

## Legislative Report

### TEXTING, DRIVING RE-EMERGES FOR 2016 SESSION

A South Florida Democrat on Monday filed a proposal that would toughen penalties for motorists who text while driving in school zones or at school crossings. The bill (HB 25), filed by Rep. Richard Stark, D-Weston, is an indication that lawmakers during the 2016 legislative session will again consider tightening restrictions on texting behind the wheel. Stark's bill calls for doubling fines for motorists who violate the state's texting-while-driving ban in the designated school areas. Though Florida has a texting-while-driving ban, some lawmakers contend it is not strong enough. In part, they have pushed unsuccessfully to make texting while driving a "primary" offense --- meaning police could pull over motorists who violate the ban. Under current law, it is considered a "secondary" offense. That means motorists can only be cited for texting while driving if they are stopped for other reasons

### SPECIAL SESSION IN OCTOBER FOR SENATE REDISTRICTING

July 28, 2015

Florida lawmakers will hold a special session in October to redraw Senate districts, Senate President Andy Gardiner and House Speaker Steve Crisafulli announced Tuesday afternoon. The special session is scheduled from Oct. 19 through Nov. 19 and stems from a Senate agreement with voting-rights groups that have challenged the constitutionality of the Senate districts. Lawmakers also are scheduled to hold a special session starting Aug. 10 to redraw congressional districts. The News Service will have a full report later Tuesday.

### APPEALS COURT UPHOLDS DOCTOR-PATIENT GUN LAW

By JIM SAUNDERS  
THE NEWS SERVICE OF FLORIDA

THE CAPITAL, TALLAHASSEE, July 28, 2015..... For the second time in little more than a year, a federal appeals court Tuesday upheld a controversial Florida law that restricts doctors from asking questions and recording information about patients' gun ownership.

The 2-1 decision by a panel of the 11th U.S. Circuit Court of Appeals was a victory for the National Rifle Association and other gun-rights advocates and a defeat for medical groups that argued, at least in part, that the law infringed on doctors' First Amendment rights.

The appeals court last July also upheld the 2011 law but issued a revised ruling Tuesday. After last year's decision, medical groups continued challenging the law, including asking for a rehearing before the entire Atlanta-based appeals court.

Dubbed the "docs vs. glocks" law, the measure includes a series of restrictions on doctors and other health providers. As an example, it seeks to prevent physicians from entering information about gun ownership into medical records if the physicians know the information is not "relevant" to patients' medical care or safety or to the safety of other people.

As another example, the law says doctors should refrain from asking about gun ownership by patients or family members unless the doctors believe in "good faith" that the information is relevant to medical care or safety. Also, the law seeks to prevent doctors from discriminating against patients or "harassing" them because of owning firearms.

A federal district judge in 2012 sided with opponents of the law and issued an injunction against it. But the appeals court last July and again Tuesday overturned the injunction.

"The purpose of the act, as we read it, is not to protect patient privacy by shielding patients from any and all discussion about firearms with their physicians; the act merely requires physicians to refrain from broaching a concededly sensitive topic when they lack any good-faith belief that such information is relevant to the medical care or safety of their patients or others," said the majority opinion, written by Judge Gerald Tjoflat and joined by Judge L. Scott Coogler.

But Judge Charles Wilson wrote a lengthy dissent arguing that the law violates the First Amendment rights of physicians.

"Simply put, the act is a gag order that prevents doctors from even asking the first question in a conversation about firearms," Wilson wrote. "The act prohibits or significantly chills doctors from expressing their views and providing information to patients about one topic and one topic only, firearms."

The Republican-dominated Legislature and Gov. Rick Scott approved the law after hearing accounts of doctors unnecessarily asking questions about gun ownership or even refusing to continue providing care if such questions were not answered.

In Tuesday's majority opinion, Tjoflat repeatedly pointed to instances in which doctors can continue justify asking about firearms, such as in the case of a patient considered at risk of suicide.

"Thus, a physician may make inquiries as to the firearms-ownership status of any or all patients, so long as he or she does so with the good-faith belief --- based on the specifics of the patient's case --- that the inquiry is relevant to the patient's medical care or safety, or the safety of others," the majority opinion said. "If, for example, the physician seeks firearm information to suit a personal agenda unrelated to medical care or safety, he or she would not be making a 'good-faith' inquiry, and so the act plainly directs him to refrain from inquiring."

But Wilson's dissent raised questions about whether the law stemmed from anecdotal incidents. He also argued that doctors should have the right to ask questions about guns in addressing the well-being of patients.

