

Tab 1	CS/SB 918 by CJ, Simmons ; (Compare to CS/H 00949) Driving Under the Influence						
356064	A	S	RCS	TR, Simmons	Delete L.89 - 94:	04/19 03:38 PM	
Tab 2	CS/SB 1316 by BI, Bracy ; (Compare to CS/H 01299) Preinsurance Inspection						
362432	A	S	RCS	TR, Bracy	Delete L.36 - 37:	04/19 03:38 PM	
Tab 3	SB 1622 by Passidomo (CO-INTRODUCERS) Torres ; (Identical to H 01239) School Bus Safety						

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

TRANSPORTATION
Senator Gainer, Chair
Senator Rouson, Vice Chair

MEETING DATE: Wednesday, April 19, 2017

TIME: 1:30—3:30 p.m.

PLACE: James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building

MEMBERS: Senator Gainer, Chair; Senator Rouson, Vice Chair; Senators Baxley, Galvano, Hukill, and Rader

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 918 Criminal Justice / Simmons (Compare CS/H 949)	Driving Under the Influence; Authorizing a court to order placement of an ignition interlock device as a condition of probation, subject to certain requirements; requiring the court to withhold adjudication if a person convicted of a certain offense voluntarily places, or if the court orders placement of, an ignition interlock device, under certain circumstances; requiring a court that imposes the use of an ignition interlock device to provide certain discounts on the monthly leasing fee for the device, if the person documents that he or she meets certain income requirements, etc. CJ 04/03/2017 Fav/CS TR 04/19/2017 Fav/CS AP RC	Fav/CS Yeas 4 Nays 0
2	CS/SB 1316 Banking and Insurance / Bracy (Compare CS/H 1299)	Preinsurance Inspection; Authorizing insurers to opt out of preinsurance inspections of private passenger motor vehicles; providing that applicants may be required to pay the cost of the inspection up to a specified amount, etc. BI 04/03/2017 Fav/CS TR 04/19/2017 Fav/CS RC	Fav/CS Yeas 4 Nays 0
3	SB 1622 Passidomo (Identical H 1239)	School Bus Safety; Citing this act as the "Cameron Mayhew Act"; providing mandatory noncriminal penalties for certain violations resulting in serious bodily injury to or death of another person, etc. CJ 04/03/2017 Favorable TR 04/19/2017 Favorable RC	Favorable Yeas 4 Nays 0

Other Related Meeting Documents

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 Transportation

BILL: CS/CS/SB 918

INTRODUCER: Transportation Committee, Criminal Justice Committee, and Senator Simmons

SUBJECT: Driving Under the Influence

DATE: April 20, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Hrdlicka	CJ	Fav/CS
2.	Jones	Miller	TR	Fav/CS
3.			AP	
4.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 918 amends s. 316.193, F.S., to allow a defendant convicted for the first time of the second degree misdemeanor offense of driving under the influence to agree to the placement of an ignition interlock device if the defendant has not caused injury to, or the death of, a person or damage to property.

If the defendant agrees or the court orders placement of an ignition interlock device, then the court, upon proper showing that the person has received counseling, treatment, rehabilitation or is enrolled in a substance abuse course, may withhold adjudication if the defendant does not have a prior withholding of adjudication or adjudication of guilt for any other offense. If the defendant fails to comply with the terms of the ignition interlock device, then the court may order, among other penalties, an adjudication of guilt for the defendant.

The bill also:

- Specifies that a judge may order, *as a condition of probation*, the ignition interlock device for at least six continuous months;
- Defines the term “conviction” to mean a determination of guilt, by plea or trial, regardless of whether adjudication is withheld or a plea of nolo contendere is entered;
- Specifies discounts of the monthly leasing fee of the ignition interlock device in certain situations due to an inability of the defendant to pay; and

- Specifies that defendants who qualify for a reduced leasing fee are not required to pay the costs of installation or removal of the device.

The bill may have a fiscal impact on companies that provide the ignition interlock devices to defendants in Florida and a negative indeterminate fiscal impact on the Department of Highway Safety and Motor Vehicles. See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2017.

II. Present Situation:

Florida's Driving Under the Influence Laws

A person is guilty of driving under the influence if a person drives or is in actual physical control of a vehicle and the person:

- Is under the influence of alcoholic beverages, any controlled substance set forth in s. 877.111, F.S., or any substance controlled under ch. 893, F.S., to the extent that the person's normal faculties are impaired;
- Has a blood-alcohol level of 0.08 or more grams of alcohol per 100 milliliters of blood; or
- Has a breath-alcohol level of 0.08 or more grams of alcohol per 210 liters of breath.¹

The criminal penalties for driving under the influence vary depending on numerous factors such as the number of prior convictions, the length of time between convictions, and the defendant's blood alcohol level.² The penalties for a first time driving under the influence offense are punishable by:

- A period of probation not exceeding one year;
- A fine of not less than \$500 or more than \$1,000;
- Imprisonment for not more than six months;
- A mandatory 50 hours of community service; and
- A mandatory ten-day vehicle impoundment.³

Section 316.656, F.S., prohibits a court from withholding adjudication of guilt for any violation of s. 316.193, F.S., the offense of driving under the influence.

In 2016, there were 44,643 arrests for driving under the influence.⁴

¹ Section 316.193(1), F.S.

² Section 316.193 F.S.

³ Section 316.193(2) and (6)(a), F.S.

⁴ Florida Department of Highway Safety and Motor Vehicles, *Annual Uniform Traffic Citation Report*, available at <https://services.flhsmv.gov/SpecialtyPlates/UniformTrafficCitationReport> (last visited April 10, 2017).

Ignition Interlock Device

An ignition interlock device is a dashboard-mounted breathalyzer that requires a driver to blow in the breathalyzer in order to operate the motor vehicle.⁵ Section 316.193, F.S., requires an ignition interlock device to be installed on the vehicles of persons convicted of certain driving under the influence offenses. For a first time driving under the influence offense, the court may order the placement of an ignition interlock device for at least six continuous months.

Section 316.1937, F.S., provides that a court must determine the defendant’s ability to pay for the installation of the ignition interlock device if he or she claims inability to pay. If the court determines that the defendant is unable to pay for the installation of the device, the court can order that any portion of a fine paid for violating s. 316.193, F.S., be allocated to defray the costs of installing the ignition interlock device.⁶

Ignition interlock devices cost, on average, \$70 to \$150 to install and about \$60 to \$80 per month for monitoring and calibration.⁷

The table below summarizes when an ignition interlock device is required in Florida.⁸

Driving under the influence conviction	Ignition interlock device required
1st conviction	If court orders for at least 6 continuous months
1st conviction if blood-alcohol level is ≥ 0.15 , or minor in car	Mandatory for at least 6 continuous months
2nd conviction	Mandatory for at least 1 year
2nd conviction if blood-alcohol level is ≥ 0.15 , or minor in car	Mandatory for at least 2 continuous years
3rd conviction	Mandatory for at least 2 years

The Department of Highway Safety and Motor Vehicles (DHSMV) contracts with vendors to provide ignition interlock devices for offenders in Florida. The devices must meet or exceed the current standards of the National Highway Traffic Safety Administration.⁹ The DHSMV oversees and monitors the ignition interlock devices and must adopt rules for the implementation of ignition interlock devices.¹⁰

The Florida Legislature’s Office of Program Policy Analysis and Government Accountability conducted a study researching ignition interlock devices and driving under the influence

⁵ Office of Program Policy Analysis & Government Accountability, *Ignition Interlock Devices and DUI Recidivism Rates*, Report No. 14-14, (December 2014) available at <http://www.opaga.state.fl.us/MonitorDocs/Reports/pdf/1414rpt.pdf> (last visited April 10, 2017).

