1988

Session Law 88-405

Florida Senate & House of Representatives

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A bill to be entitled
An act relating to uniform traffic control;
amending s. 316.211, F.S.; exempting certain
motorcycle riders from existing safety
equipment requirements; amending s. 322.07,
F.S.; clarifying language with respect to
instruction permits and temporary licenses;
amending s. 322.16, F.S.; providing clarifying
language; exempting motorcycle and moped riders
from certain restrictions; providing an
effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (3) of section 316.211, Florida
Statutes, is amended to read:

316.211 Equipment for motorcycle riders.--
(3) This section shall not apply to persons riding
within an enclosed cab or to any person operating or riding
upon a motorcycle powered by a motor with a displacement of 50
cubic centimeters or less or is rated not in excess of 2 brake
horsepower and which is not capable of propelling such
motorcycle at a speed greater than 30 miles per hour on level
ground.

Section 2. Subsection (1) of section 322.07, Florida
Statutes, is amended to read:

322.07 Instruction permits and temporary licenses.--
(1) Any person who, except for his lack of instruction
in operating a motor vehicle, would otherwise be qualified to
obtain an operator's license under this chapter, may apply for
a temporary instruction permit, and the department shall issue

CODING: Words struck are deletions; words underlined are additions.
such permit entitling the applicant, while having such permit in his immediate possession, to drive a motor vehicle upon the highways for a period of 90 days, but, except when operating a motorcycle as defined in s. 316.003(22) or moped as defined in s. 316.003(77), such person must be accompanied by a licensed operator or chauffeur who is actually occupying a seat beside the driver.

Section 3. Paragraphs (b) and (e) of subsection (2) of section 322.16, Florida Statutes, are amended to read:

322.16 Restricted licenses.--

(2) The department may issue a nonrenewable restricted operator's license, provided that:

(b) Any person holding a restricted operator's license when operating a motor vehicle, other than a motorcycle as defined in s. 316.003(22) when such licensee is 16 years of age or older or other than a moped as defined in s. 316.003(77), shall be accompanied at all times by a licensed operator or chauffeur who is not less than 18 years of age and who is actually occupying the front seat beside such restricted operator;

(e) A restricted operator under 16 years of age shall not be permitted to rent a motorcycle as defined in s. 316.003(22) or moped as defined in s. 316.003(77) or other motor-driven vehicle-the-operation-of-which-does-not-require that-such-restricted-operator-be-accompanied-by-a-licensed operator-or-chauffeur-under-this-section.

Section 4. This act shall take effect upon becoming a law.

CODING: Words stricken are deletions; words underlined are additions.
TO: Chairman, Committee on Transportation

Subcommittee on Highway Safety and Motor Vehicles
Date of Meeting April 26, 1988
Time 3:30 p.m
Place 214 Capitol

FINAL ACTION:  x  Favorable
                ___ Favorable with Amendments
                ___ Favorable with Proposed Substitute
                ___ Unfavorable

VOTE:

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Total Yeas 5
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APPEARANCE RECORD

The following persons (other than legislators) appeared before the subcommittee during the consideration of this bill:

Name
Jay Edelberg, M.D

Representing
American College of Emergency Physicians

Address
5906 Saxony Woods Ln

Note: Please indicate by an "X" any State employee appearing at the request of the Chairman.

Received by Parent Committee: ____________________________

Date: ____________________________

Received by: ____________________________

H-74(1988) (ATTACH TO FULL COMMITTEE REPORT WHEN FILED WITH THE CLERK)
I. SUMMARY:

This bill would exempt from the requirement of wearing protective headgear and eye protective devices, any person operating or riding upon a motorcycle powered by a motor which with a displacement of 50 cubic centimeters or less or is not rated in excess of two brake horsepower, and that is not capable of propelling the vehicle at a speed greater than 30 miles per hour. These small motorcycles generally have the same characteristics as mopeds, riders of which are not subject to protective headgear devices.

A. PRESENT SITUATION:

Currently s. 316.211, F.S., provides that any person operating or riding upon a motorcycle is required to wear protective headgear and eye protective devices which comply with standards set by the Department of Highway Safety & Motor Vehicles (DHSMV). A motorcycle is defined in s.316.003(22), F.S., as any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground. This definition includes small motorcycles, which generally have the same power characteristics and maximum attainable speeds as mopeds. Frequently, the only difference between a small motorcycle and a moped is the existence of pedals on the moped, however, the requirement to wear protective headgear and eye protection does not apply to moped riders.

A moped is defined in s.316.003(77), F.S., as any vehicle with pedals to permit propulsion by human power, having a seat or saddle for the use of the rider and designed to travel on not more than three wheels; with a motor rated not in excess of two brake horsepower and not capable of propelling the vehicle at a speed greater than 30 miles per hour.
hour on level ground; and with a power-drive system that functions directly or automatically without clutching or shifting gears by the operator after the drive system is engaged. If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters.