"There is nothing to suggest that the doctors' inquiries or messages regarding firearms were not genuinely believed to be in the patients' best medical interest when given," Wilson wrote. "But there is evidence in the legislative history to suggest that the harassment provision (of the law) is designed to prevent these conversations from taking place in the future. That is certainly the result it will achieve. Doctors will largely cease inquiring into and counseling on the topic of firearms, lest they be accused of crossing the line between providing life-saving preventive medical information and promoting an anti-firearm political agenda."

## Senate Passes Highway Bill

July 31, 2015

The United States Senate passed a robust, six-year highway bill as well as a three-month extension to current funding, reports the Motorcycle Riders Foundation (MRF). With a healthy bi-partisan majority of the Senate supporting the bill, the DRIVE act or Developing a Reliable and Innovative Vision for the Economy act, was passed off the floor by a vote of 65-34.

The legislation includes language that would end the federal funding of motorcycle-only roadside checkpoints as well as defining autocycles as their own class of vehicle

The bill now moves on to the House of Representatives where it will receive attention in the fall.

The Senate also passed a three-month extension to the current funding of transportation programs. That extension runs out just before Halloween, so the House is likely going to act before then.

. Bill managers, Environment and Public Works Committee Chairman Jim Inhofe (R-OK) and Ranking Member Barbara Boxer (D-CA) worked together to create the bipartisan majority needed to pass the bill, with approximately three quarters of the Republicans and slightly more than half of the Democrats (including Democrat-leaning Independents) voting in favor of it.

## NHTSA 2013 Motorcycle Safety Facts Report

Hey Everyone,

NHTSA recently released their 2013 Motorcycle safety Facts Report. I have extracted the main points but like we have know for a while the two biggest things that YOU can do to increase YOUR safety is NEVER drink and ride and don't drive faster than the road, weather, and YOUR skills allow.

## Key Findings

- In 2013, 4,668 motorcyclists were killed—a 6-percent decrease from the 4,986 motorcyclists killed in 2012
- There were an estimated 88,000 motorcyclists injured during 2013, a 5-percent decrease from 93,000 motorcyclist injured in 2012.
- Per vehicle mile traveled, motorcyclist fatalities occurred 26 times more frequently than passenger car occupant fatalities in traffic crashes.
- Twenty-five percent of motorcycle riders involved in fatal crashes in 2013 were riding their vehicles without valid motorcycle licenses
- In 2013, motorcycle riders involved in fatal crashes were found to have the highest percentage of alcohol impaired drivers than any other vehicle type (27% for motorcycles, 23% for passenger cars, 21% for light trucks, and 2% for large trucks).
- Forty percent of motorcycle riders who died in single-vehicle crashes in 2013 were alcohol-impaired. Motorcycle riders killed in traffic crashes at night were almost four times more frequently alcohol-impaired than those killed during the day.
- NHTSA estimates that helmets saved 1,630 motorcyclists' lives in 2013, and that 715 more could have been saved if all motorcyclists had worn helmets.
- In States without universal helmet laws, 59 percent of motorcyclists killed in 2013 were not wearing helmets, as compared to 8 percent in States with universal helmet laws.

### Registration

Motorcycles made up 3 percent of all registered vehicles in the United States in 2013 and accounted for only 0.7 percent of all vehicle miles traveled. Per registered vehicle, the fatality rate for motorcyclists in 2013 was 6 times the fatality rate for passenger car occupants. The injury rate for motorcyclists (1,052) was slightly higher than the injury rate for passenger car occupants (1,005). Per vehicle mile traveled in 2013, motorcyclist fatalities occurred 26 times more frequently than passenger car occupant fatalities in motor vehicle traffic crashes, and motorcyclists were nearly 5 times more likely to be injured

### Motorcycle Engine Size

Twenty-eight percent of motorcycle riders killed in motor vehicle traffic crashes in 2013 were riding motorcycles with engine sizes from 1,001 to 1,500 cubic centimeters (cc), down from 38 percent in 2004. In 2013, 17 percent of rider fatalities were while riding motorcycles with engine sizes of 1,501cc or higher, up from just 3 percent in 2004. Overall, the total number of rider fatalities increased 18 percent over the past decade from 3,713 in 2004 to 4,399 in 2013. The number of rider fatalities on motorcycles with engine sizes of 1,000cc or less showed an increase of 12 percent during this time period. Rider fatalities on motorcycles with engine sizes between 1,001 and 1,500cc decreased by 12 percent (from 1,415 to 1,239), while the number of riders on motorcycles 1,501cc or higher increased by over 500 percent (from 122 to 738).

