

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1274

SPONSOR: Judiciary Committee and Senator Burt

SUBJECT: Motor Vehicles

DATE: March 26, 2001 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Johnson</u>	<u>JU</u>	<u>Favorable/CS</u>
2.	<u>Deffenbaugh</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Favorable</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill relieves a foster parent or the authorized representative of a group home of liability for damages caused by a foster child in their care who is under 18 years of age solely because the foster parent or group home representative signed the minor's application for a driver's license. This provision would not affect any vicarious liability of a foster parent as the owner of a vehicle for the permissive use of the vehicle by a foster child.

The bill also prohibits a motor vehicle insurer from charging an additional premium for coverage of a minor child operating the parent's or foster parent's vehicle while the child is holding a learner's driver's license. This prohibition would apply until the child obtains a regular driver's license.

This bill substantially amends the following sections of the Florida Statutes: 322.09 and 627.746.

II. Present Situation:

A child who is 15 years of age is authorized to obtain a learner's driver's license provided they meet the school attendance requirements of s. 322.091, F.S., and meet the application and testing requirements of s. 322.1615, F.S. When a minor applies for a learner's or regular driver's license the application must be signed by a parent, guardian, or when there is no parent or guardian some other responsible adult. (s. 322.09, F.S.) Any negligence or willful misconduct of the minor operating a motor vehicle will be imputed to the adult who signed the application. That adult is jointly and severally liable with the minor for any damages caused by the negligent or willful misconduct.

While a person holds a learner's driver's license they are prohibited from operating a motor vehicle unless they are accompanied at all times by a licensed driver who is at least 21 years of age. The person 21 years of age or older must occupy the seat closest to the right of the driver.

Many foster children are denied the right to obtain a regular driver's license or a learner's driver's license because the foster parents are not willing or able to assume responsibility for the child's driving. This prevents the child from taking driver's education in school or otherwise learning to drive an automobile until they are 18 years of age and able to afford their own car and insurance.

Currently, at least some motor vehicle insurance companies, including the state's two leading writers of private passenger motor vehicle insurance, do not charge an additional premium when a minor child with a learner's driver's license is an occasional driver of the parent's vehicle, until such time as the child obtains his or her regular driver's license. However, one of these insurers limits this "free coverage" to a maximum period of one year.

III. Effect of Proposed Changes:

Section 1 amends s. 322.09, F.S., to revise the responsibilities of the individual signing for a minor foster child's learner's driver's license. Either a foster parent or the responsible adult in a residential group home would be able to sign the learner's driver's license application for a foster child without assuming liability for any negligent or willful misconduct of that child while operating a motor vehicle. However, this provision would not relieve any individual, whether he or she signed the application or not, from vicarious liability when he or she allowed the foster child to operate a motor vehicle the individual owns. Thus, the motor vehicle owner will assume liability for the actions of the minor child while operating the vehicle rather than the person signing the driver's license application.

Section 2 creates s. 627.746, F.S., is created related to insurance coverage for the operation of a motor vehicle by a minor holding a learner's driver's license. The section prohibits a motor vehicle insurance company from charging an additional premium on a motor vehicle owned by a parent or foster parent for coverage of a minor child operating the vehicle while the child is holding a learner's driver's license. This prohibition will be applicable until the child obtains a regular driver's license.

Section 3 provides that the act shall take effect July 1, 2001 and that Section 2 shall apply to insurance policies that are issued or renewed on or after that date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Since Section 2 of the bill applies only to policies issued or renewed on or after the effective date, the bill does not unconstitutionally impair existing contracts.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

This provision would allow children in foster care to obtain at least a learner's driver's license and to possibly take driver's education prior to turning 18. The bill would also allow the foster parent to have insurance coverage for the child holding a learner's license while operating the foster parent's automobile.

The provision prohibiting insurers from charging an additional premium for a minor child while they hold a learner's driver's license may expose insurers to additional losses without being allowed to collect an additional premium. However, at least some insurers, including the state's two leading writers of motor vehicle insurance, do not currently charge an additional. However, one of these insurers limits this "free coverage" to a maximum period of one year.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.