be prohibited from charging a parent an additional premium for a minor operating a vehicle with a learner's permit.

Motor vehicle insurance policies issued or renewed on or after July 1, 2002 would be affected.

D. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

⁸ s. 322.09(2) F.S.

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Motor vehicle insurers would be unable to charge an additional premium for drivers with a learner's permit. Companies now charging an additional premium would no longer be able to charge the additional amount. These motor vehicle insurers could incur losses without recovering corresponding premiums. This could have a greater impact on insurers with a smaller premium base.

D. FISCAL COMMENTS:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

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

N/A

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

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C. OTHER COMMENTS:

If the foster parent or group home representative is not liable for the minor's negligence or willful misconduct, then the injured party may have no recourse if injured by a vehicle operated by a foster child.

It may be possible that the foster parent or group home representative could be found liable under some other theory of vicarious liability. Presumably foster parents or group home representatives could be held liable for their own negligence, as distinct from that of the minor, when they sign the application. For example, if the foster parent or group home representative knew there was a reason why the minor should not be driving (like narcolepsy, for instance), they presumably could be held liable.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VI. SIGNATURES:

COMMITTEE ON INSURANCE:

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