

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1656

SPONSOR: Transportation Committee and Senator Casas

SUBJECT: Driving Schools

DATE: April 21, 1999 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vickers</u>	<u>Meyer</u>	<u>TR</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This CS revises numerous laws relating to driver improvement and traffic law and substance abuse education courses. The CS increases from five to eight the number of times a person may elect to attend a driver improvement course in lieu of making a court appearance. The CS increases oversight of driver improvement courses by requiring the Department of Highway Safety and Motor Vehicles (DHSMV) to monitor the presentation of approved courses and ensure course providers comply with instructor qualification requirements. The CS establishes certain requirements relating to instructor qualifications and teaching methods. The CS extends the existing \$2.50 assessment fee to persons who enroll in a driver improvement course by court order. Persons who are convicted of, or plead nolo contendere, to certain noncriminal traffic violations must attend a mandatory driver improvement course. Finally, the CS deletes a requirement that DHSMV conduct financial audits of certain providers.

The CS substantially amends s. 318.14, 318.1451, 322.0261, 322.095, 322.271, 322.291, and 627.06501, F.S. The CS creates s. 322.02615, F.S.

II. Present Situation:

Section 318.14, F.S., provides persons committing certain traffic violations may, in lieu of a court appearance, elect to attend a basic driver improvement course approved by the DHSMV. In such a case, adjudication is withheld; points, as provided by s. 322.27, are not assessed; and the civil penalty imposed by s. 318.18(3) must be reduced by 18 percent. However, a person may not make an election under this subsection if the person has made an election under this subsection in the preceding 12 months. A person may make no more than five elections under this subsection.

Section 318.1451, F.S., provides DHSMV must approve the courses of all driver improvement schools. Currently, DHSMV only approves the content of the course and does not monitor the presentation of approved courses. In determining whether to approve a course, DHSMV is required to consider course content designed to promote safety, driver awareness, accident

avoidance techniques, and other factors or criteria to improve driver performance from a safety viewpoint. Instructor criterion is established within the particular driver improvement program. While DHSMV requires that criterion exist, it does not enforce instructor criteria. There is presently no application fee for course approval. In addition to the regular course fees, an assessment fee of \$2.50 is collected from each person who elects to attend a driver improvement school.

Section 322.0261, F.S., provides persons committing certain violations must, in addition to other applicable penalties, attend a departmentally approved driver improvement course in order to maintain driving privileges. If the operator fails to complete the course within 90 days of receiving notice from DHSMV, the operator's driver's license is canceled by DHSMV until the course is successfully completed.

Section 322.095, F.S., provides DHSMV must approve traffic law and substance abuse education courses that must be completed by applicants for a Florida driver's license. All instructors teaching the courses must be certified by DHSMV. DHSMV is required to contract for an independent evaluation of the courses, and provide documentation to the Legislature by October 1, 2000, measuring course effectiveness. The fee charged by the course provider must bear a reasonable relationship to the cost of the course. In addition, DHSMV must conduct financial audits of course providers conducting the education courses required under this section or require financial audits of providers be performed, at the expense of the provider, by a certified public accountant.

III. Effect of Proposed Changes:

The CS amends s. 318.14, F.S., to increase the number of times a person may elect to attend a driver improvement course, in lieu of making a court appearance, from five to eight. The CS also expands DHSMV's responsibilities to include monitoring the administration and presentation by driver improvement schools. Curricula used by the driver improvement course providers must adhere to the methodologies and teaching methods approved by DHSMV.

The CS provides DHSMV must ensure driver improvement course instructors have at least a high school diploma or GED, and two years of documented teaching experience in a specified academic field. In addition, instructors must have two years of formal education beyond high school; or two years of documented full-time employment experience in safety, criminal justice, behavioral science or a related field. Instructors must also have a valid driver's license and no more than two moving violations within a three year period or any violation that results in a suspension or revocation, and not have been found guilty of a felony or any offense involving DUI during the ten years prior to certification. Instructors are required to complete at least eight hours of course-specific, in service education every two years and must teach at least two complete courses each year for every course for which the instructor holds certification.