Section 322.07, F.S., provides for the issuance of temporary instruction permits to drivers, including motorcycle and moped operators and s.322.16, F.S., also provides for the issuance of restricted licenses to motorcycle and moped operators. The lack of definitional references to Chapter 316 for motorcycles referenced in these sections has resulted in the requirement that small motorcycles must comply with licensing restrictions that other motorcycles are exempt from. Also, the term "moped" is not defined in Chapter 322, Florida Statutes.

B. EFFECT OF PROPOSED CHANGES:

This bill would amend s.316.211, F.S., removing the requirement for any person operating or riding upon a motorcycle that is powered by a motor with a displacement of 50 cubic centimeters or less or that is not rated in excess of two brake horsepower and that is not capable of propelling the vehicle at a speed greater than 30 miles per hour from wearing protective headgear. The effect of this change is to provide for uniform protective headgear and eye protection requirements for small motorcycles having the same power characteristics and top speed limitations that mopeds presently possess where the primary difference between both types of vehicles is the existence of pedals on the mopeds.

The bill would also amend s.322.07, F.S., and s.322.16, F.S., to add definitional references to Chapter 316 for the motorcycle and moped terms used in these sections. The motorcycle reference is s.316.003(22), F.S. and the moped reference is s.316.003(77), F.S. In addition, obsolete language relating to motor driven vehicles would be deleted from ss.322.16(2)(e), F.S.

C. SECTION-BY-SECTION ANALYSIS:

This bill only has four sections. See "Effect of Proposed Changes" above.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

None
2. Recurring or Annualized Continuation Effects:
   None

3. Long Run Effects Other Than Normal Growth:
   None

4. Appropriations Consequences:
   None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

   1. Non-recurring or First Year Start-Up Effects:
      None

   2. Recurring or Annualized Continuation Effects:
      None

   3. Long Run Effects Other Than Normal Growth:
      None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

   1. Direct Private Sector Costs:
      None.

   2. Direct Private Sector Benefits:
      None.

   3. Effects on Competition, Private Enterprise, and Employment Markets:

      Indeterminate. Persons operating small motorcycle rental businesses may be positively impacted by the bill. Since motorcycle helmets would not be required to be worn by persons renting these small motorcycles, the rental demand for this type of motorcycle may increase. Also, persons operating small motorcycle rental businesses would not be required to maintain an inventory of protective headgear for small motorcycle renters.

D. FISCAL COMMENTS:

   None
III. LONG RANGE CONSEQUENCES:

None

IV. COMMENTS:

None

V. AMENDMENTS:

None

VI. SIGNATURES:

SUBSTANTIVE COMMITTEE:
Prepared by: Randy Lenczyk

[Signature]

FINANCE & TAXATION:
Prepared by:

APPROPRIATIONS:
Prepared by:

Staff Director: Bob Romig

[Signature]
I. SUMMARY:

This bill would exempt from the requirement of wearing protective headgear and eye protective devices, any person operating or riding upon a motorcycle powered by a motor with a displacement of 50 cubic centimeters or less or not rated in excess of two brake horsepower, and that is not capable of propelling the vehicle at a speed greater than 30 miles per hour. These small motorcycles generally have the same characteristics as mopeds, riders of which are not subject to protective headgear devices.

A. PRESENT SITUATION:

Currently s. 316.211, F.S., provides that any person operating or riding upon a motorcycle is required to wear protective headgear and eye protective devices which comply with standards set by the Department of Highway Safety & Motor Vehicles (DHSMV). A motorcycle is defined in s.316.003(22), F.S., as any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground. This definition includes small motorcycles, which generally have the same power characteristics and maximum attainable speeds as mopeds. Frequently, the only difference between a small motorcycle and a moped is the existence of pedals on the moped, however, the requirement to wear protective headgear and eye protection does not apply to moped riders.

A moped is defined in s.316.003(77), F.S., as any vehicle with pedals to permit propulsion by human power, having a seat or saddle for the use of the rider and designed to travel on not more than three wheels; with a motor rated not in excess of two brake horsepower and not capable of
propelling the vehicle at a speed greater than 30 miles per hour on level ground; and with a power-drive system that functions directly or automatically without clutching or shifting gears by the operator after the drive system is engaged. If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters.

Section 322.07, F.S., provides for the issuance of temporary instruction permits to drivers, including motorcycle and moped operators and s.322.16, F.S., also provides for the issuance of restricted licenses to motorcycle and moped operators. The lack of definitional references to Chapter 316 for motorcycles referenced in these sections has resulted in the requirement that small motorcycles must comply with licensing restrictions that other motorcycles are exempt from. Also, the term "moped" is not defined in Chapter 322, Florida Statutes.

