

STORAGE NAME: h0259z.tr
DATE: May 15, 2000

****FAILED TO PASS THE LEGISLATURE****

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
TRANSPORTATION
FINAL ANALYSIS**

BILL #: CS/HB 259

RELATING TO: Solicitation/Public Roads/Minors

SPONSOR(S): Committee on Transportation and Representative C. Smith

TIED BILL(S): None

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

- (1) TRANSPORTATION YEAS 8 NAYS 1
 - (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, or roads 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, or roads 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. For one year, until July 1, 2001, a violation of this provision would result in the issuance of a warning. After July 1, 2001, any person who violates this provision would be cited for a pedestrian violation, 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, or roads for the purpose of soliciting. For one year, until July 1, 2001, a violation of this provision would result in the issuance of a warning. After July 1, 2001, any person who violates this provision would be cited for a noncriminal traffic violation, punishable by a fine of \$50 for each infraction.

The bill does not appear to have any fiscal impact on state or local government.

The bill shall be effective upon becoming law.

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, or roads.

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, or roads 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 vehicle 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 exceptions, nor does it stipulate the issuance of warnings for first-time offenders.

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. For one year, until July 1, 2001, a violation of this provision would result in the issuance of a warning. After July 1, 2001, any person who violates this provision would be cited for a pedestrian violation, punishable by a fine of \$15 for each infraction.

STORAGE NAME: h0259z.tr

DATE: May 15, 2000

PAGE 3

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. For one year, until July 1, 2001, a violation of this provision would result in the issuance of a warning. After July 1, 2001, any person who violates this provision would be cited for a noncriminal traffic violation, 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:

The Department of Highway Safety and Motor Vehicles reports that the bill will have no fiscal impact on local government and an indeterminate fiscal impact on state government.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require a city or county to spend funds, but it does require cities and counties to take action requiring the expenditure of funds to ensure enforcement of the bill's prohibition on persons under the age of 15 from approaching vehicles on public streets, highways, or roads. However, the fiscal impact of the bill is very likely to be insignificant, and therefore, the bill is exempt from the Mandates Provision.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the revenue raising authority of any city or county.

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

The bill does not reduce the amount of state tax shared with any city or county.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

It is unclear why the bill makes the prohibition on a person under the age of 15 who solicits vehicles contingent on a finding that there is some risk to the person under the age of 15. If the sponsor intends to prohibit solicitation by persons under the age of 15, it may be more appropriate to do so without the contingent finding of fact.

Moreover, for purposes of enforcement, the use of the risk test may complicate a law enforcement officer's determination of a violation. The bill does not clarify whether the risk is to be evaluated by the officer or the person who is doing the soliciting. It may lead to cases where the minor raises the fact-based defense that there was no risk.

The Department of Health noted in its fiscal analysis that section 4 of the bill does not cross-reference s. 318.21(6), F.S. The entire line referencing s. 318.18(12), F.S., is deleted. The funding for the Epilepsy Services Trust Fund, which was created by s. 385.207(3), F.S., was provided for by s. 318.18(12), F.S. That section was repealed by s. 47, ch. 96-350, L.O.F. The Department reports that the only funding source for the trust fund is currently provided by s. 318.21(6), F.S., and has proposed an amendment to correctly cross-reference section 385.207(3), F.S., to s. 318.21(6), F.S.

STORAGE NAME: h0259z.tr

DATE: May 15, 2000

PAGE 5

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 7, 2000, the Committee on Transportation adopted one amendment and made the bill a committee substitute. The amendment allowed for the issuance of a warning for one year to any person who violates the bill's provisions. After July 1, 2001, however, any person who violates the provisions will receive a citation resulting in a fine.

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

Staff Director:

Jennifer L. Sexton-Bartelme

John R. Johnston

AS REVISED BY THE COMMITTEE ON JUDICIARY:

Prepared by:

Staff Director:

Michael W. Carlson, J.D.

P.K. Jameson, J.D.

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON TRANSPORTATION:

Prepared by:

Staff Director:

Jennifer L. Sexton-Bartelme

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