

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 1570

INTRODUCER: Senator Simmons

SUBJECT: School Bus Stop Safety

DATE: February 16, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Eichin	TR	Pre-meeting
2.	_____	_____	ATD	_____
3.	_____	_____	FP	_____

I. Summary:

SB 1570¹ reclassifies the offense for passing a stopped school bus on the side that children enter and exit while displaying a stop signal from a noncriminal traffic infraction to the criminal offense of reckless driving.

The bill also authorizes the use of cameras and video recording devices for enforcement and increases the penalties imposed for failing to stop for a school bus.

The bill takes effect October 1, 2016.

II. Present Situation:

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, not stop where visibility is obscured for a distance of 200 feet either way from the bus.²

Florida law requires that any person, upon approaching a stopped school bus displaying a stop signal, bring his or her vehicle to a full stop until the signal has been withdrawn.³ Furthermore, it is unlawful to pass a school bus on the side that children enter and exit while the school bus displays a stop signal.⁴ However, a driver is not required to stop if the vehicle is traveling in the

¹ This act may be cited as “Gabby’s Law for School Bus Stop Safety.” In 2010, 12-year-old Gabrielle Mair was killed by a car shortly after exiting a school bus in DeBary, Florida. See Orlando Sentinel article (January 28, 2015), available at <http://www.orlandosentinel.com/features/education/os-school-bus-law-florida-20150128-story.html> (last visited Feb. 12, 2016).

² Section 316.172(3), F.S.

³ Section 316.172(1)(a), F.S.

⁴ Section 316.172(1)(b), F.S.

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.”⁵

If, at a hearing, a person is found to have failed to fully stop for or passed a stopped school bus,⁶ both of which are noncriminal traffic infractions, the person must pay a minimum civil penalty of \$100 or \$200, respectively, plus an additional \$65.⁷ For any subsequent violation, the Department of Highway Safety and Motor Vehicles (DHSMV), may suspend a person’s driver license if such violation is committed within a period of 5 years after the first violation.⁸

In addition, if a court withholds adjudication of a driver who receives a traffic citation for illegally passing a school bus, the driver is required by the DHSMV to complete a driver improvement course. The DHSMV, within 10 days after receiving notice of judicial disposition, will send a notice to the driver indicating the requirement to attend a driver improvement course. If the course is not completed within 90 days of receiving the notice, the driver’s license will be canceled until the course is successfully completed.⁹

School Bus Safety

The National Highway Safety Transportation Safety Association (NHTSA) estimates approximately 24 children are killed in school bus accidents each year.¹⁰ However, few occur while actually on the bus. Typically, one-third of the fatalities occur when a child is struck by the school bus in the loading or unloading zone, one-third are struck by motorists who fail to stop for the bus, and one-third are pedestrians killed approaching or leaving the school bus.

As of December 2014, eleven states have laws allowing cameras to be placed on school buses in order to help apprehend and punish drivers who illegally pass school buses.¹¹

In 2012, Iowa passed legislation¹² providing for a school bus safety study to assist state departments in addressing the goals and safety elements placed within “Kadyn’s Law,” which, in part, addresses the use of cameras mounted on school buses to enhance safety.¹³ According to the study, “cameras do aid in enforcement of motor vehicle laws if there is an effective and

⁵ Section 316.172(2), F.S.

⁶ A person cited for passing a stopped school bus on the side children enter or exit must attend a mandatory hearing at a specified time and location. See ss. 316.172(1)(b) and 318.19(3), F.S.

⁷ Section 318.18(5), F.S. The additional \$65 is remitted to the Department of Revenue for deposit into the Emergency Medical Services Trust Fund of the Department of Health for the purpose of funding trauma centers. See s. 395.4036, F.S.

⁸ *Id.* at 5(a) and (b). A person who passes a stopped school bus will receive 4 points on his or her driver license or, depending on the circumstances, his or her driver license may be suspended or, if a habitual traffic offender, shall be revoked. See s. 322.27(1)(f) and (3)(d)4., F.S. See also s. 322.264, F.S., for the definition of the term “habitual traffic offender.”