⁶ Section 316.1937(2)(d), F.S.

⁷ MADD, *Ignition Interlock FAQ’s*, <http://www.madd.org/drunk-driving/ignition-interlocks/interlockfaq.html#D> (last visited April 14, 2017.).

⁸ Section 316.193, F.S.

⁹ Section 316.1938, F.S.

¹⁰ Sections 316.1938 and 316.193(11), F.S.

recidivism rates. The research showed that ignition interlock devices, while installed, were more effective at reducing re-arrest rates for alcohol-impaired driving when compared to other sanctions, such as license suspensions.¹¹

The study also found the six month recidivism rate for first-time driving under the influence offenders that were not required to install an ignition interlock device was 1.74 percent compared to the recidivism rate for first-time offenders required to use the ignition interlock device which was less with a rate of 0.34 percent.¹² However, only 49 percent of Florida's driving under the influence offenders installed an ignition interlock device, as required, after completing their period of license revocation.¹³

III. Effect of Proposed Changes:

The bill amends s. 316.193, F.S., to specify that a judge may order, *as a condition of probation*, placement of the ignition interlock device for at least six continuous months.

The bill also allows a defendant convicted for the first time of the second degree misdemeanor offense of driving under the influence to agree to the placement of an ignition interlock device if the defendant has not caused injury to, or the death of, a person or damage to property.

If the defendant agrees or the court orders placement of an ignition interlock device, then the court, upon proper showing that the person has received counseling, treatment, rehabilitation or is enrolled in a DHSMV-licensed substance abuse course, may withhold adjudication if the defendant does not have a prior withholding of adjudication or adjudication of guilt for any other offense. If the defendant fails to comply with the terms of the ignition interlock device, then the court may order, among other penalties, an adjudication of guilt for the defendant.

The bill defines the term "conviction" to mean a determination of guilt, which is the result of a plea or a trial, regardless of whether adjudication is withheld or a plea of *nolo contendere* is entered.

The bill also amends s. 316.1937, F.S., to repeal the current method of addressing a defendant's inability to pay for the installation of the ignition interlock device.

The bill instead specifies the following discounts on the monthly leasing fee of the ignition interlock device if a defendant claims the inability to pay for the ignition interlock device:

- If the person's family income is at or below 100 percent of the federal poverty level as documented by written order of the court, the regular monthly leasing fee charged to all customers by the interlock provider must be discounted by 50 percent.
- If the person's family income is at or below 149 percent of the federal poverty level as documented by written order of the court, the regular monthly leasing fee charged to all customers by the interlock provider must be discounted by 25 percent.

¹¹ *Supra* note 5.

¹² *Id.* at 8.

¹³ *Id.* at 4-5.

Defendants who qualify for a reduced leasing fee are not required to pay the costs of installation or removal of the ignition interlock device.

The bill is effective October 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill allows certain defendants to agree or the court to order the placement of an ignition interlock device for a first time driving under the influence offense. This may have a positive fiscal impact on the companies that the DHSMV contracts with to provide the ignition interlock devices to offenders in Florida.

The bill also requires the companies who provide the ignition interlock devices to discount the monthly leasing fees in certain circumstances. If a defendant qualifies for a monthly leasing fee discount, the installation and removal fees for the ignition interlock device are also waived.

C. Government Sector Impact:

The bill allows certain defendants to agree or the court to order the placement of an ignition interlock device for a first time driving under the influence offense. The DHSMV monitors and oversees ignition interlock devices and if this bill results in a significant increase in the number of devices installed, there would be a negative indeterminate fiscal impact on the DHSMV.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill refers to a “first offense misdemeanor of the second degree” of driving under the influence. A first offense of driving under the influence, however, is not explicitly referred to as a second degree misdemeanor in the Florida Statutes, nor do the penalties assessed for a first offense of driving under the influence match the penalties associated with a second degree misdemeanor.¹⁴

In addition, s 316.656, F.S., prohibits a court from withholding adjudication of guilt or imposition of sentence for any driving under the influence violation.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.193 and 316.1937.

IX. Additional Information:

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

CS/CS by Transportation on April 19, 2017:

The CS adds that the defendant may only voluntarily place the ignition interlock device if convicted for the first time of the second degree misdemeanor offense of driving under the influence if the person has not caused injury to, or the death of, a person or damage to property.

The CS also provides that the court *may* (instead of *shall*) withhold adjudication if the defendant meets the requirements, and adds that the defendant, in addition to placement of the ignition interlock device, must show that he or she has received counseling, treatment, rehabilitation or is enrolled in a DHSMV-approved substance abuse course.

CS by Criminal Justice on April 3, 2017:

The committee substitute:

- Specifies that a judge may order, *as a condition of probation*, placement of the ignition interlock device for at least six continuous months.
- Allows a defendant convicted for the first time of the second degree misdemeanor offense of driving under the influence to agree to the placement of an ignition interlock device.
- Specifies that if a defendant agrees or the court orders placement of an ignition interlock device, the court must withhold adjudication if the defendant does not have a prior withholding of adjudication or adjudication of guilt for any other offense.
- Defines the term “conviction.”
- Requires the companies who provide the ignition interlock devices to discount the monthly leasing fees in certain circumstances.

¹⁴ See ss. 775.082 and 775.083, F.S., and s. 316.193, F.S.

B. Amendments:

None.

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



356064

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/19/2017	.	
	.	
	.	
	.	

The Committee on Transportation (Simmons) recommended the following:

Senate Amendment (with title amendment)

Delete lines 89 - 94

and insert:

~~or higher.~~ If the convicted person is convicted of a first offense misdemeanor of the second degree and has not caused injury to, or the death of, a person or damage to property and such person voluntarily places, or if the court orders placement of, an interlock device under this subsection, the court, upon proper showing that the person has received counseling,



356064

11 treatment, rehabilitation or is enrolled in a substance abuse
12 course pursuant to subsection (5), may withhold adjudication if
13 the person does not have a prior withholding of adjudication or
14 adjudication of guilt for any other offense.

15
16 ===== T I T L E A M E N D M E N T =====

17 And the title is amended as follows:

18 Delete line 6

19 and insert:

20 requirements; authorizing the court to withhold

By the Committee on Criminal Justice; and Senator Simmons

591-03324-17

2017918c1

1 A bill to be entitled
 2 An act relating to driving under the influence;
 3 amending s. 316.193, F.S.; authorizing a court to
 4 order placement of an ignition interlock device as a
 5 condition of probation, subject to certain
 6 requirements; requiring the court to withhold
 7 adjudication if a person convicted of a certain
 8 offense voluntarily places, or if the court orders
 9 placement of, an ignition interlock device, under
 10 certain circumstances; providing that failure of the
 11 person to comply with the full terms of the order
 12 requiring placement of an ignition interlock device
 13 may result in the court ordering an adjudication of
 14 guilt; defining the term "conviction"; amending s.
 15 316.1937, F.S.; requiring a court that imposes the use
 16 of an ignition interlock device to provide certain
 17 discounts on the monthly leasing fee for the device,
 18 if the person documents that he or she meets certain
 19 income requirements; waiving costs associated with
 20 installation and removal of the device in certain
 21 circumstances; providing an effective date.