The CS directs DHSMV to adopt rules to implement the provisions of this section, including procedures for resolving consumer complaints. In addition, DHSMV is to adopt rules providing for the issuance of a course completion certificate number and develop a system for tracking those certificates to ensure course completion numbers are not used by more than one person. The CS prohibits driver improvement courses from using teaching formats that utilize home study and

distance learning. Courses may not rely exclusively on electronic or video presentations. DHSMV is directed to conduct a study on course effectiveness and report its findings to the Legislature by October 1, 2002, and at least once every five years thereafter. The existing \$2.50 assessment fee would be extended to persons enrolling in driver improvement school pursuant to court order. However, DHSMV would only receive the assessment fee for those persons *completing* the course.

The CS prohibits public employees and public entities from providing the public specific information regarding individual driver improvement schools, unless the information is a public record. The CS creates a traffic school reference guide (information regarding basic driver improvement courses) and provides public employees and public entities may only provide the guide to the public. Law enforcement officers may provide motorists with the guide when issuing citations for moving violations. The CS provides for the content of the guide, including who may appear in the guide and the order in which course providers may appear.

The CS amends s. 322.0261, F.S., to change the term “accident” to “crash” in order to update and conform terminology.

The CS creates s. 322.02615, F.S., which requires persons less than 22 years of age who have two or more convictions for noncriminal moving infractions to attend a driver improvement course. Similarly, persons who have received more than one noncriminal moving violation within a 12-month period would be required to attend a driver improvement course. DHSMV is directed to cancel the driving privileges of any person who fails to complete the mandatory driver improvement course within 90 days of receiving notice.

The CS amends s. 322.095, F.S., to provide traffic law and substance abuse education instructors have at least a high school diploma or GED, and two years of documented teaching experience in a specified academic field. In addition, instructors must have two years of formal education beyond high school; or two years of documented full-time employment experience in safety, criminal justice, behavioral science or a related field. Instructors must also have a valid driver’s license and no more than two moving violations within a three year period or any violation that results in a suspension or revocation, and not have been found guilty of a felony or any offense involving DUI during the ten years prior to certification. Instructors are required to complete at least eight hours of course-specific, in service education every two years and must teach at least two complete courses each year for every course for which the instructor holds certification.

Traffic law and substance abuse courses must be taught in a classroom setting under the direct instruction of a certified instructor who uses techniques that provide for interactive participation by students. Curriculum must adhere to the methodologies and teaching methods approved by DHSMV. The CS prohibits traffic law and substance abuse education courses from using teaching formats that utilize home study and distance learning. A course may not consist exclusively of electronic or video presentations. DHSMV is to adopt rules providing for the issuance of a course completion certificate number and develop a system for tracking those certificates to ensure course completion numbers are not used by more than one person.

The CS deletes the requirement for DHSMV to conduct financial audits of course providers. The CS also provides the \$3 assessment fee must be deposited into the DHSMV operating trust fund

to administer laws governing traffic law and substance abuse education courses and for the general operations of DHSMV.

Section 322.291, F.S., is amended to delete the requirement that DHSMV cancel the driver's license of an individual not showing proof of completion of an approved driver improvement course or abuse education course.

The CS provides an appropriation for DHSMV to monitor the administration and presentation of driver improvement school courses.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

Increasing the number of driving school elections and the number of persons subject to mandatory attendance will have the effect of increasing the number of persons subject to the \$2.50 assessment fee. However, these increases will be partially offset by the provision in the CS that provides DHSMV will only receive the assessment upon *completion* of the course.

B. Private Sector Impact:

Several provisions of the CS could serve to limit competition by restricting the entrance of new providers into the industry or limiting the ability of new providers to effectively compete with existing providers.

C. Government Sector Impact:

The CS provides for an appropriation of \$384,956 from the Highway Safety Operating Trust Fund.

The CS would generate an indeterminate amount of additional revenue for DHSMV as a result of mandatory attendance for certain violations and increasing the number of driving

school elections. DHSMV estimates court ordered driving school enrollees paying the \$2.50 assessment fee would generate an additional \$35,532 in fiscal year 1999-00.

VI. Technical Deficiencies:

None.

VII. Related Issues:

During fiscal year 1997-98, approximately 498,000 persons enrolled in a driver improvement course.

Currently, there are 10 approved course providers offering 16 approved courses.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
