

HB 41

2015

1 A bill to be entitled

2 An act relating to hazardous walking conditions;
3 amending s. 1006.23, F.S.; revising criteria that
4 determine a hazardous walking condition for public
5 school students; revising procedures for inspection
6 and identification of hazardous walking conditions;
7 authorizing a district school superintendent to
8 initiate a formal request for correction of a
9 hazardous walking condition; authorizing a district
10 school board to initiate an administrative proceeding
11 under certain circumstances and providing requirements
12 therefor; requiring a district school board to provide
13 transportation to students who would be subjected to
14 hazardous walking conditions; requiring state or local
15 governmental entities with jurisdiction over a road
16 with a hazardous walking condition to correct the
17 condition within a reasonable period of time;
18 providing requirements for a governmental entity
19 relating to its capital improvements program;
20 providing requirements relating to a civil action for
21 damages; providing an effective date.

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

24
25 Section 1. Section 1006.23, Florida Statutes, is reordered
26 and amended to read:

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

hb0041-00

27 1006.23 Hazardous walking conditions.—

28 (1) DEFINITION.—As used in this section, the term
 29 "student" means any public elementary school student whose grade
 30 level does not exceed grade 6.

31 ~~(2)-(4) STATE CRITERIA FOR DETERMINING HAZARDOUS WALKING~~
 32 ~~CONDITIONS.—~~

33 (a) Walkways parallel to the road.—

34 1. It shall be considered a hazardous walking condition
 35 with respect to any road along which students must walk in order
 36 to walk to and from school if there is not an area at least 4
 37 feet wide adjacent to the road, not including drainage ditches,
 38 sluiceways, swales, or channels, having a surface upon which
 39 students may walk without being required to walk on the road
 40 surface. In addition, whenever the road along which students
 41 must walk is uncurbed and has a posted speed limit of 50 ~~55~~
 42 miles per hour or greater, the area as described above for
 43 students to walk upon shall be set off the road by no less than
 44 3 feet from the edge of the road.

45 2. ~~The provisions of~~ Subparagraph 1. does ~~de~~ not apply
 46 when the road along which students must walk:

47 ~~a. Is in a residential area which has little or no~~
 48 ~~transient traffic;~~

49 ~~a.b.~~ Is a road on which the volume of traffic is less than
 50 180 vehicles per hour, per direction, during the time students
 51 walk to and from school; or

52 ~~b.e.~~ Is located in a residential area and has a posted

53 speed limit of 30 miles per hour or less.

54 (b) Walkways perpendicular to the road.—It shall be
55 considered a hazardous walking condition with respect to any
56 road across which students must walk in order to walk to and
57 from school if:

58 1. ~~If~~ The traffic volume on the road exceeds the rate of
59 360 vehicles per hour, per direction (including all lanes),
60 during the time students walk to and from school and if the
61 crossing site is uncontrolled. For purposes of this subsection,
62 an "uncontrolled crossing site" is an intersection or other
63 designated crossing site where no crossing guard, traffic
64 enforcement officer, or stop sign or other traffic control
65 signal is present during the times students walk to and from
66 school.

67 2. ~~If~~ The total traffic volume on the road exceeds 4,000
68 vehicles per hour through an intersection or other crossing site
69 controlled by a stop sign or other traffic control signal,
70 unless crossing guards or other traffic enforcement officers are
71 also present during the times students walk to and from school.

72
73 Traffic volume shall be determined by the most current traffic
74 engineering study conducted by a state or local governmental
75 agency.

76 (c) Crossings over the road.—It shall be considered a
77 hazardous walking condition with respect to any road at any
78 uncontrolled crossing site which students must walk in order to

79 walk to and from school if:

80 1. The road has a posted speed limit of 50 miles per hour
 81 or greater; or

82 2. The road has six lanes or more, not including turn
 83 lanes, regardless of the speed limit.

84 (3) IDENTIFICATION OF HAZARDOUS CONDITIONS.—

85 (a) When a request for review is made by ~~to~~ the district
 86 school superintendent with respect to a road over which a state
 87 or local governmental entity has jurisdiction ~~or the district~~
 88 ~~school superintendent's designee~~ concerning a condition
 89 perceived to be hazardous to students in that district who live
 90 within the 2-mile limit and who walk to school, such condition
 91 shall be inspected jointly by a representative of the school
 92 district, ~~and~~ a representative of the state or local
 93 governmental entity with ~~that has~~ jurisdiction over the
 94 perceived hazardous location, and a representative of the
 95 municipal police department for a municipal road, a
 96 representative of the sheriff's office for a county road, or a
 97 representative of the Department of Transportation for a state
 98 road. If the jurisdiction is within an area for which there is a
 99 metropolitan planning organization, a representative of that
 100 organization shall also be included. The governmental
 101 representatives shall determine whether the condition
 102 constitutes a hazardous walking condition as provided in
 103 subsection (2). If the governmental representatives concur that
 104 a condition constitutes a hazardous walking condition as

105 provided in subsection (2), they shall report that determination
106 in writing to the district school superintendent, who shall
107 initiate a formal request for correction as provided in
108 subsection (4).

109 (b) If the governmental representatives are unable to
110 reach a consensus, the reasons for lack of consensus shall be
111 reported to the district school superintendent, who shall
112 provide a report and recommendation to the district school
113 board. The district school board may initiate an administrative
114 proceeding under chapter 120 seeking a determination as to
115 whether the condition constitutes a hazardous walking condition
116 as provided in subsection (2) after providing at least 30 days'
117 notice in writing to the local governmental entities having
118 jurisdiction over the road of its intent to do so unless, within
119 30 days after such notice is provided, the local governmental
120 entities concur in writing that the condition is a hazardous
121 walking condition as provided in subsection (2) and provide the
122 position statement pursuant to subsection (4). If an
123 administrative proceeding is initiated under this paragraph, the
124 district school board has the burden of proving such condition
125 by the greater weight of evidence. If the district school board
126 prevails, the district school superintendent shall report the
127 outcome to the Department of Education and initiate a formal
128 request for correction of the hazardous walking condition as
129 provided in subsection (4). ~~The district school superintendent~~
130 ~~or his or her designee and the state or local governmental~~

131 ~~entity or its representative shall then make a final~~
 132 ~~determination that is mutually agreed upon regarding whether the~~
 133 ~~hazardous condition meets the state criteria pursuant to this~~
 134 ~~section. The district school superintendent or his or her~~
 135 ~~designee shall report this final determination to the~~
 136 ~~Department.~~

137 (4) ~~(2)~~ TRANSPORTATION; CORRECTION OF HAZARDS.—

138 (a) A district school board ~~It is intended that district~~
 139 ~~school boards~~ and other governmental entities shall work
 140 cooperatively to identify and correct conditions that are
 141 hazardous along student walking routes to school, and a district
 142 school board shall ~~that district school boards~~ provide
 143 transportation to students who would be subjected to such
 144 conditions. Additionally, ~~It is further intended that~~ state or
 145 local governmental entities with having jurisdiction over a road
 146 along which a hazardous walking condition is determined to exist
 147 shall correct the condition ~~such hazardous conditions~~ within a
 148 reasonable period of time.

149 (b) Upon a determination pursuant to subsection (3) ~~this~~
 150 ~~section~~ that a hazardous walking condition exists ~~is hazardous~~
 151 ~~to students,~~ the district school superintendent ~~board~~ shall
 152 request a position statement with respect to correction of such
 153 condition ~~determination~~ from the state or local governmental
 154 entity with having jurisdiction over the road. Within 90 days
 155 after receiving such request, the state or local governmental
 156 entity shall inform the district school superintendent regarding

157 whether the entity will include correction of the hazardous
158 walking condition in its next annual 5-year capital improvements
159 program ~~hazard will be corrected~~ and, if so, when correction of
160 the condition will be completed. If the hazardous walking
161 condition will not be included in the state or local
162 governmental entity's next annual 5-year capital improvements
163 program, the factors justifying such conclusion must be stated
164 in writing to the district school superintendent and the
165 Department of Education regarding a projected completion date.

166 (c) State funds shall be allocated for the transportation
167 of students subjected to a hazardous walking condition. However,
168 ~~such hazards, provided that~~ such funding shall cease upon
169 correction of the hazardous walking condition ~~hazard~~ or upon the
170 projected completion date, whichever occurs first.

171 (5) CIVIL ACTION.—In a civil action for damages brought
172 against a governmental entity under s. 768.28, the designation
173 of a hazardous walking condition under this section is not
174 admissible in evidence.

175 Section 2. This act shall take effect July 1, 2015.