

STORAGE NAME: h0133p1.leps
DATE: March 7, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
LAW ENFORCEMENT AND PUBLIC SAFETY
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: PCS/HB 133
RELATING TO: Traffic Control/Red Light
SPONSOR(S): Representative Lacasa
STATUTE(S) AFFECTED: s. 316.075, s. 316.192, s. 318.18, F.S.
COMPANION BILL(S): SB 230 (I)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) LAW ENFORCEMENT AND PUBLIC SAFETY
- (2)
- (3)
- (4)
- (5)

I. SUMMARY:

In 1995 there were 8,373 automobile accidents where disregard for the traffic control signal was a contributing cause to the crash. According to information compiled from traffic cash reports submitted to the Department of Highway Safety and Motor Vehicles, that same year there were 12,820 people injured, and 125 persons killed as a result of those crashes.

Currently, running a red light is a non-criminal infraction, and is characterized as a "moving violation" which carries a \$60 civil penalty. Under the bill, whenever someone intentionally drives through a "steady" red light and causes an accident which results in bodily injury or property damage, such person is guilty of reckless driving, a **criminal** offense.

This bill's enhancement of the infraction of running a red light to a criminal offense will have three significant effects. First, law enforcement officers who may have been reluctant to cite drivers who cause accidents after deliberately running through red lights, would have a clear mandate that such conduct is *reckless driving*. Second, this bill would bring through the criminal court system more reckless driving cases that otherwise would have been treated as non-criminal infractions. Establishing this conduct as reckless driving would subject violators to the criminal penalties that attach to reckless driving. As a result, victims would be entitled to recover restitution under s.775.089 F.S., against drivers for their injuries and/or property damage. Third, there would be greater consistency at the trial court level because cases involving running a red light that results in an accident, would be clearly defined as reckless driving under the law.

The bill also increases the civil penalty for running a red light to \$100. In addition, it provides for a 90 day to 6 month driver's license suspension for a second or subsequent offense.

There will be additional costs associated with the prosecution of these cases as criminal offenses. Defendants charged with reckless driving would be entitled to jury trial which are more expensive than the costs of conducting traffic court hearings and processing non-criminal infraction fines. However, the amount of such cost increase is indeterminate based on the information that is available at this time.

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II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

In 1995 there were 8,373 automobile accidents where disregard for the traffic control signal was a contributing cause to the crash. According to information compiled from traffic cash reports submitted to the Department of Highway Safety and Motor Vehicles, that same year there were 12,820 people injured, and 125 persons killed as a result of those crashes. While the information for 1996 has not yet been gathered, the number of such crashes is expected to be higher. The number of crashes is expected to increase as the population of Florida continues to rise.

Currently running a red light is a non-criminal infraction under s.318.14(1) F.S., and is characterized as a "moving violation" which carries a \$60 civil penalty under s. 318.18(3)(a), F.S. Section 316.075(3)(a), F.S., provides in pertinent part:

Vehicular traffic facing a steady signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until a green light indication is shown;

Reckless driving is defined under s. 316.192, F.S., as follows:

Any person who drives any vehicle in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.

Although *reckless driving* is considered a misdemeanor offense, it is not defined as either a first or second degree misdemeanor. It's penalties are specifically provided under s. 316.192(2), F.S., as follows:

- ▶ For a first conviction - up to 90 days jail and/or up to a \$500 fine.
- ▶ For a second or subsequent conviction - up to 6 months jail and/or up to a \$1,000 fine.

Under the current law, running a red light can amount to reckless driving depending on the circumstances. However, there is currently no uniform criteria establishing the circumstances under which running a red light becomes reckless driving. While there is case law developed where running a red light is one component of a series of acts or infractions that meet the recklessness standard, there is no case law in Florida which addresses the issue of when the act of running a red light, standing alone, is sufficient to warrant a charge of reckless driving. See, *Moye v. State*, 571 So.2d 113 (4th DCA 1990) (holding that weaving through traffic, willfully disregarding a yellow light, and accelerating through a red light, was sufficient to uphold a vehicular homicide conviction based on reckless driving). That being the case, it is left as a matter of statutory interpretation among prosecutors and judges to determine the propriety of reckless driving charges arising out of running red lights.

Perhaps the closest case in Florida to directly address the issue is *Behn v. State*, 621 So.2d (1st DCA. 1993). In *Behn*, the defendant was charged with manslaughter, which requires proof of culpable negligence - a higher standard than reckless driving. The defendant, while operating a semi-truck knowing that the brakes were defective, ran a red light, and struck and killed the two occupants of the other car. While the court found

there was an insufficient showing that such conduct constituted manslaughter, the court stated that such conduct would have been sufficient to support two counts of vehicular homicide based on reckless driving. The Behn decision was reversed on other grounds.

