

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 1084

INTRODUCER: Health Policy Committee and Senator Pizzo and others

SUBJECT: Volunteer Ambulance Services

DATE: April 21, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Smith</u>	<u>Brown</u>	<u>HP</u>	<u>Fav/CS</u>
2.	<u>Howard</u>	<u>Sadberry</u>	<u>AP</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1084:

- Authorizes vehicles of certain faith-based volunteer ambulance services, as authorized by the chief of police of an incorporated city or any sheriff of any county, to display red lights and operate emergency lights and sirens while responding to an emergency.
- Authorizes privately owned vehicles belonging to medical staff physicians and technicians of certain faith-based volunteer ambulance services to use red lights on privately owned vehicles and to disregard specified traffic laws and ordinances while responding to an emergency.
- Exempts certain faith-based volunteer first responder agencies who have been operating in this state for at least 10 years from certificate of public convenience and necessity requirements.
- Prohibits county and municipal governments from:
 - Limiting, prohibiting, or preventing certain faith-based volunteer ambulance services from responding to emergencies or providing emergency medical services or transport.
 - Requiring certain faith-based volunteer ambulance services to obtain a license or certificate or pay a fee.

The bill has no fiscal impact on state revenues or state expenditures.

The bill takes effect on July 1, 2021.

II. Present Situation:

Emergency Vehicles

Chapter 316, F.S., is known as the “Florida Uniform Traffic Control Law”¹ that exists for the purpose of making uniform traffic laws and ordinances apply throughout the state.² For purposes of that chapter, an “authorized emergency vehicle” includes all of the following vehicles, as designated or authorized by their respective department or the chief of police of an incorporated city or any sheriff of any of the various counties:

- Vehicles of the fire department (fire patrol);
- Police vehicles; and
- Such ambulances and emergency vehicles of:
 - Municipal departments;
 - Public service corporations operated by private corporations;
 - The Fish and Wildlife Conservation Commission;
 - The Department of Environmental Protection;
 - The Department of Health;
 - The Department of Transportation; and
 - The Department of Corrections.³

Traffic Laws and Ordinances – Privileges

Section 316.072(5), F.S., authorizes the drivers of certain vehicles to exercise a privilege and disregard specified traffic laws and ordinances while responding to an emergency. Under that section, all of the following drivers may exercise the privilege:

- The driver of an “authorized emergency vehicle” when responding to an emergency call, when in the pursuit of an actual or suspected violator of the law, or when responding to a fire alarm, but not upon returning from a fire;
- A medical staff physician or technician of a medical facility licensed by the state when responding to an emergency in the line of duty in his or her privately owned vehicle, using red lights as authorized in s. 316.2398, F.S.; or
The driver of an authorized law enforcement vehicle, when conducting a nonemergency escort, to warn the public of an approaching motorcade.

Under those conditions, and unless otherwise directed by a police officer, those drivers may:

- Park or stand, regardless of traffic laws or ordinances.
- Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.
- Exceed the maximum speed limits, so long as the driver does not endanger life or property.
- Disregard regulations governing direction or movement or turning in specified directions, so long as the driver does not endanger life or property.

¹ Section 316.001, F.S.

² Section 316.002, F.S.

³ Section 316.003(1), F.S.

Under the conditions above, the driver has a duty to drive with due regard for the safety of all persons. The driver is not protected from the consequences of his or her reckless disregard for the safety of others.

Red Lights, Red and White Lights, Emergency Lights, Sirens⁴

Under the Florida Uniform Traffic Control Law, a person may not drive or move or cause to be moved any vehicle or equipment upon any highway within this state with any lamp or device thereon showing or displaying certain colors of lights unless they are explicitly authorized. For example, only police vehicles and certain vehicles owned, operated, or leased by the Department of Corrections may show or display blue lights when responding to emergencies. Additionally, amber lights are reserved for wreckers, mosquito control fog and spray vehicles, and emergency vehicles of governmental departments or public service corporations; and green and amber lights are reserved for vehicles owned or leased by private security agencies.

Red or red and white lights may be shown or displayed by vehicles of the fire department and fire patrol, and by a privately owned vehicle belonging to an active firefighter member of a regularly organized volunteer firefighting company or association, while en route to the fire station for the purpose of proceeding to the scene of a fire or other emergency or while en route to the scene of a fire or other emergency in the line of duty as an active firefighter member of a regularly organized firefighting company or association.⁵

Red lights may be shown or displayed by privately owned vehicles of medical staff physicians or technicians of medical facilities licensed by the state while responding to an emergency in the line of duty, certain ambulances, and certain buses and taxicabs.⁶

Flashing red lights may be used by emergency response vehicles of the Fish and Wildlife Conservation Commission, the Department of Environmental Protection, and the Department of Health when responding to an emergency in the line of duty.