⁹ Section 322.0261(4)(c), F.S.

¹⁰ See National Conference of State Legislatures (NCSL), *Transportation Review – School Bus Safety* (July 2012) at p. 1, available at: http://www.ncsl.org/documents/transportation/schoolbus_tranrev0810.pdf (last visited Feb. 12, 2016).

¹¹ The eleven states are Arkansas, Connecticut, Georgia, Illinois, Maryland, Mississippi, North Carolina, Rhode Island, South Carolina, Virginia, Washington, West Virginia, and Wyoming. See NCSL, *School Bus Video Monitoring Chart* (December 10, 2014), <http://www.ncsl.org/research/transportation/school-bus-video-monitoring-chart.aspx> (last visited Feb. 12, 2016).

¹² Iowa Senate File (SF) 2218 (2012), or “Kadyn’s Law.”

¹³ See Center for Transportation Research and Education, *School Bus Safety Study – Kadyn’s Law: Summary* (December 2012), <http://www.iowadot.gov/schoolbus/pdf/Summary-KadynsLaw.pdf> Final Report available at: <http://www.iowadot.gov/schoolbus/pdf/Fullreport-Kadynslaw.pdf> (last visited Feb. 12, 2016).

sustainable process to turn camera images into violations.”¹⁴ However, the process of bus drivers noting each violation, the school district isolating the images and providing them to the local law enforcement agency, and law enforcement then verifying and delivering the violation to the driver is a laborious process for all parties.¹⁵ This model may limit enforcement due to bus driver capabilities, and time restraints on school districts and law enforcement.

2015 Illegal Passing of School Buses

Since 2011, the Florida Department of Education has posted survey results on its website of the number of vehicles that illegally pass a stopped school bus in a single day of the school year, according to the school bus drivers.¹⁶ In Academic Year 2014-2015, 9,807 school bus drivers in the state completed the survey. The bus drivers indicated the school bus was illegally passed by 10,987 vehicles throughout the day. Of those, 371 vehicles were reported passing to the right side of the bus, the side students generally enter and exit.¹⁷

The DHSMV has indicated, in 2015 approximately 2,136 citations were issued for failure to stop for a school bus, and 44 for passing a school bus on the side children enter and exit.¹⁸

Reckless Driving

A person “who drives any vehicle in willful or wanton disregard for the safety of persons or property” or flees from a law enforcement officer in a vehicle shall be charged with reckless driving, which is a criminal offense.¹⁹

If convicted, a person is subject to punishment by imprisonment for not more than 90 days or by a minimum fine of \$25 and a maximum fine of \$500, or both.²⁰ For any subsequent conviction, a person is subject to punishment by imprisonment for a maximum of six months or by a minimum fine of \$50 and a maximum fine of \$1,000, or both.²¹ If a person’s reckless driving causes damage to person or property, he or she commits a first degree misdemeanor, punishable by imprisonment not exceeding one year or a maximum fine of \$1,000.²² If a person’s reckless driving causes serious bodily injury to another person, he or she commits a third degree felony, punishable by imprisonment not to exceed five years, a maximum fine of \$5,000 or, if a habitual felony offender, an extended term of imprisonment.²³

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ See Florida Department of Education website, *School Transportation, Illegal Passing of School Buses – Survey Results*, <http://www.fldoe.org/schools/safe-healthy-schools/transportation/> (last visited Feb. 12, 2016).

¹⁷ *Id.* under link titled “Florida survey results of 2015”

¹⁸ Email from the DHSMV (Feb. 15, 2016) (on file with the Senate Committee on Transportation).

¹⁹ Sections 316.192(1) and 318.17(4), F.S.

²⁰ Section 316.192(2)(a), F.S.

²¹ Section 316.192(2)(b), F.S..

²² Sections 316.192(3)(c)1., 775.082(4)(a), 775.083(1)(d), F.S. A court has the discretion to suspend or cancel a driver license and impose any other civil penalty it deems fit. s. 775.082(7), F.S.