B. EFFECT OF PROPOSED CHANGES:

This bill would amend s.316.211, F.S., removing the requirement for any person operating or riding upon a motorcycle that is powered by a motor with a displacement of 50 cubic centimeters or less or that is not rated in excess of two brake horsepower and that is not capable of propelling the vehicle at a speed greater than 30 miles per hour from wearing protective headgear. The effect of this change is to provide for uniform protective headgear and eye protection requirements for small motorcycles having the same power characteristics and top speed limitations that mopeds presently possess where the primary difference between both types of vehicles is the existence of pedals on the mopeds.

The bill would also amend s.322.07, F.S., and s.322.16, F.S., to add definitional references to Chapter 316 for the motorcycle and moped terms used in these sections. The motorcycle reference is s.316.003(22), F.S. and the moped reference is s.316.003(77), F.S. In addition, obsolete language relating to motor driven vehicles would be deleted from ss.322.16(2)(e), F.S.

C. SECTION-BY-SECTION ANALYSIS:

This bill only has four sections. See "Effect of Proposed Changes" above.
II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:
   None

2. Recurring or Annualized Continuation Effects:
   None

3. Long Run Effects Other Than Normal Growth:
   None

4. Appropriations Consequences:
   None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:
   None

2. Recurring or Annualized Continuation Effects:
   None

3. Long Run Effects Other Than Normal Growth:
   None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:
   None.

2. Direct Private Sector Benefits:
   None.

3. Effects on Competition, Private Enterprise, and Employment Markets:
   Indeterminate. Persons operating small motorcycle rental businesses may be positively impacted by the bill. Since motorcycle helmets would not be required to be worn by persons renting these small motorcycles, the rental demand for this type of motorcycle may increase. Also, persons operating small motorcycle rental businesses would not be required to maintain an
inventory of protective headgear for small motorcycle renters.

D. FISCAL COMMENTS:

None

III. LONG RANGE CONSEQUENCES:

None

IV. COMMENTS:

None

V. AMENDMENTS:

The Committee on Transportation adopted an amendment that would amend s.316.211, F.S., to require persons under 16 years of age to wear protective headgear while operating or riding on a moped, or on a motorcycle with an engine displacement of 50 cubic centimeters or less or an engine that is rated at two brake horsepower or less which is not capable of propelling the motorcycle at a speed greater than 30 miles per hour on level ground.

The Committee then reported the bill favorably with this amendment and a title amendment.

VI. SIGNATURES:

SUBSTANTIVE COMMITTEE:
Prepared by: Randy Lenczyk

FINANCE & TAXATION:
Prepared by:

APPROPRIATIONS:
Prepared by:

Staff Director: Bob Romig

Staff Director:

Staff Director:

Staff Director:
The Committee on Transportation offered the following amendment:

Amendment

On page 1, lines 15-24, strike all of said lines and insert:

Section 1. Subsection (4) of section 316.211, Florida Statutes is renumbered as subsection (5), subsection (3) of said section is amended, and a new subsection (4) is added to said section to read:

316.211 Equipment for motorcycle and moped riders.--

(3) This section shall not apply to persons riding within an enclosed cab or to any person 16 years of age or older who is operating or riding upon a motorcycle powered by a motor with a displacement of 50 cubic centimeters or less or is rated not in excess of 2 brake horsepower and which is not capable of propelling such motorcycle at a speed greater than 30 miles per hour on level ground.

(4) No person under 16 years of age shall operate or ride upon a moped unless he is properly wearing protective headgear securely fastened upon his head which complies with standards established by the department.
The Committee on Transportation offered the following title amendment:

Amendment
On page . . . , line . . . ,
after the semicolon
insert:

requiring persons under 16 years of age to comply with existing safety equipment requirements while riding upon certain motorcycles or upon mopeds;
I. SUMMARY:

This bill exempts persons 16 years of age or older who are operating or riding on small motorcycles from the requirement of wearing protective headgear and eye protective devices. However, the bill requires persons under 16 years of age to wear protective headgear while operating or riding upon a moped. The bill allows motorcycle operators to wear headsets in their helmets provided the headset speakers do not touch the user's ears. In addition, the bill revises the present statewide motorcycle safety education program, and authorizes the development of a comprehensive traffic safety education program for kindergarten through grade six.

SECTION-BY-SECTION ANALYSIS:

SECTION 1. K-6 COMPREHENSIVE TRAFFIC SAFETY PROGRAM

A. PRESENT SITUATION:

Currently, there is no state-adopted elementary level traffic safety education program in Florida. Traffic safety education is at the option of each school district. In districts which provide traffic safety education, it is generally taught at the elementary school level in health or physical education classes.