Under s. 316.271, F.S., every “authorized emergency vehicle” is required to be equipped with a siren that meets certain specifications. The siren may only be operated in an emergency.

Basic and Advanced Life Support Services

Part III of ch. 401, F.S., consisting of ss. 401.2101-401.465, F.S., provides for the regulation of emergency medical services by the Department of Health (DOH). The DOH website reflects that its Emergency Medical Services Section is responsible for the licensure and oversight of over 60,000 emergency medical technicians and paramedics, 270+ advanced and basic life support agencies, and over 4,500 EMS vehicles.⁷ The DOH licenses three types of emergency medical services: air ambulance,⁸ basic life support, and advanced life support services.

⁴ Section 316.2397, F.S.

⁵ Section 316.2398, F.S.

⁶ *Id.*

⁷ Florida Department of Health, Emergency Medical Services System, available at <http://www.floridahealth.gov/licensing-and-regulation/ems-system/index.html> (last visited Mar. 5, 2021).

⁸ Sections 401.23(3) and (4) and 401.251, F.S.

A basic life support service is an emergency medical service that uses *only* basic life support techniques.⁹ In contrast, an advanced life support service is an emergency medical transport or non-transport service that uses advanced life support techniques.¹⁰ Similarly, an emergency medical technician (EMT) is certified to perform basic life support,¹¹ but a paramedic is certified to perform basic and advanced life support.¹²

“Basic life support” is the assessment or treatment through the use of techniques described in the EMT-Basic National Standard Curriculum or the National EMS Education Standards of the United States Department of Transportation and approved by the DOH. The term includes the administration of oxygen and other techniques that have been approved by the DOH.¹³ When transporting a person who is sick, injured, wounded, incapacitated, or helpless, each basic life support ambulance must be occupied by at least two persons:

- One patient attendant who is a certified emergency medical technician, certified paramedic, or licensed physician; and
- One ambulance driver who meets the requirements of s. 401.281, F.S.¹⁴

“Advanced life support” is the assessment or treatment through the use of techniques such as endotracheal intubation, the administration of drugs or intravenous fluids, telemetry, cardiac monitoring, cardiac defibrillation, and other techniques described in the EMT-Paramedic National Standard Curriculum or the National EMS Education Standards, pursuant to the DOH rules.¹⁵ When transporting a person who is sick, injured, wounded, incapacitated, or helpless, each advanced life support ambulance must be occupied by at least two persons:

- One certified paramedic or licensed physician; and
- One certified emergency medical technician, certified paramedic, or licensed physician who also meets the requirements of s. 401.281, F.S., for drivers.¹⁶

The person occupying the advanced life support ambulance with the highest medical certifications is in charge of patient care.¹⁷

Section 401.25, F.S., provides requirements for licensure as basic and advanced life support services. Every licensee must possess a valid permit for each vehicle in use.¹⁸

Certificate of Public Convenience and Necessity Requirement

Section 401.25(2)(d), F.S., requires an applicant for licensure to obtain a certificate of public convenience and necessity from each county that the applicant will operate. In issuing the certificate of public convenience and necessity, the governing body of each county must consider the recommendations of municipalities within its jurisdiction.

⁹ Section 401.23(8), F.S.

¹⁰ Section 401.23(2), F.S.

¹¹ Section 401.23(11), F.S.

¹² Section 401.23(17), F.S.

¹³ Section 401.23(7), F.S.

¹⁴ Section 401.25(7)(a), F.S.

¹⁵ Section 401.23(1), F.S.

¹⁶ Section 401.25(7)(b), F.S.

¹⁷ *Id.*

¹⁸ Section 401.26, F.S.

DOH Rule 64J-1.001, Florida Administrative Code, defines a “certificate of public convenience and necessity” as “a written statement or document, issued by the governing board of a county, granting permission for an applicant or licensee to provide services authorized by a license issued under ch. 401, part III, F.S., for the benefit of the population of that county or the benefit of the population of some geographic area of that county. No certificate of public need from one county may interfere with the prerogatives asserted by another county regarding certificate of public need.”