²³ Sections 316.192(3)(c)2., 775.082(3)(e), 775.083(1)(c), and 775.084(1)(a), F.S. Section 316.192(3)(c)2., F.S. defines “serious bodily injury” as “an injury to another person, 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.”

If convicted of a violation of passing a school bus or reckless driving, four points are assessed against the offender's driver license.²⁴

III. Effect of Proposed Changes:

Section 1 provides this act may be cited as "Gabby's Law for School Bus Stop Safety."

Section 2 amends s. 316.172, F.S., increasing the penalty from a noncriminal moving violation to the criminal offense of reckless driving for a person operating a motor vehicle who passes a school bus on the side that children enter and exit when the bus displays a stop signal.

Paragraph (c) is added to s. 316.172, F.S., providing a school district may use cameras and video recording devices to enforce this section. A school bus driver who observes a violation of a driver illegally passing the school bus while the stop signal is displayed must record the license number and a description of the vehicle, and the time and date of the violation. The image of the violation is then submitted, within 15 days after its occurrence, to the local law enforcement agency that has jurisdiction over the area where the violation occurred.

Section 3 creates a subsection (6) within the reckless driving statute, to retain the \$65 penalty currently collected for a violation of passing a school bus on the side that children enter and exit when the bus is displaying a stop signal.

Section 4 amends s. 318.17, F.S., to make conforming changes.

Section 5 increases the penalty for failure to stop for a school bus as follows:

- For a first violation: The minimum civil penalty is increased to \$250; and
- For a subsequent violation within five years: The period of suspension of the driver's license is increased to a minimum of six months and maximum of one year.

It also removes the civil penalty for illegally passing a school bus on the side children enter and exit, as that penalty is reclassified as reckless driving.

Sections 6 and 7 conform cross-references to changes made by this act.

Section 8 provides the bill takes effect October 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

²⁴ Section 322.27(3)(d), F.S.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Constitutional challenges may arise from the assessment of whether a violation occurred being determined by the bus driver, then school district, prior to the image being submitted to law enforcement; in addition to the process possibly citing the vehicle's owner, not necessarily the driver of the vehicle at the time of the offense.

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

None.

B. Private Sector Impact:

Individuals cited for illegally passing a school bus will incur increased penalties.

C. Government Sector Impact:

SB 1570 has an indeterminate fiscal impact.

Because the penalty for failure to stop for a school bus²⁵ is increased from \$100 to \$250, there will be an increase in revenue. However, the fiscal impact of changing the violation of passing a school bus on the side children enter and exit²⁶ from a noncriminal moving violation to a charge of reckless driving is unknown.

The Office of State Courts Administrator has indicated the change to a reckless driving charge could impact revenues to the State Court Revenue Trust Fund, which currently receives \$5 for each non-criminal traffic violation, but believes this revenue reduction would have a minimal impact on the trust fund.²⁷

The DHSMV anticipates the bill will require approximately 298.5 hours of programming and implementation, having an estimated impact of \$13,447.50 to the DHSMV.²⁸

Furthermore, local governments who choose to place cameras or video recording devices on school buses will incur the cost of purchasing, installation, and maintenance of such devices.

²⁵ Section 316.172(1)(a), F.S.

²⁶ Section 316.172(1)(b), F.S.

²⁷ See Office of the State Court Administrator, *2015 Judicial Impact Statement for SB 346* (March 3, 2015) (on file with the Senate Committee on Transportation).

²⁸ DHSMV, *2016 Agency Legislative Bill Analysis for SB 1570* (Feb. 11, 2016) (on file with the Senate Committee on Transportation).

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill does not grant authority to the law enforcement agency to cite or arrest the driver for reckless driving using the images obtained from the school bus camera. Additionally, a law enforcement officer may not arrest a violator of ch. 316 without a warrant unless the violation has been committed in the presence of an officer.²⁹

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.172, 316.192, 318.17, and 318.18.

This bill makes conforming changes to the following sections of the Florida Statutes: 318.21 and 395.4036.

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.

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

²⁹ Section 901.15, F.S.