### Crash Involvement

Data shows in 2013 that the most harmful event for 2,448 (51%) of the 4,774 motorcycles involved in fatal crashes was a collision with a motor vehicle in transport.

In two-vehicle crashes, 74 percent of the motorcycles involved in motor vehicle traffic crashes were frontal collisions. Only 6 percent were struck in the rear.

Motorcycles are more frequently involved in fatal collisions with fixed objects than other vehicles. In 2013, 22 percent of the motorcycles involved in fatal crashes collided with fixed objects, compared to 18 percent for passenger cars, 14 percent for light trucks, and 4 percent for large trucks.

In 2013, there were 2,182 two-vehicle fatal crashes involving a motorcycle and another type of vehicle. In 42 percent (922) of these crashes, the other vehicles were turning left while the motorcycles were going straight, passing, or overtaking other vehicles. Both vehicles were going straight in 456 crashes (21%).

## Speeding

NHTSA considers a crash to be speeding-related if the driver was charged with a speeding-related offense or if an investigating police officer indicated that racing, driving too fast for conditions, or exceeding the posted speed limit was a contributing factor in the crash. In 2013, 34 percent of all motorcycle riders involved in fatal crashes were speeding, compared to 21 percent for passenger car drivers, 18 percent for light-truck drivers, and 8 percent for large-truck drivers.

## Age

From 2004 to 2013, motorcyclist fatalities increased by 16 percent. The 40-and-older age group made up 46 percent of motorcyclist killed in 2004 as compared to 55 percent of the motorcyclist killed in 2013. Over the 10-year period from 2004–2013, fatalities among the 40-and-older age group increased by 39 percent (from 1,854 to 2,580). In 2004, the average age of motorcycle riders killed in motor vehicle traffic crashes was 38, whereas in 2013 the average age was 42.

Data further shows that in 2004 about 52 percent of motorcyclists were killed during weekends (6 p.m. Friday to 5:59 a.m. Monday). However, in 2013 the majority of motorcyclist were killed during the weekdays (6 a.m. Monday to 5:59 p.m. Friday).

## Licensing and Previous Driving Records

Twenty-five percent of motorcycle riders involved in fatal crashes in 2013 were riding their vehicles without valid motorcycle licenses at the time of the collisions, while only 13 percent of passenger vehicle drivers in fatal crashes did not have valid licenses. A valid motorcycle license includes a rider having a valid driver license (Non-CDL License Status) with a motorcycle endorsement or motorcycle-only license.

Motorcycle riders involved in fatal crashes were 1.2 times more frequently than passenger vehicle drivers to have previous license suspensions or revocations (17.9% and 14.7%, respectively).

Motorcycle riders had the highest percentage of drivers with previous driving convictions (driving while impaired (DWI), speeding, and revocation) as compared to other vehicle drivers.

## Alcohol

Drinking and driving has always been a concern. In 2013, there were 4,399 motorcycle riders killed in motor vehicle traffic crashes. Of those, 1,232 (28%) were alcohol-impaired (BAC of .08 or higher). In addition, there were 305 (7%) fatally injured motorcycle riders who had lower alcohol levels (BACs of .01 to .07 g/dL).

In fatal crashes in 2013, motorcycle riders involved (killed and survived) in fatal crashes had higher percentages of alcohol impairment than any other type of motor vehicle driver (27% for motorcycle riders, 23% for passenger car drivers, 21% for light-truck drivers, and 2% for drivers of large trucks).

The highest percentages of fatally injured, alcohol-impaired motorcycle riders were in the 40-to-44 and 45-to-49 age groups (40%), followed by the 35-to-39 age group (33%).

40 percent of the 1,897 motorcycle riders who died in single-vehicle crashes in 2013 were alcohol impaired. Sixty-three percent of those killed in single-vehicle crashes on weekend nights were alcohol impaired.

Motorcycle riders killed in traffic crashes at night were almost 4 times more frequently found to be alcohol-impaired than those killed during the day (46% and 12%, respectively).

The reported helmet use rate for alcohol-impaired motorcycle riders killed in traffic crashes was 46 percent as compared to 66 percent for those with no alcohol (BAC=.00 g/dL).

## Helmet Use and Effectiveness

NHTSA estimates that helmets saved the lives of 1,630 motorcyclists in 2013. If all motorcyclists had worn helmets, an additional 715 lives could have been saved.