Section 230.2319(4), F.S., provides that physical education programs in grade 4 may include bicycle safety training which includes both classroom and on-bike instruction.
B. EFFECT OF PROPOSED CHANGES:

This bill provides for the implementation of a kindergarten through grade six comprehensive traffic safety program that will provide specific early developmental skills in walking, bicycling, school bus safety, use of mass transit, and early motor vehicle safety awareness training. The program is to be centered in the State Bicycle and Pedestrian Program of the Department of Transportation (DOT), although beginning with the 1991-92 school year, the program is to be located within the Department of Education (DOE). The bill authorizes the DOE to contract with a university within the State University System for a development team to provide a K-6 traffic skills development course, an instructor's training course, and all needed video, slide, workbook, curriculum, and associated training aids and materials for students and instructors.

SECTIONS 2-5. MOTORCYCLE HELMET LAW REVISION

A. PRESENT SITUATION:

Currently, s.316.211, F.S., provides that any person operating or riding upon a motorcycle is required to wear protective headgear and eye protective devices which comply with standards set by the Department of Highway Safety & Motor Vehicles (DHSMV). A motorcycle is defined in s.316.003(22), F.S., as any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground. This definition includes small motorcycles, which generally have the same power characteristics and maximum attainable speeds as mopeds. Frequently, the only difference between a small motorcycle and a moped is the existence of pedals on the moped, however, the requirement to wear protective headgear and eye protection does not apply to moped riders.

A moped is defined in s.316.003(77), F.S., as any vehicle with pedals to permit propulsion by human power, having a seat or saddle for the use of the rider and designed to travel on not more than three wheels; with a motor rated not in excess of two brake horsepower and not capable of propelling the vehicle at a speed greater than 30 miles per hour on level ground; and with a power-drive system that functions directly or automatically without clutching or shifting gears by the operator after the drive system is engaged. If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters.

Section 316.304, F.S., prohibits any person from operating a vehicle while wearing a headset, headphone, or other listening device, other than a hearing aid or instrument for the improvement of human hearing. Subsection (2) of this section allows the driver of a motorcycle to use a headset solely for the purpose of communicating with a passenger on his vehicle or
communicating by radio with other vehicles. Only headsets designed, manufactured, and approved for these purposes may be used, providing the headsets are worn so as to prevent the speakers from making direct contact with the user's ears.

Section 322.07, F.S., provides for the issuance of temporary instruction permits to drivers, including motorcycle and moped operators and s.322.16, F.S., provides for the issuance of restricted licenses to motorcycle and moped operators. The lack of definitional references to Chapter 316 for motorcycles referenced in these sections has resulted in the requirement that small motorcycles must comply with licensing restrictions that other motorcycles are exempt from. Also, the term "moped" is not defined in Chapter 322, Florida Statutes.

B. EFFECT OF PROPOSED CHANGES:

Section 2 amends s.316.211, F.S., to provide for uniform protective headgear and eye protection requirements for small motorcycles having the same power characteristics and top speed limitations that mopeds presently possess where the primary difference between both types of vehicles is the existence of pedals on the mopeds. Specifically, the amended section will exempt any person who is 16 years of age or older while operating or riding upon a motorcycle that is powered by a motor with a displacement of 50 cubic centimeters or less or that is not rated in excess of two brake horsepower and that is not capable of propelling the vehicle at a speed greater than 30 miles per hour, from wearing protective headgear. The bill also adds a new subsection to s.316.211, F.S., requiring persons under 16 years of age to wear protective headgear while operating or riding on a moped.

Section 3 amends s.316.304, F.S., authorizing motorcycle operators to wear headsets, provided that the headsets are installed and worn so the speakers do not make direct contact with the user's ears in order that the user may hear surrounding sounds.

Section 4 amends s.322.07(1), F.S., providing definitional references to Chapter 316, F.S., for the motorcycle and moped terms used in this section. The motorcycle reference is s.316.003(22), F.S. and the moped reference is s.316.003(77), F.S.

Section 5 amends s. 322.16(2), F.S., providing definitional references for the motorcycle and moped terms used in this subsection; and deleting unnecessary and obsolete language from the subsection.
A. PRESENT SITUATION:

Currently, s.322.026, F.S., establishes the Florida Motorcycle Safety Education Program, which is administered by the DHSMV. This section requires every first-time applicant for licensure to operate a motorcycle to complete a motorcycle safety education course prior to licensing. The present course is a 4-hour course conducted by the National Safety Council. A reasonable fee set by the DHSMV is charged for these courses, however, every applicant is reimbursed upon completion of the course. This fee is reported to vary from $15-25 depending on the course location. Funds for these reimbursements are established in s.322.025, F.S., which requires that the $2.50 fee collected pursuant to s.320.08(1)(d), F.S., be deposited into the Accident Reports Trust Fund to be used for the program established in s.322.026, F.S.