B. EFFECT OF PROPOSED CHANGES:

1. Specific Warning for Yellow Traffic Light Indication

This bill adds specific language to s. 316.075(2)(a) F.S., to warn drivers that a yellow light indication means that there may be insufficient time to cross the intersection safely.

2. Running Red A Light Resulting in Bodily Injury or Property Damage

Under the bill, whenever someone intentionally drives through a standing red light and causes an accident which results in bodily injury or property damage, such person is guilty of reckless driving.

The primary effects this portion of the bill are as follows:

First, law enforcement officers who may have been reluctant to cite drivers who cause accidents by deliberately running through red lights with reckless driving would have a clear mandate that such conduct is *reckless driving*.

Second, this bill would bring through the criminal court system more reckless driving cases that otherwise would have been treated as non-criminal infractions. Establishing this conduct as reckless driving would subject violators to the **criminal** penalties that attach to reckless driving. In addition, s. 775.089, F.S., which provides for restitution to victims of crime would apply. Section 775.089, F.S., provides in pertinent part:

(1)(a) In addition to any punishment, the court shall order the defendant to make restitution to the victim for:

1. Damage or loss caused directly or indirectly by the defendant's offense; and
2. Damage or loss related to the defendant's criminal episode,

Unless it finds clear and compelling reasons not to order such restitution. . . . The court shall make the payment of restitution a condition of probation. . . .

As a result of this provision, victims of such accidents would be entitled to recover restitution from defendants, and the payment of restitution would be a component of the sentence imposed.

Third, there would be greater consistency at the trial court level since cases involving running a red light that results in an accident, would be clearly defined as reckless driving under the law. These cases would no longer be left as matters of statutory interpretation for trial judges.

3. Enhanced Penalties for Running a Red Light (Not involving an accident)

This bill also increases the current civil penalty and changes the status of this infraction to one which requires an appearance in court. The bill provides that the court, after conducting a hearing, and upon finding the defendant committed the offense, must impose a minimum \$100 civil penalty (and could impose a civil penalty of up to \$500 under s. 318.14(5) F.S.). In addition, for any subsequent offense occurring within 5 years, the violator would face a suspension of his/her driver's license for a period of not less than 90 days, to up to a maximum of 6 months.

This enhanced civil penalty provision tracks current law regarding drivers who fail to stop for a school bus. See s. 318.18(5) F.S.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not applicable.

(3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Not applicable.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Not applicable.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

Not applicable.

- (2) Who makes the decisions?

Not applicable.

- (3) Are private alternatives permitted?

Not applicable.

- (4) Are families required to participate in a program?

Not applicable.

- (5) Are families penalized for not participating in a program?

Not applicable.

- b. Does the bill directly affect the legal rights and obligations between family members?

Not applicable.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

Not applicable.

(2) service providers?

Not applicable.

(3) government employees/agencies?

Not applicable.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. - Provides specific statutory warning regarding steady yellow traffic lights.

Section 2. - Defines intentionally running a red traffic light and causing an accident as reckless driving.

Section 3. - Reenacts s. 316.072, F.S., s. 318.17, F.S., s. 397.405, F.S., s. 401.113, F.S., for purposes of amending s. 316.192, F.S.

Section 4. - Enhances the civil penalty and provides for suspension of driver's license as described for running a red traffic light.

Section 5. - Reenacts enumerated sections of Florida Statutes for purposes of incorporating the amendment to s. 318.18, F.S.

Section 6. - Provides an effective date for reenacted s. 318.14, F.S. and s. 318.15, F. S.

Section 7. - Provides an effective date.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Indeterminate, See *Fiscal Comments*.

2. Recurring Effects:

Indeterminate, See *Fiscal Comments*.

3. Long Run Effects Other Than Normal Growth:

Indeterminate, See *Fiscal Comments*.

4. Total Revenues and Expenditures:

Indeterminate, See *Fiscal Comments*.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Indeterminate, See *Fiscal Comments*.

2. Recurring Effects:

Indeterminate, See *Fiscal Comments*.

3. Long Run Effects Other Than Normal Growth:

Indeterminate, See *Fiscal Comments*.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Not applicable.

2. Direct Private Sector Benefits:

Not applicable.

3. Effects on Competition, Private Enterprise and Employment Markets:

Not applicable.

D. FISCAL COMMENTS:

There will be additional costs associated with the prosecution of these cases as criminal offenses. Defendants charged with reckless driving would be entitled to jury trial which are more expensive than the costs of conducting traffic court hearings and processing non-criminal infraction fines. However, the amount of such cost increase is indeterminate based on the information that is available at this time.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill is exempt from the requirement of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON LAW ENFORCEMENT AND PUBLIC SAFETY:

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