Helmets are estimated to be 37-percent effective in preventing fatal injuries to motorcycle riders and 41 percent for motorcycle passengers. In other words, for every 100 motorcycle riders killed in crashes while not wearing helmets, 37 of them could have been saved had all 100 worn helmets.

According to results from the National Occupant Protection Use Survey (NOPUS), the overall rate of DOT-compliant motorcycle helmet use in the United States was 60 percent in 2013. Helmet use continued to be significantly higher in States that required all motorcyclists to be helmeted than in other States (see *Motorcycle Helmet Use in 2013—Overall Results*, DOT HS 812 010, available at [www-nrd.nhtsa.dot.gov/Pubs/812010.pdf](http://www-nrd.nhtsa.dot.gov/Pubs/812010.pdf)).

Reported helmet use rates for fatally injured motorcyclists in 2013 were 60 percent for riders and 49 percent for passengers, compared with 59 percent and 48 percent, respectively, in 2012. Conversely, 41 percent of the 4,668 motorcyclists killed in motor vehicle traffic crashes were not helmeted. Table 7 shows that these percentages ranged from a high of 93 percent (Maine) to a low of 0 percent (District of Columbia).

All motorcycle helmets sold in the United States are required to meet Federal Motor Vehicle Safety Standard 218, the performance standard which establishes the minimum level of protection for helmets designed for use by motorcyclists.

In 2013, 19 States, the District of Columbia, and Puerto Rico that required helmet use by all motorcyclists.

In 28 States, helmet use was required for only a subset of motorcyclists (typically, motorcyclists under age 18), and 3 States (Illinois, Iowa, and New Hampshire) did not require helmet use for motorcyclists of any age. The most current information on helmet use laws is available on the GHSA Web site at [www.ghsa.org/html/stateinfo/laws/helmet\\_laws.html](http://www.ghsa.org/html/stateinfo/laws/helmet_laws.html).

In States without universal helmet laws, 59 percent of motorcyclists killed in 2013 were not wearing helmets, as compared to 8 percent in States with universal helmet laws.

The funding portion of the bill, however, remains a stumbling block. As of now, the bill contains revenue offsets to fund its first three years from 2016 thru 2018. If enacted, Congress would have to find additional revenue sometime before October 2018 for the final three years.

The MRF will keep you updated on this issue.

## SESSION SET FOR AUGUST TO REDRAW CONGRESSIONAL LINES

August will be back-to-Tallahassee time for state lawmakers.

Senate President Andy Gardiner and House Speaker Steve Crisafulli sent a joint memo to lawmakers Monday announcing that a court-ordered special session to redraw eight of the state's 27 congressional districts will begin Aug. 10 and run until Aug. 21 or until the completion of the new map.

Gardiner, R-Orlando, and Crisafulli R-Merritt Island, also directed staff from the new House Select Committee on Redistricting and the new Senate Committee on Reapportionment to work with legislative attorneys to initially draft a "base map" that complies with a July 9 ruling from the state Supreme Court.

"This map proposal will be drafted solely by staff in collaboration with counsel, without our participation or the participation of any other member, and will be provided simultaneously to all members and the public prior to the convening of the special session," Gardiner and Crisafulli wrote. "We believe that presenting a base map that follows the Supreme Court order to you and the public will make it easier to discuss all legislative actions in an open and transparent manner."

The court ruled that the districts first approved in 2012 as part of the once-a-decade redistricting process were corrupted by the efforts of Republican political consultants --- violating an anti-gerrymandering "Fair Districts" constitutional amendment voters approved in 2010.

Gardiner and Crisafulli added that they have instructed staff to avoid the political implications of the new lines, except where legally required to comply with state and federal minority voting-rights provisions, and to report any House and Senate members who make suggestions for the map that could benefit an incumbent or political party.

That portion of the memo was met with skepticism by Democrats, as state party spokesman Max Steele sarcastically tweeted, "I know we said it last time. And then the time before that. And also the time before that. But for real this time."

The court ruling directly impacted the congressional districts of Democrats Corrine Brown, Ted Deutch, Lois Frankel and Kathy Castor and Republicans David Jolly, Mario Diaz-Balart, Carlos Curbelo and Ileana Ros-Lethinen.

Any changes will also impact neighboring districts.

Brown, who has threatened to legally challenge the court ruling and who headed a group of Florida's congressional delegation members in a failed request last week for statewide hearings on the proposed lines, remains "opposed" to the call for a special session, spokesman David Simon said Monday.