B. EFFECT OF PROPOSED CHANGES:

Section 6 amends s.322.025, F.S., providing reference to s.322.0255, F.S., created under Section 7 of the bill, regarding funding of the program; and removing a provision from the section that presently authorizes the funding of other driver improvement programs with any surplus funds that may be available from the Motorcycle Safety Education Program.

Section 7 creates s.322.0255, F.S., effective January 1, 1989, providing that the DHSMV establish a revised statewide Motorcycle Safety Education Program, requiring the DHSMV to establish the revised program effective January 1, 1989. The new program will be funded as currently provided in ss.320.08, F.S., and 322.025, F.S. The Department is required to establish and administer motorcycle safety courses and to prescribe the curricula and qualifications for certification of all instructors. The courses must include a minimum of 12 hours of actual instruction, at least 6 hours of which must be "on-cycle" training. Beginning January 1, 1989, all first-time applicants for licensure to operate a motorcycle who are under 21 years of age will be required to successfully complete the course prior to being authorized to operate a motorcycle. Every organization must be approved by the DHSMV before it may provide motorcycle safety education courses to the public and the DHSMV is authorized to enter into agreements with approved organizations to provide the courses. Subject to the availability of funds, the DHSMV is authorized to reimburse each course provider an amount not to exceed $50 for each student who successfully completes the course, including any student not required to attend the course prior to licensure as required in s.322.12, F.S. The DHSMV is to determine the amount to be reimbursed to each course provider based on the expected cost per student that is submitted by each course provider. In addition to the amount of any reimbursement, course providers may charge a tuition fee...
to defray the cost of conducting the course and are also authorized to charge a registration fee not to exceed $20. The registration fee, however, must be refunded to the student upon completion of the course.

Section 8 amends s. 322.12, F.S., requiring that effective January 1, 1989, that every first-time applicant for licensure to operate a motorcycle who is under 21 years of age shall be required to provide proof of completion of a motorcycle safety education course as provided in s.322.0255, F.S.

Section 9 repeals s.322.026, F.S., the current statewide Motorcycle Safety Education Program.

SECTION 10. Provides an effective date upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:
   (See Fiscal Comments)

2. Recurring or Annualized Continuation Effects:
   (See Fiscal Comments)

3. Long Run Effects Other Than Normal Growth:
   None

4. Appropriations Consequences:
   (See Fiscal Comments)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:
   None

2. Recurring or Annualized Continuation Effects:
   None

3. Long Run Effects Other Than Normal Growth:
   None
C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Persons who are required to attend motorcycle safety education courses may be required to pay registration fees and tuition fees. The total cost to the public is unknown.

2. Direct Private Sector Benefits:

The educational programs implemented in the bill may improve the knowledge and skill levels of persons who receive the educational training.

3. Effects on Competition, Private Enterprise, and Employment Markets:

A. Persons operating small motorcycle rental businesses may be positively impacted by the bill. Since persons who are at least 16 years of age would not be required to wear helmets on small motorcycles, the rental demand for this type of motorcycle may increase.

B. Implementation of the revised Motorcycle Safety Education Program beginning January 1, 1989, may increase the demand for the type of courses required in the bill.

D. FISCAL COMMENTS:

Section 1: K-6 Comprehensive Traffic Safety Program

Implementation of the K-6 traffic safety program would be expected to cost the state a total of $700,000 for FY 1988-89, $500,000 for FY 1989-90, and $500,000 for FY 1990-91 which would be appropriated from the General Revenue Fund. These appropriation amounts were part of HB 467, the original K-6 traffic safety program bill, as the bill was initially filed.

Sections 6-9: Motorcycle Safety Education Program

According to the Department, the present FY 1988-89 budget for the Motorcycle Safety Education Program is $480,978, while the estimated annual revenue from the $2.50 fee placed on motorcycles and mopeds is $559,538. A substantial portion of the program budget is designated for reimbursement of course providers. Reimbursement to these course providers ranges from $15 to $25 per applicant. The Department expects that although the fee paid to every course provider for each applicant would increase to a maximum of $50, the number of persons requesting the course should decrease due to the removal of the mandatory requirement for all first-time applicants who are 21 years of age.
III. LONG RANGE CONSEQUENCES:

None

IV. COMMENTS:

A. House Bill 467 amended Section 1 of HB 429 changing the program commencement date for the K-6 traffic safety education program from the 1991-92 school year to July 1, 1991, and authorizing the DOT to contract with a university in the State University System to assist in the development and implementation of the program.

B. Legislative History:

1. Enacted Bill:

   Subcommittee on Highway Safety & Motor Vehicles: The Subcommittee reported the bill favorably.

   Committee on Transportation: The Committee amended the bill to require persons under 16 years of age to wear protective headgear while operating or riding on a moped or on a motorcycle with an engine displacement of 50 cubic centimeters or less or with an engine that is rated at two brake horsepower or less which is not capable of propelling the motorcycle at a speed greater than 30 miles per hour on level ground. The bill was then reported favorably as amended.

