

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1427 School Bus Safety
SPONSOR(S): Cortes J.
TIED BILLS: **IDEN./SIM. BILLS:** SB 1648

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	10 Y, 0 N	Johnson	Vickers
2) Justice Appropriations Subcommittee			
3) Government Accountability Committee			

SUMMARY ANALYSIS

Current law provides that passing a stopped school bus on the side that children enter and exit the bus is a moving violation and is subject to a mandatory court hearing.

The bill reclassifies passing a stopped school bus on the side the children enter and exit the bus as reckless driving, which is either a misdemeanor in the first degree or a felony in the third degree, depending upon the circumstances.

State and local governments may see an increase in revenues associated with the increased penalties provide in the bill. However, the amount of potential revenue increase is unknown at this time. See Fiscal Analysis for details.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Passing a School Bus

Section 316.172, F.S., requires traffic to stop for school bus. Section 316.172(1)(a), F.S., provides that any person using, operating, or driving a vehicle upon approaching any school bus which displays a stop signal, is required to bring the vehicle to a full stop while the bus is stopped, and the vehicle may not pass the school bus until the signal has been withdrawn. A person who violates s. 316.172(1)(a), F.S., commits a moving violation, punishable as provided in Ch. 318, F.S.¹

Section 316.172(1)(b), F.S., provides that any person using, operating, or driving a vehicle that passes a school bus on the side that children enter and exit when the school bus displays a stop signal commits a moving violation, punishable as provided in Ch. 318, and is subject to a mandatory hearing.²

Section 318.18, F.S., provides the amount of penalties for various traffic infractions. Section 318.18(5), F.S., provides the penalties for failing to stop for a school bus. Section 318.18(5)(a), F.S., provides a penalty of \$100 for failing to stop for a school bus. If, at a hearing, the alleged offender is found to have committed this offense, the court imposes a minimum civil penalty of \$100. In addition to this penalty, for a second or subsequent offense within a period of 5 years, DHSMV is directed to suspend the driver license of the person for not less than 90 days and not more than 6 months. Including various service charges, the total fine for this violation is \$263, which is distributed to various funds.³

Section 318.18(5)(b), F.S., provides a penalty of \$200 for passing a school bus on the side that children enter and exit when the school bus displays a stop signal. If, at a hearing, the alleged offender is found to have committed this offense, the court imposes a minimum civil penalty of \$200. In addition to this penalty, for a second or subsequent offense within a period of 5 years, DHSMV suspends the driver license of the person for not less than 180 days and not more than 1 year. Including various service charges, the total fine for this violation is \$363, which is distributed to various funds.⁴

According to Department of Highway Safety and Motor Vehicles (DHSMV) data, in 2016, 2,418 traffic citations were issued for failing to stop for a school bus or passing a stopped school bus. DHSMV's data does not differentiate which side of the school bus the motor vehicle passed on.⁵

Reckless Driving

Section 316.192, F.S., provides penalties regarding reckless driving. This section provides that any person who drives any vehicle in willful or wanton disregard for the safety of persons or property is guilty of reckless driving. Fleeing a law enforcement officer in a motor vehicle is reckless driving per se.⁶

¹ Chapter 318, F.S., relates to the disposition of traffic infractions.

² Mandatory hearings are subject to the provisions of s. 318.19, F.S.

³ Florida Association of Clerks of Court:

http://archive.flclerks.com/Pub_info/2015_Pub_info/2015_Distribution_Schedule_with_codes-7-1-2015_final.pdf (Last visited March 15, 2017).

⁴ Id.

⁵ Email from DHSMV, March 15, 2017. (Copy on file with Transportation & Infrastructure Subcommittee).

⁶ Section 316.192(1), F.S.

Willful” means “intentional, knowing, and purposeful,” and “wanton” means “with a conscious and intentional indifference to consequences and with knowledge that damage is likely to be done to persons or property.”⁷

Although a person does not have to foresee the specific circumstances causing the death of a victim in order to be guilty of vehicular homicide, the person must have reasonably foreseen that the same general type of harm might occur if he or she knowingly drove a vehicle under circumstances that would likely cause death or great bodily harm to another.