22
 23 Be It Enacted by the Legislature of the State of Florida:

24
 25 Section 1. Subsection (2) of section 316.193, Florida
 26 Statutes, is amended to read:

27 316.193 Driving under the influence; penalties.—

28 (2)

29 (a) Except as provided in paragraph (b), subsection (3), or

Page 1 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

591-03324-17

2017918c1

30 subsection (4), any person who is convicted of a violation of
 31 subsection (1) shall be punished:
 32 1. By a fine of:
 33 a. Not less than \$500 or more than \$1,000 for a first
 34 conviction.
 35 b. Not less than \$1,000 or more than \$2,000 for a second
 36 conviction; and
 37 2. By imprisonment for:
 38 a. Not more than 6 months for a first conviction.
 39 b. Not more than 9 months for a second conviction.
 40 3. For a second conviction, by mandatory placement for a
 41 period of at least 1 year, at the convicted person's sole
 42 expense, of an ignition interlock device approved by the
 43 department in accordance with s. 316.1938 upon all vehicles that
 44 are individually or jointly leased or owned and routinely
 45 operated by the convicted person, when the convicted person
 46 qualifies for a permanent or restricted license. The
 47 installation of such device may not occur before July 1, 2003.
 48 (b)1. Any person who is convicted of a third violation of
 49 this section for an offense that occurs within 10 years after a
 50 prior conviction for a violation of this section commits a
 51 felony of the third degree, punishable as provided in s.
 52 775.082, s. 775.083, or s. 775.084. In addition, the court shall
 53 order the mandatory placement for a period of not less than 2
 54 years, at the convicted person's sole expense, of an ignition
 55 interlock device approved by the department in accordance with
 56 s. 316.1938 upon all vehicles that are individually or jointly
 57 leased or owned and routinely operated by the convicted person,
 58 when the convicted person qualifies for a permanent or

Page 2 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

591-03324-17 2017918c1

59 restricted license. The installation of such device may not
60 occur before July 1, 2003.

61 2. Any person who is convicted of a third violation of this
62 section for an offense that occurs more than 10 years after the
63 date of a prior conviction for a violation of this section shall
64 be punished by a fine of not less than \$2,000 or more than
65 \$5,000 and by imprisonment for not more than 12 months. In
66 addition, the court shall order the mandatory placement for a
67 period of at least 2 years, at the convicted person's sole
68 expense, of an ignition interlock device approved by the
69 department in accordance with s. 316.1938 upon all vehicles that
70 are individually or jointly leased or owned and routinely
71 operated by the convicted person, when the convicted person
72 qualifies for a permanent or restricted license. The
73 installation of such device may not occur before July 1, 2003.

74 3. Any person who is convicted of a fourth or subsequent
75 violation of this section, regardless of when any prior
76 conviction for a violation of this section occurred, commits a
77 felony of the third degree, punishable as provided in s.
78 775.082, s. 775.083, or s. 775.084. However, the fine imposed
79 for such fourth or subsequent violation may be not less than
80 \$2,000.

81 (c) In addition to the penalties in paragraph (a), as a
82 condition of probation, the court may order placement, at the
83 convicted person's sole expense, of an ignition interlock device
84 approved by the department in accordance with s. 316.1938 for at
85 least 6 continuous months upon all vehicles that are
86 ~~individually or jointly leased or owned and~~ routinely operated
87 by the convicted person ~~if, at the time of the offense, the~~

Page 3 of 5

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591-03324-17 2017918c1

88 ~~person had a blood-alcohol level or breath-alcohol level of .08~~
89 ~~or higher. Notwithstanding s. 316.656, if a person convicted of~~
90 ~~a first offense misdemeanor of the second degree voluntarily~~
91 ~~places, or if the court orders placement of, an ignition~~
92 ~~interlock device under this subsection, the court shall withhold~~
93 ~~adjudication if the person does not have a prior withholding of~~
94 ~~adjudication or adjudication of guilt for any other offense.~~
95 ~~Failure of the person to comply with the full terms of the order~~
96 ~~of placement of the ignition interlock device may result in,~~
97 ~~among other penalties, the court ordering an adjudication of~~
98 ~~guilt.~~

99
100 For purposes of this subsection, the term "conviction" means a
101 determination of guilt which is the result of a plea or a trial,
102 regardless of whether adjudication is withheld or a plea of nolo
103 contendere is entered.

104 Section 2. Subsection (2) of section 316.1937, Florida
105 Statutes, is amended to read:

106 316.1937 Ignition interlock devices, requiring; unlawful
107 acts.—

108 (2) If the court imposes the use of an ignition interlock
109 device, the court shall:

110 (a) Stipulate on the record the requirement for, and the
111 period of, the use of a certified ignition interlock device.

112 (b) Order that the records of the department reflect such
113 requirement.

114 (c) Order that an ignition interlock device be installed,
115 as the court may determine necessary, on any vehicle owned or
116 operated by the person.

Page 4 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

591-03324-17

2017918c1

117 (d) If the person claims inability to pay, provide the
118 following discounts on the monthly leasing fee:

119 1. If a person's family income is at or below 100 percent
120 of the federal poverty level as documented by written order of
121 the court, the regular monthly leasing fee charged to all
122 customers by the interlock provider shall be discounted by 50
123 percent.

124 2. If a person's family income is at or below 149 percent
125 of the federal poverty level as documented by written order of
126 the court, the regular monthly leasing fee charged to all
127 customers by the interlock provider shall be discounted by 25
128 percent.

129
130 Persons who qualify for a reduced leasing fee as provided in
131 this paragraph are not required to pay the costs of installation
132 or removal of the device. Determine the person's ability to pay
133 for installation of the device if the person claims inability to
134 pay. If the court determines that the person is unable to pay
135 for installation of the device, the court may order that any
136 portion of a fine paid by the person for a violation of s.
137 316.193 shall be allocated to defray the costs of installing the
138 device.

139 (e) Require proof of installation of the device and
140 periodic reporting to the department for verification of the
141 operation of the device in the person's vehicle.

142 Section 3. This act shall take effect October 1, 2017.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/19/2017

Meeting Date

Topic ~~Ignition Interlock~~ Ignition Interlock

918
Bill Number (if applicable)

356064
Amendment Barcode (if applicable)

Name Jorge Chamizo

Job Title Attorney

Address 108 South Monroe Street

Phone (850) 681-0024

Street Tallahassee, FL 32301

Email jorge@flapartners.com

City State Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Fla Association of Criminal Defense Lawyers

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/19/17

Meeting Date

SB 918

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Frank Harris

Job Title Director-State Government Affairs

Address 1025 Connecticut Ave., NW Ste. 1210

Phone 202-688-1194

Street

Washington

DC

20036

City

State

Zip

Email frank.harris@madd.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Mothers Against Drunk Driving

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/19/17
Meeting Date

918
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name LAURA McLeod

Job Title Executive Director

Address 1725 Mahan Drive

Phone 850-671-3384

Street

Tallahassee

FL

32308

City

State

Zip

Email lmclead@fladui.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Association of DUI Programs

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/19/17
Meeting Date

918
Bill Number (if applicable)

Topic Driving Under the Influence

Amendment Barcode (if applicable)

Name Kristen Allen

Job Title Program Director

Address 1018 Thomasville Rd #101

Phone 850-681-0061

Tallahassee, FL 32303
City State Zip

Email Kristen.allen@madd.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Mothers Against Drunk Driving

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-19-17

Meeting Date

918

Bill Number (if applicable)

Topic DWI

Amendment Barcode (if applicable)

Name Amy Jamieson

Job Title Volunteer (MADD) + City Council

Address 211 Chateaugay St,

Phone 850-246-4469

Street

City Ft. Walton Beach FL

State

Zip 32548

Email dreams@gnt.net

Speaking: For Against Information

Waive Speaking: In Support Against (The Chair will read this information into the record.)