   House Chamber: The House adopted the Transportation Committee amendment and amended the bill further to allow motorcyclists to wear headsets under certain circumstances; to revise the Motorcycle Safety Education Program; and to provide for a comprehensive K-6 traffic safety education program. The bill was passed as amended.

   Senate Chamber: The Senate passed the bill as amended by the House.

2. Companion bill:

   SB 290 was laid on the table.
1. **SUMMARY:**

A. **Present Situation:**

Section 316.211, F.S., requires that any person operating or riding upon a motorcycle must wear protective headgear of a type approved by the Department of Highway Safety and Motor Vehicles and that anyone who operates a motorcycle must also wear an approved eye-protective device. Persons riding within an enclosed cab are exempt from these requirements.

Section 316.003(22) defines a motorcycle as "any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than 3 wheels in contact with the ground, but excluding a tractor or a moped."

Section 322.07, F.S., provides for the issuance of temporary instruction permits to any person who, except for his lack of instruction in operating a motor vehicle would otherwise be qualified to obtain a driver's license. Except when operating a motorcycle or moped, such person must be accompanied by a licensed driver who is actually occupying a seat beside the permit holder.

Section 322.16, F.S., provides for the issuance of restricted operator's licenses. Any person holding a restricted operator's license when operating a motor vehicle, other than a motorcycle or moped, must be accompanied at all times by a licensed driver who is not less than 18 years of age and who is actually occupying the front seat beside the restricted operator. The section also prohibits any restricted operator under the age of 16 from renting a motorcycle or moped which does not require that such restricted operator be accompanied by a licensed driver.

Section 322.01, F.S. defines a motorcycle as "any motor vehicle powered by a motor with a displacement of more than 50 cubic centimeters, having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor or a moped."

B. **Effect of Proposed Changes:**

The bill amends s. 316.211, F.S., to exempt from the requirement to wear protective headgear and eye-protective devices, any person operating or riding upon a motorcycle powered by a motor with a displacement of 50 cubic centimeters or less or rated not in excess of 2-brake horsepower and which is not capable of propelling such motorcycle at a speed greater than 30 miles per hour on level ground. The effect of this change is to place the riders of small motorcycles (50 c.c.'s or less) under the same requirements as moped riders (the only statutory difference between these types of vehicles is that mopeds must have pedals and an automatic transmission).
The bill amends s. 322.07, F.S., to provide that a person who has been issued a temporary instruction permit may operate a motorcycle, as defined in s. 316.003(22), without being accompanied by a licensed driver who is actually occupying a seat beside the permit holder.

The bill amends s. 322.16, F.S., to provide that any person, regardless of age, who has been issued a restricted license may operate a motorcycle, as defined in s. 316.003(22), or a moped without being accompanied by a licensed driver who is actually operating a seat beside the restricted operator.

The effect of the amendments to ss. 322.07 and 322.16, F.S., is to authorize persons who hold temporary instruction permits or restricted driver's licenses to operate motorcycles of 50 c.c.'s or less (such persons may already operate motorcycles of over 50 c.c.'s and mopeds).

Section 322.16, F.S., is also amended to provide that a restricted operator under 16 years of age would be prohibited from renting a motorcycle, as defined in s. 316.003(22), or a moped.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

Persons who operate small motorcycles (50 c.c.'s or less) would no longer be required to purchase helmets.

Persons who rent motorcycles or mopeds would be prohibited from renting them to persons under the age of 16.

B. Government:

None.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.
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<th>PRIME BILL NUMBER</th>
<th>TYPE OF BILL</th>
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<tr>
<td>88/H0429 *</td>
<td>general</td>
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**PRIME BILL TITLE (short title)**

Motorcycle & Moped Riders

**SIMILAR/IDENTICAL BILL SUBSTITUTED BY PRIME BILL:** 88/S0290

**DOCUMENTATION REPRODUCED**

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**NOTE:** Consult the Final Legislative Bill Information (from Joint Legislative Management Committee, Division of Legislative Information, 1988) for more detailed bill history data. If prime bill number above is followed by an asterisk (*), it was amended on the floor, and the staff analysis for that bill may not be in accordance with the enacted law. The analyses reproduced here were supplied by the appropriate committee, who is solely responsible for their accuracy and completeness.

**ADDITIONAL INFORMATION:**

(FRM 25-12/88)
A bill to be entitled
An act relating to uniform traffic control;
amending s. 316.211, F.S.; exempting certain
motorcycle riders from existing safety
equipment requirements; amending s. 322.07,
F.S.; clarifying language with respect to
instruction permits and temporary licenses;
amending s. 322.16, F.S.; providing clarifying
language; exempting motorcycle and moped riders
from certain restrictions; providing an
effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (3) of section 316.211, Florida
Statutes, is amended to read:

316.211 Equipment for motorcycle riders.--
(3) This section shall not apply to persons riding
within an enclosed cab or to any person operating or riding
upon a motorcycle powered by a motor with a displacement of 50
cubic centimeters or less or is rated not in excess of 2 brake
horsepower and which is not capable of propelling such
motorcycle at a speed greater than 30 miles per hour on level
ground.

