

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – The bill provides for the creation of a statewide driver education course curriculum; the bill adds potential additional restrictions on driver's licenses for drivers under the age of 18.

Safeguard Individual Liberty – The bill restricts a driver under the age of 18 from carrying more than one underage passenger in his or her vehicle if the person is unwilling or unable to take a driver education course.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Department of Highway Safety and Motor Vehicles

The Department of Highway Safety and Motor Vehicles (the Department) is currently required by section 322.18, F.S., to examine every first time applicant prior to the issuance of an original Florida driver license. The examination includes a test of eyesight and hearing, ability to read and understand highway signs, knowledge of traffic laws, and a demonstration of motor vehicle operation skills.

To earn an operator's license, a driver must be at least 16 years old and have held a learner's license for at least one year without any traffic convictions. If the person is under 18, a parent or guardian must certify that the teen has completed at least 50 hours of behind the wheel driving experience, of which 10 hours must have been at night.¹

Under current Florida law, the following operating restrictions are placed on a minor's driver's license:

- 15 years old (Learner's Permit) – May operate a vehicle only during daylight hours, but after 3 months, may operate a vehicle until 10pm. Must be accompanied by a holder of a valid driver's license who is at least 21 years of age.²
- Under 17 – Must be accompanied by a holder of a valid driver's license who is at least 21 years of age during the hours of 11:01pm and 5:59am, unless driving to or from work.³
- 17 years old – Must be accompanied by a holder of a valid driver's license who is at least 21 years of age during the hours of 1:01am and 4:59am, unless driving to or from work.⁴

For the six-month period between June 1, 2007 and November 30, 2007, there were over 88,800 licenses issued to new drivers between the ages of 16 and 18, according to the Department's driver's license issuance data.

¹ s. 322.05(3), F.S.

² s. 322.1615, F.S.

³ s. 322.16(2), F.S.

⁴ s. 322.16(3), F.S.

Drivers age 15 to 19 in the state of Florida have the highest rate per 10,000 licensed drivers of crash involvement and the highest rate in fatal crashes.⁵ Sixteen-year-old drivers have crash rates that are three times greater than 17-year-old drivers, five times greater than 18-year-old drivers, and twice the rate of 85-year-old drivers, according to the National Highway Traffic Safety Administration.

Chapter 488 regulates commercial driving schools, and provides that the Department shall oversee and license all such schools.⁶ Section 488.03, F.S., states that “an application for a license shall be made in the form prescribed by the Department.” Section 488.04, F.S., states that “no person shall receive compensation” for providing driver education, or “act in the capacity of a driving school,” without obtaining a certificate from the Department. It further states that an applicant for an instructor’s certificate “shall be required to take special eye tests, written tests, and road tests, and to furnish proof of his or her qualifications and ability as an instructor.”⁷ Section 488.02, F.S., grants the Department authority to adopt rules to implement the provisions of the chapter.

The Department website contains an application form for receiving a commercial driving school license. The application form requires the following information:

- The name and location of the school;
- The name of the owner, partnership interests, or corporate ownership details;
- A description of the program of instruction, including the amount of classroom time, individual instruction, gender diversity of classes, number of instructors, and other data;
- A copy of the contract signed between the school and customers;
- A list of vehicles used by the school;
- Information regarding the applicant’s prior criminal record, including all misdemeanors and felonies;
- A sworn affidavit of accuracy;
- A copy of the school’s fictitious name filing with the Division of Corporations at the Department of State;
- A copy of a certificate of insurance covering the school’s vehicles;
- An FDLE background report on all owners, partners, directors, officers, or principal stockholders; and
- The statutorily determined fees.⁸

The application form to become a certified commercial driving school instructor requires the applicant to have no suspensions, revocations, cancellations, or disqualifications for three years prior to the date of the application. The form also requires extensive identification and background information, current residence information, past driving records, explanations of past “crimes, misdemeanors, and traffic infractions” in any state, a description of the applicant’s educational history, a description of prior work experience, a requirement that the applicant take the “Department approved 32 hour course in driver education,” and the statutorily determined fees.⁹

According to the Department’s website, the “Department-approved 32-hour course” is offered by two entities:

A Treasure Coast Driving School
9198 U.S. Highway 1
Port St. Lucie, FL 34952

Florida Safety Council
427 North Primrose Drive
Orlando, FL 32803

⁵ *Traffic Crash Statistics Report 2005*, Florida Department of Highway Safety and Motor Vehicles, 2005.

⁶ Section 488.01, F.S.

⁷ Section 488.04(1), F.S.

⁸ Generally, a \$250 payment which includes \$200 license fee plus \$ 50 application fee. A renewal costs \$100.

⁹ The fee is \$25. This is also the fee to act as an agent of the school and receive an “agent identification card” from the Department.

See section 488.045, F.S.

Department of Education

Section 1003.48, F.S., requires each district school board to make available a “course of study in the safe and lawful operation of a motor vehicle.”¹⁰ The course may not, however, be made part of, or a substitute for, any minimum graduation requirement.

School boards are permitted to use any of the following procedures to provide the course:

- Use instructional personnel employed by the district school board;
- Contract with commercial driving schools licensed under Chapter 488; or
- Contract with an instructor certified under the provisions of Chapter 488.

For the purpose of funding this process, section 322.21, F.S. contains an additional 50-cent fee on every driver’s license issued in the state. School boards then receive funds based on the number of full-time equivalent students at the “appropriate basic program cost factor.” This amount is the same regardless of the instructional method the board selects (contractor vs. employee).

School boards may prescribe course and personnel standards at the district level, if they elect to provide the course by school board employees. Certified instructors or licensed commercial driving schools are presumed qualified, and “shall not be required to meet any standards in lieu of those proscribed in Chapter 488.”