Insurance Requirement

Section 401.25(2)(c), F.S., requires an applicant for licensure as a basic life support service or an advanced life support service to furnish evidence of adequate insurance coverage for claims arising out of injury to or death of persons and damage to the property of others resulting from any cause that the owner of such service would be liable. In lieu of such insurance, the applicant may furnish a certificate of self-insurance evidencing that the applicant has established an adequate self-insurance plan to cover such risks and that the plan has been approved by the Office of Insurance Regulation of the Financial Services Commission.

DOH Rule 64J-1.002, Florida Administrative Code, requires each non-government-operated ground ambulance vehicle to be insured for the sum of at least \$100,000 for injuries to or death of any one person arising out of any one accident; the sum of at least \$300,000 for injuries to or death of more than one person in any one accident; and, for the sum of at least \$50,000 for damage to property arising from any one accident. The rule requires government operated service vehicles to be insured for the sum of at least \$100,000 for any claim or judgment and the sum of \$200,000 total for all claims or judgments arising out of the same occurrence.

Some counties and municipal governments throughout the state have minimum insurance limits within their ordinances that exceed those required by the DOH rule.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 316.003, F.S., to define the term “volunteer ambulance services” for purposes of ch. 316, F.S., as a faith-based, not-for-profit corporation (registered under ch. 617, F.S.) that is licensed as a basic life support service or an advanced life support service and that has no for-profit subsidiaries, uses volunteers to provide services, is not operating for pecuniary profit or financial gain, and does not distribute to or inure to the benefit of its directors, members, or officers, any part of its assets or income.”

The bill expands the definition of the term “authorized emergency vehicles” to include volunteer ambulance services that are designated or authorized by the chief of police of an incorporated city or any sheriff of any of the various counties, for purposes of ch. 316, F.S.

A volunteer ambulance services vehicle that qualifies as an authorized emergency vehicle under the bill may disregard specified traffic laws and ordinances when responding to an emergency (pursuant to s. 316.072, F.S.) and may operate emergency lights and sirens that signal to the drivers of every other vehicle to yield the right of way to the emergency vehicle and to steer to the edge of the roadway when the authorized emergency vehicle is in motion, or to slow their speed and vacate the lane closest to the emergency vehicle, in accordance with s. 316.126, F.S.

Section 2 of the bill amends s. 316.072, F.S., to authorize a medical staff physician or technician of a volunteer ambulance service when responding to an emergency in the line of duty in his or her privately owned vehicle and using red lights (as authorized in s. 316.2398, F.S., as amended by section 4 of the bill) to disregard specified traffic laws and ordinances. Under those conditions, and unless otherwise directed by a police officer, a medical staff physician or a technician of the volunteer ambulance service (and the driver of a volunteer ambulance service that meets the definition of an “authorized emergency vehicle”) may:

- Park or stand, regardless of traffic laws or ordinances.
- Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.
- Exceed the maximum speed limits, so long as the driver does not endanger life or property.
- Disregard regulations governing direction or movement or turning in specified directions, so long as the driver does not endanger life or property.

The driver has a duty to drive with due regard to the safety of all persons. The driver is not protected from the consequences of his or her reckless disregard for the safety of others.

Section 3 of the bill amends s. 316.2397, F.S., to authorize vehicles of medical staff physicians or a technician of a volunteer ambulance service, as authorized by s. 316.2398, F.S., as amended by section 4 of the bill, to show or display red lights. The bill authorizes ambulances and emergency service vehicles of volunteer ambulance services, as designated or authorized by the chief of police of an incorporated city or any sheriff of any county, to operate emergency lights and sirens in an emergency.

Section 4 of the bill amends s. 316.2398, F.S., to authorize a privately owned vehicle belonging to a medical staff physician or a technician of a volunteer ambulance service to show or display or use red warning signals while responding to an emergency. The red warning signals must be visible from the front and from the rear of the vehicle. No more than two red or red and white warning signals may be displayed on the vehicle. No inscription of any kind may appear across the face of the lens of the red or red and white warning signal. The bill prohibits the medical staff physician or technician from operating the red warning signals except when responding to an emergency in the line of duty. Any violation of this section of statute is a nonmoving violation, punishable as provided in ch. 318, F.S.

Section 5 of the bill amends s. 401.211, F.S., to provide a legislative finding that it is in the public interest to foster the development of emergency medical services that address religious sensitivities and to recognize, in accordance with the Florida Volunteer and Community Service Act of 2001, the value of augmenting existing county and municipal emergency medical services with those provided by volunteer service organizations.