Representing MADD

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/19/2017
Meeting Date

918
Bill Number (if applicable)

Topic Driving Under the Influence

Amendment Barcode (if applicable)

Name Shawn Foster

Job Title Lobbyist

Address 5957 Riviera Lane

Phone 727-808-4131

Street

New Port Richey, FL 34655

Email foster@scgroup.us

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Roche Surety and Casualty, Inc

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/19/2017
Meeting Date

918
Bill Number (if applicable)

Topic DUI

Amendment Barcode (if applicable)

Name PAUL LAWKES

Job Title _____

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing MANUFACTURERS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

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 Transportation

BILL: CS/CS/SB 1316

INTRODUCER: Transportation Committee, Banking and Insurance Committee, and Senator Bracy

SUBJECT: Preinsurance Inspection

DATE: April 20, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Matiyow</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Jones</u>	<u>Miller</u>	<u>TR</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1316 allows motor vehicle insurers an exemption from the requirement that they inspect each private passenger motor vehicle before issuing an insurance policy that provides coverage for physical damage. The inspection requirement only applies in counties with a 1988 population of 500,000 or greater. The bill requires insurers using the exemption to file a manual rule with the Office of Insurance Regulation (OIR) and allows an insurer to file with the OIR their own preinsurance inspection requirements before insuring a private passenger motor vehicle.

The bill does not appear to have a fiscal impact on state or local government.

II. Present Situation:

Preinsurance Inspection of Private Passenger Motor Vehicles

Section 627.744, F.S., requires insurers to perform preinsurance inspections of private passenger motor vehicles. The inspection must include:

- Taking a physical imprint of the vehicle's vehicle identification number or otherwise recording the vehicle identification number in a manner prescribed by the Financial Services Commission (the commission).
- Recording the presence of accessories required by the commission to be recorded.
- Recording the locations of and a description of existing damage to the vehicle.

The requirement applies to a policy issued on a private passenger motor vehicle principally garaged in counties with a 1988 population of 500,000 or greater. These counties are Duval, Palm Beach, Broward, Dade, Orange, Hillsborough, and Pinellas. There are various exemptions from the required preinsurance inspection, including exceptions for:

- New, unused motor vehicles purchased or leased from a licensed motor vehicle dealer or leasing company;¹
- Vehicles added by policyholders continuously insured for 2 or more years;
- Temporary substitute motor vehicles;
- Motor vehicles leased for less than 6 months, contingent upon certain documentation
- Vehicles 10 years old or older;
- Renewal policies;
- Vehicles or policies exempted by rule of the commission;
- Vehicles garaged too far from a contracted inspection facility;
- Vehicles on a commercial rated policy with five or more insured vehicles;
- When an insurance producer transferring a book of business from one insurer to another; and
- When an individual insured's coverage is being transferred and initiated by a producer to a new insurer.

Despite the exemptions, an insurer may require a preinsurance inspection of any motor vehicle as a condition of issuance of physical damage coverage. Physical damage coverage may not be suspended during the policy period due to the applicant's failure to provide the required documents. However, claim payments are conditioned upon, and are not payable until, the required documents are received by the insurer. Applicants for insurance may be required to pay the cost of the preinsurance inspection, not to exceed \$5.²

In 2016, the Legislature required the Department of Financial Services (DFS) to provide a report on preinsurance inspections in the state.³ The report was issued on December 22, 2016.⁴ The required elements and reported data⁵ for 2012-2016 are:

- Total cost incurred by insurers and policyholders in order to comply with the inspections.
 - Insurers: \$12,062,089
 - Policyholders: None
- Total cost incurred by insurers to have motor vehicles inspected.
 - \$12,062,089
- Total premium savings for policyholders as a result of the inspections.
 - \$35,640
- Total number of inspected motor vehicles that had preexisting damage.
 - 125,787 motor vehicles inspected.

¹ The insurer may require a bill of sale, buyer's order, or lease agreement, or copy of title or registration that establishes transfer of ownership from the dealer or leasing company and the window sticker. See s. 627.744(2)(b), F.S.

² Section 627.744(4), F.S.

³ Chapter 2016-133, L.O.F.

⁴ FLORIDA DEPARTMENT OF FINANCIAL SERVICES, DIVISION OF INVESTIGATIVE & FORENSIC SERVICES, s. 627.744(8)(a), F.S. *Motor Vehicle Pre-Inspection – Reporting Requirements* (Dec. 22, 2016). (on file with the Senate Committee on Banking and Insurance.)

⁵ The survey and data request summarized in the report included responses received from 157 insurers (39 provided data).

- Data on potential fraud within the first 125 days after issuance of a new policy.
 - 6,166 potential fraud claims.
- Total number of referrals to the National Insurance Crime Bureau (NICB) by preinsurance inspectors during the past 5 years.
 - 626 referrals made to NICB.⁶

Many insurers argue based on the findings of this report that the mandatory cost for such inspections does not justify the potential cost avoidance. However, vendors that provide these mandatory inspections argue, when taking into account the average cost of repair to vehicles along with the number of vehicles noted as having damage at time of inspection, the total cost avoidance from potential fraud should be much higher than what has been reported.

III. Effect of Proposed Changes:

The bill allows motor vehicle insurers to opt out of the requirement that they inspect each private passenger motor vehicle before issuing an insurance policy that provides coverage for physical damage, including collision and comprehensive coverages.

An insurer who elects to opt out of inspection requirements must file a manual rule with the OIR indicating it will not participate in the inspection program under s. 627.744, F.S. The insurer may establish its own preinsurance inspection requirements as a condition to issuing a private passenger motor vehicle insurance policy, and such requirements must be included in the manual rule filed with the OIR. Insurers may not charge applicants for the cost of an inspection if the insurer has opted out of the inspection requirements under s. 627.744, F.S.

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁶ DFS also reports that 4,065 referrals were made by insurers to the Division of Investigative & Forensic Services (formerly the Division of Insurance Fraud) during the same period.

B. Private Sector Impact:

Insurers will no longer be required to pay for or perform such inspections.

Inspection companies could see an indeterminate negative impact should insurers choose not to utilize their services.⁷

C. Government Sector Impact:

The bill does not appear to have a fiscal impact on state or local government.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 627.744 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS by Transportation on April 19, 2017:**

The CS removes that insurers who opt out of the inspection requirements may charge applicants up to \$5 for inspections, which is the maximum charge under current law for inspections conducted pursuant to s. 627.744, F.S. The CS provides that insurers may not charge applicants for the cost of an inspection if the insurer has opted out of the inspection requirements under s. 627.744, F.S.

CS by Banking and Insurance on April 3, 2017:

Requires insurers that opt out of statutory preinsurance inspections to file a manual rule with the OIR indicating its non-participation. An insurer may establish its own preinsurance requirements in the manual rule. Insurers may charge applicants up to \$5 for the inspection, which is the maximum charge under current law for inspections conducted pursuant to s. 627.744, F.S.

⁷ In 2012-2016, one vendor reported conducting more than 584,000 inspections on behalf of 33 insurers. The total cost for these inspections was \$5,256,000 or an average of \$9 per inspection. Approximately 12 percent or roughly 71,000 of the 584,000 vehicles inspected were noted by the vendor as having existing damage at time of inspection. (information on file with the Banking and Insurance Committee).

B. Amendments:

None.

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



362432

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/19/2017	.	
	.	
	.	
	.	