Proposed Changes

HB 1299 creates a new section 322.093, F.S., prohibiting the Department from issuing a driver’s license to any person under age 18 unless the person has successfully completed a driver education course given by:

- a public secondary school in compliance with s. 1003.48, F.S.;
- a nonpublic school meeting the standards prescribed in s. 1003.48, F.S.; or
- a commercial driving school licensed under chapter 488.

Upon completing the course, the student shall be presented with a certificate of completion.

Prescribing course and personnel standards, including standard curriculum requirements, are shifted by the bill to the State Board of Education. The bill clarifies that under the new uniform standards, certified instructors and licensed driving schools must ensure that their curriculum meets the required minimums developed by the State Board of Education. It also clarifies that the driver education course “must include classroom instruction and behind-the-wheel training, which may include use of a simulator.”

HB 1299 provides that a driver under 18 who has not completed the required driver education course must have a restriction placed on their learner’s driver’s license. The driver is restricted to having only one passenger in the motor vehicle unless the driver is accompanied by a person holding a valid driver’s license and is at least 21.

Funds collected under s. 318.1215, F.S.¹¹ may be utilized by boards of county commissioners to meet the additional requirements of the bill.

¹⁰ “Motor vehicle” is defined by the statute as “the same meaning as in s. 320.01(1)(a), and shall include motorcycles and mopeds.”

¹¹ Section 318.1215, F.S., allows boards of county commissioners to collect up to an additional \$5 for each civil traffic penalty, in order to fund certain driver education programs.

C. SECTION DIRECTORY:

- Section 1** Creates section 322.093, F.S., providing that the Department may not issue a driver's license to a minor unless the minor has completed a specified driver education course; providing for issuance of a certificate upon successful completion.
- Section 2.** Amends section 1003.48, F.S., providing requirements for a school district course of instruction in the operation of motor vehicles; authorizing boards of county commissioners to supplement funds for driver education programs; requiring the State Board of Education to prescribe standards and curriculum requirements; requiring certified instructors or commercial driving schools offering the course to meet the standards and requirements; providing for a restricted driver's permit under certain circumstances.
- Section 3.** Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See FISCAL COMMENTS, below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See FISCAL COMMENTS, below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a direct economic impact for licensed commercial driving schools and certified instructors, as the bill would presumably increase the public's desire for the services they provide.

D. FISCAL COMMENTS:

The Department of Education has not provided fiscal information or other comments on HB 1299; however, the fiscal impact of the bill is indeterminate. The impact on each district school board may vary based on current methods of instruction in each district. Those districts already having significant driver education plans (instructors, vehicles, simulators, etc.) may not incur a fiscal impact. Those districts without significant current investment in driver education programs may see a fiscal impact related to the addition of such resources.

The State Board of Education may incur costs in developing a statewide curriculum; such costs are also indeterminate.

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.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None, but see Drafting Issues, below.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The curriculum requirements to be developed by the State Board of Education may require formal rulemaking pursuant to Chapter 120, Florida Statutes. If so, the bill should contain an express grant of such rulemaking authority, as detailed in s. 120.54, F.S.

The bill creates a new section 322.093, F.S., which states in part, "the Department may not issue a driver's license... unless the person has successfully completed a driver education course..." However, the bill also amends s. 1003.48, F.S., to say that a student not completing such a course, "shall have a restriction place on his or her driver's permit," limiting the number and age of passengers in the vehicle of the driver not taking the course. These two statements appear to be in conflict.

On lines 81 – 84, it may be advisable to change the word "student" to "driver," and the word "permit" to "license," in order to maintain continuity with existing statutes.

The additional restriction on driver's licenses, contained in the new s. 1003.48(5), F.S., would more logically be placed in Chapter 322, Florida Statutes.

D. STATEMENT OF THE SPONSOR

Statement of the Sponsor:

Thank you for the opportunity to respond to the staff analysis on HB 1299. This Driver Education bill is the result of the "Ought to be a Law" student bill drafting competition. Senator Crist and I have sponsored the "OTBAL" program for the fourth year and this year invited all 25 high schools in Hillsborough County to participate in drafting a bill idea that was presented at a competition in front of House and Senate members. With the help of the committee, we then selected one idea that "outta be a law" to sponsor in the 2008 legislative session which is now HB 1299.

This bill is the culmination of one student's vision and his fellow teammate's goal of improving Florida's young drivers education thereby probably reducing deaths.

In the words of T.J. Mouse, the student at Chamberlain High School that introduced his idea to the Hillsborough area House and Senate Members, affirming the need for this bill, "Every year, nearly 6,000 teenagers alone die from a car crash, and more than 300,000 are injured. Personally, I am taking Driver's Ed, and it is probably one of the most important courses I will take throughout my life. You may grow up and never have to do Algebra or Calculus ever again, but you will drive for the rest of your life. Florida is one of the few states that does not make it mandatory, but that can change. This might also significantly reduce insurance rates state-wide."

The student team and I would like to note that we are working with staff to address the drafting issues mentioned in the analysis through the amendatory process if not at this committee meeting, then the next committee of reference.

The students and I will present an amendment to address the drafting issues noted in the bill analysis to provide:

- Express rulemaking authority for the State Board of Education;
- Clarify the statements in 322.093 and 1003.48 that appear to be in conflict;
- Change the word "student" to driver" and the word "permit to "license" in lines 81-84 to maintain continuity with existing statues; and,
- Consider placing the additional restriction on driver's licenses contained in the new s. 1003.48(5) in Chapter 322, F.S.

For further information on the "Ought to be a Law" program you can visit:

<http://www.sdhc.k12.fl.us/otbal/>

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES