

STORAGE NAME: h0467.leps
DATE: March 3, 1997

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

BILL #: HB 467
RELATING TO: School Buses
SPONSOR(S): Representative Carlton
STATUTE(S) AFFECTED: ss. 316.172, 318.18(5), and 318.19, F.S.
COMPANION BILL(S): SB 778 (i)

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

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

I. SUMMARY:

Current law provides that any person operating or driving a vehicle must bring the vehicle to a complete stop when approaching a school bus that displays a stop signal. The person operating or driving the vehicle must stop his or her vehicle as long as the school bus is stopped, and cannot pass the school bus until the stop signal has been withdrawn [see s. 316.172, F.S., 1996 Supplement]. A person who violates this provision commits a moving traffic violation, punishable by a \$100 fine. Currently, a person cited for this traffic infraction is not required to appear at a mandatory hearing.

House Bill 467 provides that:

“Any person passing to the right side of a school bus which is displaying a stop signal in accordance with the provisions of this section shall also be subject to a mandatory hearing under the provisions of s. 318.19.”

Additionally, the bill provides that a person who passes to the right side of a school bus must pay a \$200 fine.

As drafted, HB 467 could be interpreted as applying to a pedestrian who walks past a stopped school bus. Additionally, the “right side” of the bus varies based on the direction that the person/vehicle is traveling.

To the extent that this bill results in the assessment and collection of additional civil penalties, the bill could have a fiscal impact on state and local governments. A precise fiscal impact is indeterminate.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Section 316.172, F.S., 1996 Supplement, provides that any person operating or driving a *vehicle* must bring the vehicle to a complete stop when approaching a *school bus* that displays a stop signal.

- ▶ A *vehicle* means every device, in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks, [s. 316.003(75), F.S.].
- ▶ A *school bus* is any motor vehicle that complies with the color and identification requirements of chapter 234 and is used to transport children to or from public or private school or in connection with school activities, but not including buses operated by common carriers in urban transportation of school children. The term "school" includes all pre-elementary, elementary, secondary, and post-secondary schools, [s. 316.003(45), F.S.].

The person operating or driving the vehicle must stop his or her vehicle as long as the school bus is stopped, and cannot pass the school bus until the stop signal has been withdrawn. A person operating or driving a vehicle upon a divided highway where the one-way roadways are separated by an intervening unpaved space of at least 5 feet or a physical barrier does not have to stop his or her vehicle when meeting or passing a school bus that is on a different roadway.

A person who violates s. 316.172, F.S., 1996 Supplement, commits a moving traffic violation, punishable by a \$100 fine. Generally, a person who is cited for a traffic infraction must sign and accept a citation indicating a promise to appear. A person cited for a noncriminal infraction who does not elect to appear must pay the civil penalty within 30 days of receiving the citation.

If a person elects to appear before the designated official, or is required to appear, he or she is deemed to have waived rights to the civil penalty provisions of s. 318.18, F.S., 1996 Supplement. The official must conduct a hearing and determine if the person committed the infraction. If the person is found to have committed the infraction, the official may impose a civil penalty not exceeding \$500 or require attendance at driver improvement school, or both.

If, at a hearing, the person is found to have committed the *failure to stop for a school bus* infraction, the court must impose a *minimum* civil penalty of \$100. Additionally, for a second or subsequent violation of s. 316.172, F.S., 1996 Supplement, within a 5 year period, the Department of Highway Safety and Motor Vehicles must suspend the person's driver's license for a period not less than 90 days, and not exceeding 6 months [see s. 318.18 (5), F.S., 1996 Supplement.].

Section 318.19, F.S., requires a mandatory hearing when a person commits a traffic infraction resulting in an accident that causes the death of, or serious bodily injury to, another person. In such cases, the person cited for the traffic infraction cannot simply pay a fine or attend driver improvement school -- he or she must appear at a hearing before a designated official.

B. EFFECT OF PROPOSED CHANGES:

House Bill 467 provides that:

“Any person passing to the right side of a school bus which is displaying a stop signal in accordance with the provisions of this section shall also be subject to a mandatory hearing under the provisions of s. 318.19.”

Additionally, the bill provides that a person who passes to the right side of a school bus must pay a \$200 fine. If, at a hearing, the person is found to have committed this infraction, the court must impose a *minimum* civil penalty of \$200.

As drafted, HB 467 could be interpreted as applying to a pedestrian who walks past a stopped school bus. Additionally, the “right side” of the bus varies based on the direction that the person/vehicle is traveling.

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:

HB 467 does not eliminate or reduce an agency or program.

(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?

No.

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:

HB 467 does not purport 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?

No.

- 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:

HB 467 does not create or change a program providing services to families or children.

- (1) parents and guardians?

Not applicable.

- (2) service providers?

Not applicable.

- (3) government employees/agencies?

Not applicable.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 amends s. 316.172, F.S., 1996 Supplement, relating to requirements that vehicles stop for school buses, as described above. Additionally, the bill amends the language that describes the divided highway exception, as follows:

The driver of a vehicle upon a divided highway with an unpaved space of at least 5 feet, a *raised median*, or a physical barrier shall not be required to stop when traveling in the opposite direction of a school bus which is stopped in accordance with the provisions of this section.

Section 316.172, F.S., 1996 Supplement, is also amended to clarify that school buses must display warning lights and stop signals as currently required by rules of the State Board of Education.

Section 2 amends s. 318.18(5), F.S., 1996 Supplement, which provides civil penalties for various noncriminal traffic infractions, to increase the penalty from \$100 to \$200 for the moving violation of *failing to stop for a school bus by passing the bus on the right side*.

Section 3 amends s. 318.19, F.S., to include *failing to stop for a school bus by passing the bus on the right side* as a traffic infraction that requires a mandatory hearing.

Section 4 provides that the act takes effect on October 1, 1997.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None anticipated.

2. Recurring Effects:

See *Fiscal Comments*.

3. Long Run Effects Other Than Normal Growth:

None anticipated.

4. Total Revenues and Expenditures:

See *Fiscal Comments*.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None anticipated.

2. Recurring Effects:

See *Fiscal Comments*.

3. Long Run Effects Other Than Normal Growth:

None anticipated.

C. **DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

1. Direct Private Sector Costs:

None anticipated.

2. Direct Private Sector Benefits:

None anticipated.

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

None anticipated.

D. **FISCAL COMMENTS:**

To the extent that this bill results in the assessment, collection, and distribution of additional civil penalties, the bill could have a fiscal impact on state and local governments. A precise fiscal impact is indeterminate, but expected to be insignificant.

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

A. **APPLICABILITY OF THE MANDATES PROVISION:**

House Bill 467 may require counties or municipalities to spend funds or to take an action requiring the expenditure of funds (see *Fiscal Comments*). However, the bill is exempt from the provisions of Article VII, Section 18 of the Florida Constitution because it is anticipated that the bill has an insignificant fiscal impact.

B. **REDUCTION OF REVENUE RAISING AUTHORITY:**

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

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

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

V. COMMENTS:

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON LAW ENFORCEMENT AND PUBLIC SAFETY:

Prepared by:

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Kristin S. Pingree

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