Simon added that Brown continues to stand behind her July 9 comments, released after the court's ruling, in which she argued that the ruling "fails to take into consideration the rights of minority voters."

Last year, Leon County Circuit Judge Terry Lewis invalidated districts represented by Brown and Republican Daniel Webster. State lawmakers then redrew those lines with limited impact on other congressional seats.

But voting-rights groups challenged the redrawn lines at the Supreme Court, which required the more-sweeping changes.

The staff-generated congressional "base map" is expected to be presented during a joint meeting of the two legislative committees on Aug. 11, the second day of the special session, according to the Gardiner and Crisafulli.

Rep. Jose Oliva, R-Miami Lakes, was named by Crisafulli to chair the 13-member House committee overseeing the new congressional map.

Gardiner appointed Senate Majority Leader Bill Galvano, R-Bradenton, to chair the chamber's seven-member reapportionment committee.

Sen. Rob Bradley, a Fleming Island Republican also tapped for the reapportionment committee, said it will follow the court ruling.

"I look forward to receiving a proposal, and I know that the committee looks forward to receiving a proposal from professional staff," Bradley said. "That proposed map is going to be free of any taint or any political influence."

In the memo, Gardiner and Crisafulli advised lawmakers who intend to file their own redistricting bills, or even amendments to the map, to be prepared to detail every aspect of the map --- from the people involved and the criteria used by the map drawers to the impact on minorities.

This is the second time that state lawmakers will be trekking back to the Capitol since the regular legislative session ended in May.

In June, the Legislature had to reconvene for a special budget session sparked by a bitter fight within the GOP over how to handle health-care spending.

## BRANDES SAYS FDLE TO LOOK AT RED-LIGHT CAMERA FIRM

Senate Transportation Chairman Jeff Brandes, R-St. Petersburg, said Thursday that Florida Department of Law Enforcement Commissioner Rick Swearingen has taken up Brandes' request for an investigation into contracts between local governments and the red-light camera firm RedFlex Traffic Systems. In a Facebook post, Brandes said Swearingen has assigned the matter "to the Office of Executive Investigations for a preliminary review and investigation." Brandes on Wednesday requested a probe of such contracts because RedFlex has been implicated in bribery schemes in other parts of the country. Brandes has been an outspoken critic of the use of red-light cameras in Florida. The Chicago Tribune reported June 19 that the former CEO of RedFlex had pleaded guilty in a federal bribery investigation in Ohio. Also, a Tribune investigation uncovered wrongdoing in a Chicago contract, with allegations involving bribes paid to a politically connected former city official, according to the newspaper.

## JUDGE ORDERS REDISTRICTING WRAPPED UP BY SEPT. 25

Pointing to a time crunch, a Leon County circuit judge Wednesday gave the Florida Legislature little more than two months to draw new congressional districts and to defend them in court.

Judge George S. Reynolds III issued an order that said a special legislative session to redraw districts and a subsequent trial must be finished by Sept. 25. The order came after the Florida Supreme Court last week tossed out eight congressional districts because it found that lawmakers violated a 2010 constitutional amendment aimed at preventing gerrymandering.

Reynolds' order said Leon County Circuit Judge Terry Lewis, who has presided over the long-running case, will be assigned to continue hearing it. A conference will be held July 27 to resolve issues such as scheduling.

Reynolds also requested that the parties in the case try to reach agreement on the time needed for the Legislature to redraw the districts and for the subsequent court review.

"The court will do its best to accommodate everyone's schedule, but clearly there is not much time to do all that is required and the court reserves the right to enter a scheduling order that it believes is necessary to provide for a fair and expeditious resolution of this matter," Reynolds wrote.

The order did not explain how Reynolds arrived at the Sept. 25 date, but that is also the same day he is scheduled to start a trial in a similar challenge to state Senate districts.

The flurry of activity stems from the Supreme Court's 5-2 ruling last week in favor of voting-rights groups, who have long contended that lawmakers violated the state Constitution during the 2012 redistricting process. Since the ruling, legislative leaders have offered little comment about how they would respond.

While lawmakers will have to redraw eight congressional districts, the changes also will have spillover effects into neighboring districts. The eight districts are currently represented by Democrat Corrine Brown, Republican David Jolly, Democrat Kathy Castor, Democrat Ted Deutch, Democrat Lois Frankel, Republican Mario Diaz-Balart, Republican Carlos Curbelo and Republican Ileana Ros-Lehtinen