The Committee on Transportation (Bracy) recommended the following:

Senate Amendment (with title amendment)

Delete lines 36 - 37
and insert:
insurer opting out of the inspection requirements of this section may not require an applicant to pay for the cost of an inspection.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:



362432

11 Delete lines 10 - 12
12 and insert:
13 filed manual rule; prohibiting such insurers from
14 requiring applicants to pay for the cost of
15 inspections; deleting an obsolete provision;

By the Committee on Banking and Insurance; and Senator Bracy

597-03394-17

20171316c1

1 A bill to be entitled
 2 An act relating to preinsurance inspection; amending
 3 s. 627.744, F.S.; revising construction; authorizing
 4 insurers to opt out of preinsurance inspections of
 5 private passenger motor vehicles; requiring insurers
 6 opting out to file a certain manual rule with the
 7 Office of Insurance Regulation; authorizing such
 8 insurers to establish their own preinsurance
 9 inspection requirements, which must be included in the
 10 filed manual rule; providing that applicants may be
 11 required to pay the cost of the inspection up to a
 12 specified amount; deleting an obsolete provision;
 13 providing an effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. Subsections (3) and (8) of section 627.744,
 18 Florida Statutes, are amended, present subsections (4) through
 19 (7) of that section are redesignated as subsections (3) through
 20 (6), and a new subsection (7) is added to that section, to read:

21 627.744 Required preinsurance inspection of private
 22 passenger motor vehicles.-

23 ~~(3) This subsection does not prohibit an insurer from~~
 24 ~~requiring a preinsurance inspection of any motor vehicle as a~~
 25 ~~condition of issuance of physical damage coverage.~~

26 (7) Notwithstanding any other provision of this section, an
 27 insurer may opt out of the inspection requirements of this
 28 section. An insurer opting out of the inspection must file a
 29 manual rule with the office indicating that the insurer will not

Page 1 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

597-03394-17

20171316c1

30 participate in the inspection program under this section. An
 31 insurer that files such a manual rule with the office may
 32 establish its own preinsurance inspection requirements as a
 33 condition to issuing a private passenger motor vehicle insurance
 34 policy. The insurer's preinsurance inspection requirements must
 35 be included in the manual rule filed with the office. An
 36 applicant may be required to pay the cost of the inspection, not
 37 to exceed \$5.

38 ~~(8) The Division of Insurance Fraud of the Department of~~
 39 ~~Financial Services shall provide a report of data from the~~
 40 ~~required preinsurance inspection of motor vehicles to the~~
 41 ~~Governor, the President of the Senate, and the Speaker of the~~
 42 ~~House of Representatives by December 1, 2016.~~

43 ~~(a) The data must include, but need not be limited to:~~

44 ~~1. A written estimate of the total cost incurred by~~
 45 ~~insurers and policyholders in order to comply with the~~
 46 ~~inspections.~~

47 ~~2. A written estimate of the total cost incurred by~~
 48 ~~insurers to have their motor vehicles inspected.~~

49 ~~3. Documentation regarding the total premium savings for~~
 50 ~~policyholders as a result of the inspections.~~

51 ~~4. Documentation of the total number of inspected motor~~
 52 ~~vehicles that had a preexisting condition.~~

53 ~~5. Documentation regarding the potential fraud in motor~~
 54 ~~vehicle claims incurred within the first 125 days after issuance~~
 55 ~~of a new policy.~~

56 ~~6. Documentation of the total number of referrals of~~
 57 ~~fraudulent acts to the National Insurance Crime Bureau by~~
 58 ~~preinsurance inspectors during the past 5 years.~~

Page 2 of 3

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

597-03394-17

20171316c1

59 ~~(b) The Legislature may use the report data in determining~~
60 ~~the future public necessity for this section.~~

61 Section 2. This act shall take effect July 1, 2017.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4.19.17

Meeting Date

1316

Bill Number (if applicable)

Topic Insurance Inspector

Amendment Barcode (if applicable)

Name Ashley Kalifeh

Job Title lobbyist

Address 101 E. Collyer Ave 500

Phone 850 222-9070

Street

Tallahassee FL 32301

City

State

Zip

Email akalifeh@capcityconsult.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing American Insurance Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/19/2017

Meeting Date

1316

Bill Number (if applicable)

Topic Relating to Preinsurance Inspection

Amendment Barcode (if applicable)

Name Jan Gorrie

Job Title Consultant

Address 403 East Park Avenue

Phone 850-577-0444

Street

Tallahassee

FL

32301

Email jan@ballardfl.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing CARCO Group

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-19-2017
Meeting Date

SB 1316
Bill Number (if applicable)

Topic SB 1316 - Preinsurance Inspection

Amendment Barcode (if applicable)

Name Meredith Snowden

Job Title Consultant

Address 215 S. Monroe St. Suite 701
Street
Tallahassee FL 32301
City State Zip

Phone 850-510-9257

Email m Snowden@colodny
fass.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Property Casualty Insurers Association of America

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date _____

1316
Bill Number (if applicable) _____

Topic _____

Amendment Barcode (if applicable) _____

Name Robert Reyes

Job Title _____

Address 325 W college
Street

Phone 858 509 1802

TAN 32301
City State Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Allstate Insurance Company

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

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 Transportation

BILL: SB 1622

INTRODUCER: Senator Passidomo

SUBJECT: School Bus Safety

DATE: April 18, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Appel</u>	<u>Hrdlicka</u>	<u>CJ</u>	Favorable
2.	<u>Jones</u>	<u>Miller</u>	<u>TR</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 1622 creates the “Cameron Mayhew Act” to require a driver who illegally passes a stopped school bus resulting in death or serious bodily injury of another person to:

- Serve 120 community service hours in a trauma center or hospital.
- Participate in a victim’s impact panel or attend a Department of Highway Safety and Motor Vehicles (DHSMV) approved driver improvement course that relates to the rights of vulnerable road users relative to vehicles on the roadway.

The bill also imposes:

- A \$1,500 fine;
- A 1-year driver license suspension; and
- Two additional points, for a total of 6 points added to a person’s driver license.

The fiscal impact of this bill is indeterminate at this time. See Section V. Fiscal Impact Statement.

II. Present Situation:

Traffic Accidents Causing Death or Injury of Another

A driver who commits any traffic infraction that results in a crash that causes death or serious bodily injury of another person must attend a mandatory hearing at a specified time and location.¹ “Serious bodily injury” is “an injury to any person, including the driver, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.”²

¹ Section 319.19, F.S.

² Section 316.1933, F.S.

Anyone who causes death of another person in the commission of a noncriminal traffic infraction or a violation of ch. 316, F.S.,³ or s. 1006.66, F.S.,⁴ may be required by the court to serve 120 community service hours in a trauma center or hospital that regularly receives victims of vehicle accidents. The community service hours must be done under the supervision of a registered nurse, an emergency room physician, or an emergency medical technician pursuant to a voluntary community service program operated by the trauma center or hospital.⁵ This requirement for community service is in addition to any other civil, criminal, or administrative penalty imposed.

Additionally, a driver who is involved in a crash that causes death or a bodily injury that requires transportation to a medical facility will be required by the DHSMV to complete a driver improvement course. If the course is not completed within 90 days of receiving a notice of the requirement to attend, the driver's license will be canceled until the improvement course is successfully completed.⁶

A driver who is convicted of violating any traffic law that results in a crash causing death or serious bodily injury of another person may have his or her driver license suspended by the DHSMV.⁷ A court may also order the suspension of a driver license "when the court feels that the seriousness of the offense and the circumstances surrounding the conviction warrant the suspension of the licensee's driving privilege."⁸

School Buses

School buses are required to stop as far to the right of the street as possible and display warning lights and stop signals before discharging or loading passengers, and, when possible, to not stop where visibility is obscured for a distance of 200 feet either way from the bus.⁹

Other drivers are required to bring their vehicles to a full stop when approaching a stopped school bus displaying a stop signal, until the signal has been withdrawn.¹⁰ It is unlawful to pass a school bus on the side that children enter and exit while the school bus displays a stop signal.¹¹

A person cited for failing to stop for a school bus displaying the stop signal can pay the civil penalty of the citation, or can request a hearing to contest the citation.¹² However, a person cited

³ Chapter 316, F.S., is the Florida Uniform Traffic Control Law.