Section 2. Subsection (1) of section 322.07, Florida
Statutes, is amended to read:

322.07 Instruction permits and temporary licenses.--
(1) Any person who, except for his lack of instruction
in operating a motor vehicle, would otherwise be qualified to
obtain an operator's license under this chapter, may apply for
a temporary instruction permit, and the department shall issue

CODING: Words stricken are deletions; words underlined are additions.
A bill to be entitled
An act relating to highway safety; amending s. 322.025, F.S.; clarifying provisions relating to driver improvement; amending s. 322.026, F.S.; revising provisions relating to the Florida Motorcycle Safety Education Program; prescribing curricula for motorcycle safety courses; providing for acquisition of materials and equipment by the Department of Highway Safety and Motor Vehicles; authorizing fees for such courses; authorizing community colleges or other organizations offering such courses to charge a refundable registration fee; providing for the establishment of the Motorcycle Advisory Council; providing for membership and compensation of the council; requiring completion of a motorcycle education course by specified first-time applicants for licensure to operate a motorcycle; revising provisions relative to such requirement; amending s. 322.12, F.S., providing for deposit of fees in the Accident Reports Trust Fund; providing for review and repeal; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 322.025, Florida Statutes, is amended to read:

322.025 Driver improvement.--The department may implement programs to improve the motorcycle driving ability of the drivers of this state. Such programs may include, but

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shall not be limited to, safety awareness campaigns, driver training, and licensing improvement. Driver improvement programs implemented pursuant to this section shall be funded by the motorcycle safety education fee collected pursuant to s. 320.0811(d), which shall be deposited in the Accident Reports Trust Fund of the department and appropriated for that purpose. Moneys deposited in the Accident Reports Trust Fund pursuant to this section shall first be appropriated to fund the Florida Motorcycle Safety Education Program mandated by s. 322.026, to the extent that such moneys are more than sufficient to fund this program, moneys shall be appropriated to fund other driver improvement programs.

Section 2. Section 322.026, Florida Statutes, is amended to read:

322.026 Florida Motorcycle Safety Education Program.-- (1) This section may be cited as the "Florida Motorcycle Safety Education Program Act."

(2) The department shall establish a Florida Motorcycle Safety Education Program. The program shall be funded as provided by ss. 322.025 and 320.08.

(3) The department shall establish and administer motorcycle safety courses. The curricula for such courses shall include, for all first-time applicants as defined in subsection (5), a minimum of 15 hours of instruction, to include at least 7 hours of actual motorcycle operation and the balance to include classroom training. For all other motorcycle riders, the curricula shall include a minimum of 8 hours of instruction, to include at least 4 hours of actual motorcycle operation and the balance to include classroom training be-prescribed-by-the-department. The department may adopt or include courses, curricula, or materials developed by CODING: Words stricken are deletions; words underlined are additions.
the Motorcycle Safety Foundation or by other traffic safety
groups. The department may purchase or otherwise obtain and
maintain the necessary materials and equipment, including, but
not limited to, motorcycles, storage sheds, helmets, audio-
visual equipment, and vans and trailers to transport such
equipment in order to conduct such courses.

(4) All instructors under the program shall be
certified by the department. The department shall prescribe
the qualifications for certification of instructors. The
department may adopt or include the qualifications specified
by the Motorcycle Safety Foundation and by other traffic
safety groups, and may recognize, for purposes of
certification, instructor training provided by the Motorcycle
Safety Foundation and by other traffic safety groups as
fulfilling the department's training requirements.

(5) The courses established by the program shall be
conducted by community colleges or other organizations
approved by the department. The department may enter into
agreements with community colleges or with other organizations
to provide for such courses. Such agreements shall include
provisions for compensation for the costs of conducting the
courses. If a community college or other organization which
has been conducting motorcycle safety courses pursuant to this
section discontinues such courses, title to and possession of
all property purchased by the community college or other
organization under this act shall pass to the department,
unless the department chooses to allow the community college
or other organization to retain title to and possession of
such property. Such courses shall be considered approved
driver improvement courses for purposes of s. 318.14(9), and
a reasonable fee set by the department may shall be charged

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1. For such driver improvement courses—of which fee shall be
2. returned upon completion of the course. Students may be
3. required to purchase insurance as required by the department.