Section 6 of the bill amends s. 401.23, F.S., to define the term “volunteer ambulance service” for purposes of part III of ch. 401, F.S.

“Volunteer ambulance service” which is defined to mean a faith-based, not-for-profit corporation (registered under ch. 617, F.S.) that is licensed by the DOH as a basic life support service or an advanced life support service and that has no for-profit subsidiaries, uses volunteers to provide

services, is not operating for pecuniary profit or financial gain, and does not distribute to or inure to the benefit of its directors, members, or officers any part of its assets or income.

Section 7 of the bill amends s. 401.25, F.S., to exempt a first responder agency¹⁹ that is a faith-based, not-for-profit corporation (registered under ch. 617, F.S.) that has been operating in this state for at least 10 consecutive years, has no for-profit subsidiaries, uses volunteers to provide services, is not operating for pecuniary profit or financial gain, and does not distribute to or inure to the benefit of its directors, members, or officers any part of its assets or income, from needing to obtain a certificate of public convenience and necessity to be licensed as a basic life support service or as an advanced life support service.

The bill prohibits a county or municipal government from:

- Limiting, prohibiting, or preventing a volunteer ambulance service from responding to an emergency or from providing emergency medical services or transport within its jurisdiction.
- Requiring a volunteer ambulance service to obtain a license or a certificate or pay a fee to provide ambulance or air ambulance services within its jurisdiction, except that a county or municipal government may impose, collect, or enforce payment of any occupational license tax authorized by law.

Section 8 of the bill amends s. 316.306, F.S., to conform a cross-reference.

Section 9 of the bill takes effect on July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

¹⁹ Section 401.435(2), F.S., “First responder agency” includes a law enforcement agency, a fire service agency not licensed under this part, a lifeguard agency, and a volunteer organization that renders, as part of its routine functions, on-scene patient care before emergency medical technicians or paramedics arrive.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The bill defines the term “volunteer ambulance service” as a certain faith-based, not-for-profit corporation. Other areas of the statutes²⁰ suggest that not all volunteer organizations providing ambulance services are faith-based. The terminology used in the bill could be misleading and an amendment should be considered to define these entities as “faith-based volunteer ambulance services.” It is unclear from the definition provided (and in line 230 pertaining to an exemption for certain first responder agencies) if *only* volunteers may be used to provide services.

VII. Related Issues:

The bill authorizes medical staff physicians and technicians of certain faith-based volunteer ambulance services to use red lights and warning signals and to disregard specified traffic laws and ordinances while responding to an emergency in their privately owned vehicles. The bill does not authorize these individuals to carry a permit or any identifiable means of verification, such as required for an active volunteer firefighter. For an active volunteer firefighter to display such red or red and white warning signals on his or her vehicle, s. 316.2398, F.S., requires the volunteer firefighter to secure a written permit from the chief executive officer of the firefighting organization to use the red or red and white warning signals, and to carry the permit at all times while the red or red and white warning signals are displayed. A volunteer firefighter who violates that section must be dismissed from the firefighting organization by the organization’s chief executive officer. The bill does not create a similar requirement for a medical staff physician or a technician of a volunteer ambulance service. This could present challenges for law enforcement at the local, state, and federal levels.

The bill may also present challenges for a county or municipal government (especially during a disaster or mass casualty event) because a volunteer ambulance service is not required to report to or communicate with the county or municipal government. The county or municipal government would have no ability to respond or control the scene in terms of traffic management and staging areas.

²⁰ See s. 401.121, F.S.

Some counties and municipal governments have adopted ordinances requiring basic and advanced life support services to carry insurance in excess of what is required by the DOH rule.²¹ This requirement does not apply to volunteer ambulance services within its jurisdiction. Changes made to s. 401.25, F.S., in section 7 of the bill could be interpreted to prevent the enforcement of such ordinances.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.003, 316.072, 316.2397, 316.2398, 316.306, 401.211, 401.23, and 401.25.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health Policy on March 10, 2021:

The CS corrects technical deficiencies in the underlying bill regarding the licensure of basic and advanced life support services that are currently licensed by the DOH under part III of chapter 401, F.S., and clarifies that volunteer ambulance services must be licensed as basic or advanced life support services. The CS removes the definition of the term “volunteer first responder agency.”

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

²¹ See Section II of this analysis.