⁴ Section 1006.66, F.S., relates to the regulation of traffic at universities.

⁵ Section 316.027(4), F.S.

⁶ Section 322.0261(2), F.S.

⁷ Section 322.27(1)(b), F.S.

⁸ Section 322.27(2), F.S.

⁹ Section 316.172(3), F.S.

¹⁰ Section 316.172(1)(a), F.S.

¹¹ Section 316.172(1)(b), F.S. A driver is not required to stop if the vehicle is traveling in the opposite direction of a stopped school bus "upon a divided highway with an unpaved space of at least 5 feet, a raised median, or a physical barrier." *See* s. 316.172(2), F.S.

¹² Section 318.14, F.S.

for passing a stopped school bus on the side children enter or exit must attend a mandatory hearing at a specified time and location.¹³

If a driver is found to have failed to fully stop for or illegally passed a stopped school bus, both of which are noncriminal traffic infractions, the driver must pay a minimum civil penalty and may be subject to driver license suspension if it is a subsequent offense.¹⁴

- The minimum civil penalty for failing to stop for a school bus displaying the stop signal is \$100. In addition, for a second or subsequent offense within a period of 5 years, the DHSMV shall suspend the driver license of the person for not less than 90 days and not more than 6 months. Subsequent service charges raises the total fine for this violation up to \$263, which is distributed to various funds.¹⁵
- The minimum civil penalty for passing a school bus on the side that children enter and exit when the school bus displays a stop signal is \$200. In addition, for a second or subsequent offense within a period of 5 years, the DHSMV shall suspend the driver license of the person for not less than 180 days and not more than 1 year. Subsequent service charges raises the total fine for this violation up to \$363, which is distributed to various funds.¹⁶

Included in the total fines is \$65 that is remitted to the Department of Revenue for deposit into the Emergency Medical Services Trust Fund of the Department of Health to be distributed as provided in s. 395.4036, F.S., to trauma centers.¹⁷

In addition to the above, a driver who illegally passes a stopped school bus will receive four points on his or her driver license.¹⁸ Section 322.27(3), F.S., establishes a point system for evaluation of convictions of violations of motor vehicle laws or ordinances that is used to determine if a person continues to be qualified to operate a motor vehicle. The point system assigns value relative to the convictions of the various violations on a graduated scale. The DHSMV is authorized to suspend the license of a licensee who accumulates:

- 12 points within a 12-month period for not more than 30 days;
- 18 points within an 18-month period for not more than three months; and
- 24 points within a 36-month period for not more than one year.

If the driver is convicted of or plead nolo contendere to illegally passing a stopped school bus, the DHSMV will require him or her to complete a driver improvement course. If the course is not completed within 90 days of receiving a notice of the requirement to attend, the driver's license will be canceled until the improvement course is successfully completed.¹⁹

¹³ See ss. 316.172(1)(b) and 318.19(3), F.S.

¹⁴ Sections 318.18(5) and 322.27(1)(f), F.S.

¹⁵ Florida Court Clerks and Comptrollers, *Distribution Schedule of Court-Related Filing Fees, Service Charges, Costs, and Fines, including a Fee Schedule for Recording*, effective July 1, 2016, available at:

http://c.ymcdn.com/sites/www.flclerks.com/resource/resmgr/PublicationsAndDocuments/2016_Distribution_Schedule_w.pdf

(last visited March 24, 2017).

¹⁶ *Id.*

¹⁷ See s. 395.4036(1)(b), F.S.

¹⁸ See s. 322.27(1)(f) and (3)(d)4., F.S.

¹⁹ Section 322.0261(4)(c), F.S.

Data and Statistics on Illegal Passes of School Buses

According to DHSMV data, in 2016, 2,418 traffic citations were issued for failing to stop for a school bus or passing a stopped school bus. Is it unknown how many citations were issued for passing a school bus on the side children enter and exit.²⁰

The Department of Education created a survey for bus operators to complete regarding the illegal passing of their school buses. The newest survey from Academic Year 2015-2016 results show that 9,623 illegal passes were made on a single day with 8,007 school bus operator's reporting. Of these illegal passes, 329 were made on the right side of the bus where students generally enter/exit the vehicle.²¹

The National Highway Traffic Safety Administration indicates that 119 fatalities of school age pedestrians occurred within 2003-2012. Of these 119 fatalities, 65 percent were struck by a school bus, 5 percent by vehicles acting as school buses, and 30 percent from other motorists. Roughly 60 fatalities nationally occurred over the course of 10 years due to non-school bus vehicles. This makes the average fatalities from school pedestrians struck by other motorists 6 per year.²²

III. Effect of Proposed Changes:

The bill creates the "Cameron Mayhew Act." Cameron Mayhew was a 16 year old boy from Fort Myers who was hit by a motor vehicle illegally passing a stopped school bus on June 1, 2016.²³

The bill amends s. 316.027(4), F.S., (Section 2), to provide additional penalties to current civil, criminal, or administrative penalties imposed on a driver who illegally passes a school bus. If the driver's actions cause or result in serious bodily injury to or death of another person, the driver *shall* be required by the court to:

- Serve 120 community service hours in a trauma center or hospital that regularly receives victims of vehicle accidents, under the supervision of a registered nurse, an emergency room physician, or an emergency medical technician pursuant to the voluntary community service program operated by the trauma center or hospital.²⁴

²⁰ Email from the DHSMV (March 24, 2017) (on file with the Senate Criminal Justice Committee). Data from March 3, 2017. In 2015, 2,136 traffic citations were issued for failure to stop for a school bus, and 44 citations were issued for passing a school bus on the side children enter and exit. *Florida Senate Bill Analysis CS/SB 1570* (2016).

²¹ See Florida Department of Education, *School Transportation, Illegal Passing of School Buses – Survey Results for 2016*, available at: <http://www.fldoe.org/schools/safe-healthy-schools/transportation/> (last visited March 27, 2017). There were 167 vehicles that illegally passed buses for which the side passed was unknown.

²² National Highway Traffic Safety Administration, *Traffic Safety Facts, 2003-2012 Data, School-Transportation-Related Crashes*, DOT HS 811 890, revised June 2014, available at: <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/811890> (Last visited March 24, 2017).

²³ USA Today, Melissa Montoya, *Cameron Mayhew, struck and killed at bus stop, gets bill in Legislature*, March 9, 2017, available at: <http://www.usatoday.com/story/news/local/2017/03/09/cameron-mayhew-struck-bus-stop-gets-bill-fla-legislature/98965886/> (Last visited March 24, 2017).

²⁴ Under s. 316.027(4), F.S., the court *may* require such community service for a driver who causes the death of another.

- Participate in a victim's impact panel session in a judicial circuit if such a panel exists, or if such a panel does not exist, attend a driver improvement course approved by the DHSMV relating to the rights of vulnerable road users relative to vehicles on the roadway.²⁵

This bill creates s. 318.18(5)(d), F.S., (Section 3), to impose a \$1,500 fine and suspension of the driver's license for no less than one year when the driver illegally passed a school bus that results in death or serious bodily injury of another person. The driver may enter a payment plan with the clerk of the court.²⁶

The bill amends s. 322.27(3), F.S., related to the point system on driver licenses. The bill adds two additional points, for a total of six points, for illegally passing a stopped school bus resulting in death or serious bodily injury of another person. The points for illegally passing a school bus that does not result in death or serious bodily injury of another remain at four points.