(6) Every community college or other organization
conducting motorcycle safety courses pursuant to this section
or approved motorcycle driver improvement courses for purposes
of s. 318.1419 may charge each applicant a course
registration fee not to exceed $10, which fee shall be
returned upon completion of the course. Any fees not refunded
under this subsection shall be used for motorcycle safety
education purposes.

(7) The department may adopt rules to implement
this section. In adopting such rules the department shall
consider recommendations of the Motorcycle Advisory Council.
The council shall be appointed by the executive director of
the Department of Highway Safety and Motor Vehicles and shall
consist of seven members, one representing ABATE of Florida,
one representing the American Motorcycle Association, one
representing the Motorcycle Safety Foundation, one
representing the Motorcycle Industry Council, one representing
the National Safety Council, and one representing experienced
motorcycle instructors certified under this act. Members of
the advisory council shall serve without compensation but
shall be reimbursed by the department for reasonable expenses
incurred in the performance of their duties as provided in s.
112.061.

(8) On and after July 1, 1989, every first-time
applicant for licensure to operate a motorcycle who is under
the age of 18 years, and on and after July 1, 1990, every
first-time applicant for licensure to operate a motorcycle who
is under the age of 21 years or motor-driven-cycle shall be

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required to complete a motorcycle education course as established pursuant to this section. A "first-time applicant" is a person not holding a current motorcycle endorsement from any state or jurisdiction. Proof of completion of such education course shall be presented to the driver license examining office prior to such licensure to operate a motorcycle or motor-driven-cycle.

Section 3. Subsection (4) of section 322.12, Florida Statutes, is amended to read:

322.12 Examination of applicants.--
(4)(a) The department shall formulate a separate examination for applicants for licenses to operate motorcycles. Any applicant for a restricted operator's license, operator's license, or chauffeur's license who wishes to operate a motorcycle shall be required to successfully complete such examination, which shall be in addition to the examination administered pursuant to subsection (3). The examination shall test the applicant's knowledge of the operation of a motorcycle and of any traffic laws specifically relating thereto and, unless the person is applying for a restricted operator's license, shall include an actual demonstration of his ability to exercise ordinary and reasonable control in the operation of a motorcycle. In the formulation of the examination, the department shall consider the use of the Motorcycle Operator Skills Test and the Motorcycle in Traffic Test offered by the Motorcycle Safety Foundation. The department shall indicate on the license of any person who successfully completes such examination that the licensee is authorized to operate a motorcycle. If the applicant wishes to be licensed to operate a motorcycle only, he need not take the skill or road test required under

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subsection (3) for the operation of a motor vehicle, and the
department shall indicate such limitation on his license as a
restriction. On and after July 1, 1989 October 1, 1987, every
first-time applicant for licensure to operate a motorcycle who
is under the age of 18 years, and on and after July 1, 1990,
every first-time applicant for licensure to operate a
motorcycle who is under the age of 21 years or motor-driven
cycle shall be required to provide proof of completion of a
motorcycle safety course, as provided for in s. 322.026, prior
to such licensure to operate a motorcycle or motor-driven
cycle.

(b) Any person licensed to operate a motor vehicle may
apply to the department between October 1, 1983, and October
1, 1984, for authorization to operate a motorcycle without
being required to take the examination provided in this
subsection. The department shall indicate such authorization
upon the license of such applicant upon payment by the
applicant of a fee of $1 per year or portion thereof remaining
in the validity of the applicant's current license. Such fee
shall be deposited in the Accident Reports Trust Fund to
support the Florida Motorcycle Safety Education Program as provided in s. 322.026. The examination provided
in this subsection shall not be made a condition upon the
renewal of the license of any person under this paragraph.

(c) The department may exempt any applicant from the
examination provided in this subsection if the applicant
presents a certificate showing successful completion of a
course approved by the department, which course includes a
similar examination of the knowledge and skill of the
applicant in the operation of a motorcycle.
(d) No additional examination fee shall be assessed for the examination required by this subsection.

Section 4. Subsection (7) of s. 322.026, Florida Statutes, is repealed on October 1, 1998, and the Motorcycle Advisory Council shall be reviewed by the Legislature pursuant to s. 11.611, Florida Statutes.

Section 5. This act shall take effect upon becoming a law.

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HOUSE SUMMARY

Revises provisions relating to the Florida Motorcycle Safety Education Program. Prescribes curricula for motorcycle safety courses. Provides for acquisition of related materials and equipment by the Department of Highway Safety and Motor Vehicles. Authorizes fees for such courses. Authorizes community colleges or other organizations offering such courses to charge a refundable registration fee. Provides for the establishment of the Motorcycle Advisory Council and provides for membership and compensation of the council.

Requires completion of a motorcycle education course by specified first-time applicants for licensure to operate a motorcycle. Provides for deposit of fees in the Accident Reports Trust Fund.

This publication was produced at an average cost of 1.12 cents per single page in compliance with the Rules and for the information of members of the Legislature and the public.

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