

STORAGE NAME: h0259.tr
DATE: January 24, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
TRANSPORTATION
ANALYSIS**

BILL #: HB 259
RELATING TO: Minor/Approaching Vehicle/Soliciting
SPONSOR(S): Representative C. Smith
TIED BILL(S):

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

- (1) TRANSPORTATION
 - (2) JUDICIARY
 - (3) LAW ENFORCEMENT & CRIME PREVENTION
 - (4) CRIMINAL JUSTICE APPROPRIATIONS
 - (5)
-

I. SUMMARY:

Current law does not place age restrictions on persons who stand, or approach vehicles, on public streets, highways, roads, or state transportation facility right-of-way for the purpose of soliciting.

The bill prohibits minors under the age of 15 years from standing, or approaching vehicles, on any public streets, highways, roads, or state transportation facility right-of-way for the purposes of soliciting, collecting from, or distributing to the occupant of a motor vehicle where there is some risk to the person under the age of 15 years. A first-time violation of this provision would result in the issuance of a warning. Subsequent violations of this provision would be cited as pedestrian violations, punishable by a fine of \$15 for each infraction.

The bill prohibits persons from directing minors under the age of 15 years to stand, or approach vehicles, on any public streets, highways, roads, or state transportation facility right-of-way for the purpose of soliciting. A first-time violation of this provision would result in the issuance of a warning. Subsequent violations of this provision would be cited as noncriminal traffic violations, punishable by a fine of \$50 for each infraction.

The bill becomes effective upon becoming law.

The bill has a minimal fiscal impact due to the low number of violations expected to be cited under this provision.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1. Less Government Yes No N/A

The state and local governments would be responsible for enforcing this law.

2. Lower Taxes Yes No N/A

3. Individual Freedom Yes No N/A

Persons under the age of 15 years would no longer be able to solicit on public streets, highways, roads, or state transportation facility right-of-way.

4. Personal Responsibility Yes No N/A

5. Family Empowerment Yes No N/A

B. PRESENT SITUATION:

Current law does not place age restrictions on persons who stand, or approach vehicles, on public streets, highways, roads, or state transportation facility rights-of-way for the purpose of soliciting.

Section 316.2045, F.S., provides that it is a \$15 pedestrian violation for a person to obstruct the free, convenient, and normal use of any public street, highway, or road by impeding, hindering, stifling, retarding, or restraining traffic or passage thereon, by standing or approaching a motor vehicles thereon, or by endangering the safe movement of vehicles or pedestrians. Local governments are authorized to issue permits for using streets, roads, or rights-of-way not maintained by the state. Permits for the use of any portion of a state-maintained road or right-of-way are required pursuant to s. 337.406, F.S.

This section further provides that it is unlawful, without proper authorization or a lawful permit, for any person or persons to *willfully* obstruct the free, convenient, and normal use of any public street, highway, or road in order to solicit. A violation of this provision is a second degree misdemeanor, punishable by a fine of up to \$500 or imprisonment for up to 60 days. Organizations qualified under s. 501(c)(3) of the Internal Revenue Code and registered pursuant to chapter 496, or persons or organizations acting on their behalf are exempted from the authorization/permit requirement for activities on non-state roads. However, there is not a minimum age specified within the execeptions, nor does it stipulate the issuance of warnings for first-time offenders.

Section 337.406, F.S., governs the use of state transportation facility rights-of-way. Generally, the law prohibits using the right-of-way of any state transportation facility outside of an incorporated municipality in any manner that interferes with the safe and efficient movement of people and property. Within incorporated municipalities, the local governmental entity may issue permits of limited duration for the temporary use of the right-of-way of a state transportation facility if it determines that the use will not interfere with the safe and efficient movement of traffic and the use will cause no danger to the

public. A violation of this section is a misdemeanor of the second degree, punishable by a fine of up to \$500 or imprisonment for up to 60 days.

C. EFFECT OF PROPOSED CHANGES:

The bill prohibits minors under the age of 15 years from standing, or approaching vehicles, on any public street, highway, or road for the purpose of soliciting, collecting from, or distributing to an occupant of a motor vehicle. A first-time offender would be issued a warning. Subsequent violations of this provision would be cited as pedestrian violations, punishable by a fine of \$15 for each infraction.

The bill provides for greater safety for minors under the age of 15 years who often solicit for civic groups, charities, and other groups or organizations in close proximity to traffic. The bill prohibits minors under the age of 15 years from disrupting the free movement of traffic and endangering occupants of motor vehicles.

The bill prohibits persons from directing minors under the age of 15 years to stand, or approach vehicles, on any public streets, highways, or roads for the purpose of soliciting. A first-time offender would be issued a warning. Subsequent violations of this provision would be cited as noncriminal traffic violations, punishable by a fine of \$50 for each infraction.

D. SECTION-BY-SECTION ANALYSIS:

N/A

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons cited for violating the provisions of this bill are subject to fines after the first offense.

D. FISCAL COMMENTS:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

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

N/A

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

According to the Department of Highway Safety & Motor Vehicles, it would be difficult for law enforcement to determine if a person is a first-time offender since warnings are not a part of the permanent record.

The sponsor intends to offer an amendment to the bill to eliminate the confusion that the Department of Highway Safety & Motor Vehicles foresaw. The amendment provides a year, until July 1, 2001, in which offenders are only issued warnings in order for the public to become informed of the law. Effective July 1, 2001, however, citations may be issued by law enforcement officers for violations of the s. 316.2045 (2)(d) and (e).

The bill has a minimal fiscal impact due to the low number of violations expected to be cited under this provision.

STORAGE NAME: h0259.tr

DATE: January 24, 2000

PAGE 5

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

Staff Director:

Jennifer L. Sexton-Bartelme

John R. Johnston