In determining whether a defendant was driving recklessly, the issue boils down to whether the defendant knowingly drove the vehicle in such a manner and under such conditions as was likely to cause death or great bodily harm.

The focus is, therefore, on the actions of the defendant, i.e., what were the circumstances under which the defendant knowingly drove, and was it reasonably foreseeable under those circumstances that death or great bodily harm could result.⁸

Except as provided below, any person convicted of reckless driving is punished:

- Upon a first conviction, by imprisonment for a period of not more than 90 days or by fine of not less than \$25 nor more than \$500, or by both such fine and imprisonment.
- On a second or subsequent conviction, by imprisonment for not more than 6 months or by a fine of not less than \$50 nor more than \$1,000, or by both such fine and imprisonment.⁹

Any person: who commits reckless driving while operating a vehicle, and by reason of operating the vehicle causes damage to property or another person of another commits a misdemeanor of the first degree, punishable by up to a year imprisonment¹⁰ or a fine of up to \$1,000.^{11 12}

Any person: who commits reckless driving while operating a vehicle, and by reason of operating the vehicle causes serious bodily injury¹³ to another person commits a felony of the third degree, punishable by up to five years imprisonment,¹⁴ a fine of up to \$5,000,¹⁵ or as a habitual felony offender.^{16 17}

Notwithstanding any other provision s. 316.192, F.S., \$5 is added to a fine, which is remitted to the Department of Revenue for deposit in the Emergency Medical Services Trust Fund.¹⁸

Proposed Changes

⁷ *State v. Lebron*, 954 So. 2d 52, 55 (Fla. Dist. Ct. App. 2007). Email from DHSMV, March 22, 2017. Copy on file with Transportation & Infrastructure Subcommittee).

⁸ *D.E. v. State*, 904 So. 2d 558, 561-62 (Fla. Dist. Ct. App. 2005) Email from DHSMV, March 22, 2017. Copy on file with Transportation & Infrastructure Subcommittee).

⁹ Section 316.192(2), F.S.

¹⁰ Section 775.082, F.S.

¹¹ Section 775.083, F.S.

¹² Section 316.192(3), F.S.

¹³ The statute defines ‘serious bodily injury’ as means 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.

¹⁴ Section 775.082, F.S.

¹⁵ Section 775.083, F.S.

¹⁶ Section 775.084, F.S.

¹⁷ Section 316.192(3), F.S.

¹⁸ Section 316.192(4), F.S.

The bill amends s. 316.172(1)(b), F.S., providing that operating or driving a vehicle passing a school bus on the side that children enter and exit while the school bus displays a stop signal commits reckless driving punishable as provided in s. 316.192, F.S.

The bill amends s. 318.18, F.S., removing the current penalty for passing a school bus on the side that children enter and exit when the school bus displays the stop signal due to this offense becoming punishable as reckless driving.

The bill amends ss. 318.17, 318.19, 318.21, and 395.4036, F.S., conforming to changes made in the bill.

B. SECTION DIRECTORY:

Section 1 amends s. 316.172, F.S., requiring traffic to stop for a school bus.

Section 2 amends s. 318.17, F.S., adding a cross-reference.

Section 3 amends s. 318.18, F.S., providing the amount of penalties.

Sections 4 through 6 amend ss. 318.19, 328.21, and 395.4036, F.S., conforming cross-references.

Section 7 provides an effective date of October 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The state may see an increase in revenue as a result of the increased penalty for passing a school bus on the side where children enter and exit the bus. However, the amount of additional revenue is unknown at this time.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Local governments may see an increase in revenue as a result of the increased penalty for passing a school bus on the side where children enter and exit the bus. However, the amount of additional revenue is unknown at this time.

2. Expenditures:

There may be a need for additional jail beds associated with passing a school bus on the side where children enter and exit the bus as reckless driving. However, the number of additional jail beds required is not known at this time.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons who pass a school bus on the side of the bus where the children enter and exit the bus will see an increase in penalties.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.