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Any individual who illegally passes a school bus and causes death or serious bodily harm of another person will be required to pay an increased fine of \$1,500.

C. Government Sector Impact:

The DHSMV has not yet provided any estimate of a fiscal impact, if any, on the department to implement the provisions of the bill.

²⁵ As discussed above, s. 322.0261, F.S., requires *the DHSMV to require* a driver to take and complete the course.

²⁶ This is pursuant to s. 28.246, F.S.

Any fiscal impact for revenue from fees under the provisions of this bill will likely be minimal, given the data discussed above in the Present Situation on the frequency of these types of crashes.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill is currently effective July 1, 2017. An effective date of October 1, 2017, would allow the DHSMV additional time to develop, test, and implement programing to implement the bill.

Current law requires a driver who is involved in a crash that causes death or a bodily injury that requires transportation to a medical facility or who illegally passes a school bus to complete a driver improvement course. The bill requires a court to require a driver who illegally passes a school bus and causes death or serious bodily injury of another person to:

- Participate in a victim's impact panel session, or
- If the judicial circuit does not have such a panel, complete a driver improvement course.

It appears that reading the provisions of the bill with current law, all such drivers will be required to complete a driver improvement course, no matter if the judicial circuit has a victim's impact panel.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.027, 318.18, and 322.27.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Passidomo

28-01021A-17

20171622__

A bill to be entitled

An act relating to school bus safety; providing a short title; amending s. 316.027, F.S.; providing mandatory noncriminal penalties for certain violations resulting in serious bodily injury to or death of another person; amending s. 318.18, F.S.; requiring a fine and driver license suspension for such a violation; amending s. 322.27, F.S.; requiring imposition of points against a driver license for such a violation; providing an effective date.

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

Section 1. This act may be cited as the "Cameron Mayhew Act."

Section 2. Subsection (4) of section 316.027, Florida Statutes, is amended to read:

316.027 Crash involving death or personal injuries.—

(4) (a) In addition to any other civil, criminal, or administrative penalty imposed, a person whose commission of a noncriminal traffic infraction or a violation of this chapter or s. 1006.66 causes or results in the death of another person may be required by the court to serve 120 community service hours in a trauma center or hospital that regularly receives victims of vehicle accidents, under the supervision of a registered nurse, an emergency room physician, or an emergency medical technician pursuant to a voluntary community service program operated by the trauma center or hospital.

(b) Notwithstanding paragraph (a), in addition to any other

Page 1 of 5

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28-01021A-17

20171622__

civil, criminal, or administrative penalty imposed, a person whose commission of a violation of s. 316.172(1)(a) or (b) causes or results in serious bodily injury to or death of another person shall be required by the court to:

1. Serve 120 community service hours in a trauma center or hospital that regularly receives victims of vehicle accidents, under the supervision of a registered nurse, an emergency room physician, or an emergency medical technician pursuant to a voluntary community service program operated by the trauma center or hospital.

2. Participate in a victim's impact panel session in a judicial circuit if such a panel exists, or if such a panel does not exist, attend a department-approved driver improvement course relating to the rights of vulnerable road users relative to vehicles on the roadway as provided in s. 322.0261(2).

Section 3. Paragraph (d) is added to subsection (5) of section 318.18, Florida Statutes, to read:

318.18 Amount of penalties.—The penalties required for a noncriminal disposition pursuant to s. 318.14 or a criminal offense listed in s. 318.17 are as follows:

(5)

(d) Notwithstanding any other provision of law to the contrary, \$1,500 for a violation of s. 316.172(1)(a) or (b) that causes or results in serious bodily injury to or death of another. The person may enter into a payment plan with the clerk of court pursuant to s. 28.246. In addition to this penalty, the department shall suspend the driver license of the person for not less than 1 year.

Section 4. Paragraph (d) of subsection (3) of section

Page 2 of 5

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28-01021A-17

20171622__

59 322.27, Florida Statutes, is amended to read:

60 322.27 Authority of department to suspend or revoke driver
61 license or identification card.—

62 (3) There is established a point system for evaluation of
63 convictions of violations of motor vehicle laws or ordinances,
64 and violations of applicable provisions of s. 403.413(6) (b) when
65 such violations involve the use of motor vehicles, for the
66 determination of the continuing qualification of any person to
67 operate a motor vehicle. The department is authorized to suspend
68 the license of any person upon showing of its records or other
69 good and sufficient evidence that the licensee has been
70 convicted of violation of motor vehicle laws or ordinances, or
71 applicable provisions of s. 403.413(6) (b), amounting to 12 or
72 more points as determined by the point system. The suspension
73 shall be for a period of not more than 1 year.

74 (d) The point system shall have as its basic element a
75 graduated scale of points assigning relative values to
76 convictions of the following violations:

77 1. Reckless driving, willful and wanton—4 points.

78 2. Leaving the scene of a crash resulting in property
79 damage of more than \$50—6 points.

80 3. Unlawful speed, or unlawful use of a wireless
81 communications device, resulting in a crash—6 points.

82 4. Passing a stopped school bus:

83 a. Not causing or resulting in serious bodily injury to or
84 death of another—4 points.

85 b. Causing or resulting in serious bodily injury to or
86 death of another—6 points.

87 5. Unlawful speed:

28-01021A-17

20171622__

88 a. Not in excess of 15 miles per hour of lawful or posted
89 speed—3 points.

90 b. In excess of 15 miles per hour of lawful or posted
91 speed—4 points.

92 6. A violation of a traffic control signal device as
93 provided in s. 316.074(1) or s. 316.075(1) (c)1.—4 points.
94 However, no points shall be imposed for a violation of s.
95 316.074(1) or s. 316.075(1) (c)1. when a driver has failed to
96 stop at a traffic signal and when enforced by a traffic
97 infraction enforcement officer. In addition, a violation of s.
98 316.074(1) or s. 316.075(1) (c)1. when a driver has failed to
99 stop at a traffic signal and when enforced by a traffic
100 infraction enforcement officer may not be used for purposes of
101 setting motor vehicle insurance rates.

102 7. All other moving violations (including parking on a
103 highway outside the limits of a municipality)—3 points. However,
104 no points shall be imposed for a violation of s. 316.0741 or s.
105 316.2065(11); and points shall be imposed for a violation of s.
106 316.1001 only when imposed by the court after a hearing pursuant
107 to s. 318.14(5).

108 8. Any moving violation covered in this paragraph,
109 excluding unlawful speed and unlawful use of a wireless
110 communications device, resulting in a crash—4 points.

111 9. Any conviction under s. 403.413(6) (b)—3 points.

112 10. Any conviction under s. 316.0775(2)—4 points.

113 11. A moving violation covered in this paragraph which is
114 committed in conjunction with the unlawful use of a wireless
115 communications device within a school safety zone—2 points, in
116 addition to the points assigned for the moving violation.

28-01021A-17

20171622__

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Section 5. This act shall take effect July 1, 2017.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Agriculture, *Vice Chair*
Appropriations Subcommittee on Health and Human Services
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Governmental Oversight and Accountability
Transportation

JOINT COMMITTEE:

Joint Administrative Procedures Committee,
Alternating Chair

SENATOR KEVIN J. RADER
29th District

April 13, 2017

The Honorable George Gainer
302 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1300

Dear Chairman Gainer:

In accordance with Senate Rule 1.21, I am writing to you to be excused from the Transportation Committee meeting that will be held on April 19, 2017 at 1:30 pm due to family matters that need my immediate attention. I sincerely apologize for any inconvenience this may cause.

Thank you for your consideration. Please feel free to contact me at 561-866-4020 if you have any questions.

Sincerely

A handwritten signature in cursive script that reads "Kevin Rader".

Kevin Rader
State Senator
District 29

cc: Phillip Miller, Staff Director

REPLY TO:

- 5301 N. Federal Hwy, Suite 135, Boca Raton, Florida 33487
- 222 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5029

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore



THE FLORIDA SENATE
SENATOR JOE NEGRON
President

MEMORANDUM

TO: All Senators
Ms. Debbie Brown, Secretary of the Senate
All Senate Committee and Subcommittee Staff Directors

FROM: Joe Negron, President

SUBJECT: Senator Hukill

DATE: March 20, 2017

I am delighted to share an update regarding Senator Hukill's treatment and recovery. This weekend, I was very pleased to hear the news that Senator Hukill's treatment was successful and her doctors have determined that she is cancer-free.

As a precautionary measure, Senator Hukill's physicians have advised that she undergo one final round of treatment over the next few weeks. They continue to recommend that she avoid travel during this course of treatment. As such, Senator Hukill is excused for the remainder of the 2017 Regular Session. She will continue to manage her district offices, staff, bills, and committee responsibilities remotely during this time.

Senator Hukill asked that I convey her sincere thanks for the ongoing support of the Senate family during her treatment. While we certainly miss Senator Hukill in Tallahassee, we are delighted that she is on the road to a full recovery and look forward to the day when she can return to Tallahassee.

CourtSmart Tag Report

Room: SB 401

Case No.:

Type:

Caption: Senate Committee on Transportation Judge:

Started: 4/19/2017 1:54:07 PM

Ends: 4/19/2017 3:01:27 PM

Length: 01:07:21

1:54:06 PM Meeting called to order by Chair Gainer
1:54:14 PM Roll call by Administrative Assistant, Marilyn Hudson
1:54:24 PM Quorum present
1:54:30 PM Pledge of Allegiance
1:55:00 PM Comments by Chair Gainer
1:55:22 PM Introduction of CS/SB by Chair Gainer
1:55:33 PM Explanation of CS/SB 1316 by Senator Bracy
1:56:15 PM Introduction of Amendment Barcode No. 362432 by Chair Gainer
1:56:23 PM Explanation of Amendment Barcode No. 362432 by Senator Bracy
1:56:31 PM Comments by Chair Gainer
1:57:14 PM Amendment Barcode No. 362432 adopted
1:57:22 PM Question by Senator Rouson
1:58:05 PM Response by Senator Bracy
1:58:15 PM Question by Senator Rouson
1:58:27 PM Response by Senator Bracy
1:58:29 PM Question by Senator Rouson
1:58:38 PM Response by Senator Bracy
1:58:50 PM Comments by Chair Gainer
1:59:05 PM Ashley Kalifeh, Lobbyist, American Insurance Association
2:00:16 PM Question by Senator Rouson
2:00:29 PM Response by Ashley Kalifeh
2:00:37 PM Question by Senator Rouson
2:00:48 PM Response by Ashley Kalifeh
2:00:55 PM Question by Senator Rouson
2:01:08 PM Response by Ashley Kalifeh
2:01:54 PM Jan Gorrie, Consultant, CARCO Group
2:04:56 PM Question by Senator Rouson
2:05:08 PM Response by Jan Gorrie
2:06:12 PM Comments by Chair Gainer
2:06:20 PM Response by Jan Gorrie
2:06:24 PM Comments by Chair Gainer
2:06:36 PM Question by Senator Baxley
2:06:48 PM Response by Jan Gorrie
2:07:14 PM Question by Senator Baxley
2:07:26 PM Response by Jan Gorrie
2:07:54 PM Comments by Chair Gainer
2:08:04 PM Meredith Snowden, Consultant, Property Casualty Insurers Association of America waives in support
2:08:09 PM Robbert Reyes, Lobbyist, Allstate Insurance Company waives in support
2:09:10 PM Comments by Chair Gainer
2:09:36 PM Closure waived on CS/SB 1316 by Senator Bracy
2:10:12 PM Roll call on CS/SB 1316 by Administrative Assistant, Marilyn Hudson
2:10:24 PM CS/SB 1316 reported favorably
2:10:37 PM Introduction of SB 1622 by Chair Gainer
2:10:45 PM Explanation of SB 1622 by Senator Passidomo
2:12:30 PM Comments by Chair Gainer
2:12:37 PM Question by Senator Rouson
2:12:50 PM Response by Senator Passidomo
2:13:15 PM Question by Senator Rouson
2:13:50 PM Response by Senator Passidomo
2:14:04 PM Comments by Senator Rouson
2:14:11 PM Comments by Chair Gainer
2:14:24 PM Closure waived on SB 1622 by Senator Passidomo

2:14:29 PM Roll call on SB 1622 by Administrative Assistant, Marilyn Hudson
2:14:40 PM SB 1622 reported favorably
2:14:53 PM Introduction of CS/SB 918 by Chair Gainer
2:15:07 PM Explanation of CS/SB 918 by Senator Simmons
2:22:17 PM Question by Senator Rouson
2:22:44 PM Response by Senator Simmons
2:25:00 PM Introduction of Amendment Barcode No. 356064 by Chair Gainer
2:25:09 PM Explanation of Amendment Barcode No. 356064 by Senator Simmons
2:27:37 PM Comments by Chair Gainer
2:27:51 PM Jorge Chamizo, Attorney, Florida Association of Criminal Defense Lawyers waives in support
2:28:11 PM Comments by Chair Gainer
2:28:18 PM Closure waived on Amendment Barcode No. 356064 by Senator Simmions
2:28:27 PM Amendment Barcode No. 356064 adopted
2:28:37 PM Question by Senator Rouson
2:28:55 PM Response by Senator Simmons
2:30:09 PM Question by Senator Rouson
2:30:28 PM Response by Senator Simmons
2:31:19 PM Question by Senator Rouson
2:31:39 PM Response by Senator Simmons
2:33:02 PM Question by Senator Baxley
2:33:30 PM Response by Senator Simmons
2:34:57 PM Question by Senator Baxley
2:35:18 PM Response by Senator Simmons
2:35:47 PM Question by Chair Gainer
2:35:55 PM Response by Senator Simmons
2:36:14 PM Comments by Chair Gainer
2:36:32 PM Frank Harris, Director-State Government Affairs, Mothers Against Drunk Driving
2:40:54 PM Laura McLeod, Executive Director, Florida Association of DUI Programs
2:46:59 PM Comments by Chair Gainer
2:47:05 PM Response by Laura McLeod
2:48:07 PM Question by Senator Baxley
2:48:29 PM Question by Senator Baxley
2:48:47 PM Response by Laura McLeod
2:49:08 PM Kristen Allen, Program Director, Mothers Against Drunk Driving
2:51:31 PM Amy Jamieson, Volunteer, Mothers Against Drunk Driving
2:53:26 PM Comments by Chair Gainer
2:53:49 PM Shawn Foster, Lobbyist, Roche Surety and Casualty Inc.
2:55:11 PM Paul Hawkes, Lobbyist, Manufacturers
2:56:32 PM Question by Senator Rouson
2:57:01 PM Comments by Chair Gainer
2:57:08 PM Debate by Senator Baxley
2:58:28 PM Comments by Chair Gainer
2:58:52 PM Closure waived on CS/SB 918 by Senator Simmons
3:00:45 PM Roll call on CS/SB 918 by Administrative Assistant, Marilyn Hudson
3:00:54 PM CS/SB 918 reported favorable
3:01:06 PM Comments by Chair Gainer
3:01:17 PM Senator Galvano moves to adjourn