

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 875 w/CS Traffic Infractions
SPONSOR(S): Harrington
TIED BILLS: **IDEN./SIM. BILLS:** SB 2434

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation	21 Y, 0 N w/CS	Garner	Miller
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

HB 875 w/CS requires a mandatory hearing when a person commits an infraction resulting in a crash causing any bodily injury or death or runs a red light and causes a crash. Under current law mandatory hearings occur only if a traffic infraction results in a crash causing death or serious bodily injury, and the designated hearing official is permitted to impose enhanced penalties. Under the bill:

- If the infraction results in a crash causing death, or any bodily injury, and at the hearing the person is found to have committed the infraction, the designated official *must* impose an enhanced civil penalty in addition to any other penalties, and suspend the person’s driver’s license for a designated period of time.
- If a person runs a red light, and a crash occurs a mandatory hearing is required, and the designated official presiding over the hearing is authorized to impose a civil penalty of up to \$500, and 4 points is assessed against his or her license.
- If a person runs a red light and no crash occurs, the person is subject to a \$125 fine, and 4 points is assessed against his or her driver’s license.
- If a person commits the offense of running a red light a second time within 12 months after the first violation, he or she must attend a driver improvement course to maintain driving privileges.

Of the \$125 fine imposed against red light running, \$60 is distributed in the same manner as the current fine, and the other \$65 is used to fund traffic education programs in public and nonpublic schools.

The bill is expected to increase the workload for designated hearing officials and to require law enforcement officers to spend more time attending hearings. However, imposition of mandatory penalties and new fines contained in HB 875 w/CS may have a substantial positive fiscal impact on state and local governments. For more detail, see the FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT section of this analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

Reduce Government?

Under the bill, a citation for certain traffic infractions will result in a mandatory hearing where no such hearing is required under current law. In addition, the bill imposes increased mandatory fines and license suspensions for certain traffic infractions.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Mandatory Hearings

Florida law requires a mandatory hearing following a citation for certain civil traffic infractions. These infractions are:

- Any infraction resulting in a crash that causes the death of another;
- Any infraction resulting in a crash that causes “serious bodily injury” to another;
- Passing a school bus on the door side while the bus displays a stop signal; and
- Certain infractions concerning loads on vehicles.

Any person who commits one of these infractions may not dispose of the matter by submitting payment of the fine by mail or by making the driver improvement course election. Instead, the person committing the infraction must appear before the designated official at a scheduled hearing.

Persons who have elected to appear at a hearing, or who are required to do so, are considered as having waived the right to the regular civil penalty provisions for traffic infractions. Instead, upon a finding that the person committed the charged traffic infraction, the official conducting the hearing may impose a civil penalty up to \$500. If the infraction involves unlawful speed in a school or construction zone, or involves death, the official may impose a civil penalty up to \$1,000. These civil penalty amounts are authorized, but they are not mandatory. The official conducting the hearing has discretion in choosing how much of a penalty, if any, to impose against a person found to have committed the infraction.

Under these provisions, a person committing an infraction resulting in the death of another person is required to appear before a designated official and *may* be subject to a \$1,000 fine. A person committing an infraction that results in the “serious bodily injury” of another is also required to appear before a designated official, but *may* be subject to a \$500 fine. The increased penalty is not mandatory. A person committing an infraction resulting in an injury to a person that is not considered “serious bodily injury”, is not subject to a mandatory hearing, and is not subject to enhanced penalties.

“Serious bodily injury” is defined as an injury 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. The precise point at which bodily injury becomes serious is unclear as the foregoing definition is open to interpretation. According to the Department of Highway Safety and Motor Vehicles, a law enforcement officer issuing a citation makes the determination whether a bodily injury is serious and, therefore, whether a mandatory hearing is required.

Furthermore, DHSMV is authorized to suspend a driver’s license in the event that a person violates any traffic law that results in a crash causing the death or personal injury to another or property damage in excess of \$500. According to DHSMV, upon a review of its records, the department suspends the driver’s license of any person meeting these criteria who are subject to a mandatory hearing. A suspension is lifted if at the hearing the designated official finds the accused not guilty of the offense or infraction.

Red Light Running

The law prohibits traffic from entering an intersection when facing a steady red traffic signal (red light running). Violation of this prohibition is a moving traffic infraction punishable by a \$60 civil fine. If a red light runner causes a crash or an injury, that person may be subject to a license suspension or an enhanced penalty, under the circumstances described above. However, if the violation results in a crash that does not cause death or serious bodily injury, the driver is not subject to enhanced penalties. Even in cases involving death or serious bodily injury, imposition of the authorized enhanced penalty is a matter of the designated official’s discretion.

Under current law, it is possible that a red light runner could cause a crash seriously injuring someone and suffer no more than a \$60 fine and a brief suspension of driving privileges.

Points

Points are assessed against a person’s driver’s license upon violation of certain traffic laws so that DHSMV may determine the continuing qualification of any person to operate a motor vehicle. DHSMV may suspend the license of any person who accumulates 12 or more points against a license in a 12-month period. The point assignments are as follows:

- Reckless driving, willful and wanton – 4 points.
- Leaving the scene of a crash resulting in property damage – 6 points.
- Unlawful speed resulting in a crash – 6 points.
- Passing a stopped school bus – 4 points.
- Excessive speed, 15 mph over or less – 3 points.
- Excessive speed, more than 15 mph over – 4 points.
- All other moving violations – 3 points.
- Any moving violation resulting in a crash except excessive speed – 4 points.
- Littering – 3 points.

Effect of Proposed Changes

HB 875 w/CS requires a mandatory hearing when a person commits an infraction resulting in a crash causing any bodily injury or death.

- If the infraction results in a crash causing death, and at the hearing the person is found to have committed the infraction, the designated official *must* impose a civil penalty of \$1,000 in addition to any other penalties, and suspend the person’s driver’s license for 6 months.

- If the infraction results in a crash causing serious bodily injury, and at the hearing the person is found to have committed the infraction, the designated official *must* impose a civil penalty of \$500 in addition to any other penalties, and suspend the person's driver's license for 3 months.
- If the infraction results in a crash causing any bodily injury other than that defined as serious, and at the hearing the person is found to have committed the infraction, the designated official *must* impose a civil penalty of \$200 in addition to any other penalties, and suspend the person's driver's license for 30 days.
- If a person runs a red light, and a crash occurs a mandatory hearing is required, and the designated official presiding over the hearing is authorized to impose a civil penalty of up to \$500, and 4 points is assessed against his or her license.
- If a person runs a red light and no crash occurs, the person is subject to a \$125 fine, and 4 points assessed against his or her driver's license.
- If a person commits the offense of running a red light a second time within 12 months after the first violation, he or she must attend a driver improvement course to maintain driving privileges.

Of the \$125 fine imposed against red light running, \$60 is distributed in the same manner as the current fine, and the other \$65 is used to fund traffic education programs in public and nonpublic schools.

C. SECTION DIRECTORY:

Section 1. Amends s. 316.075, F.S., to provide that a red light violation resulting in a crash subjects the violator to a mandatory hearing.

Section 2. Amends s. 318.14, F.S., to provide mandatory penalties for traffic infractions resulting in crashes that cause bodily injury or death.

Section 3. Amends s. 318.18, F.S., to provide that a red light violation results in a \$125 fine, and provide for distribution of the fine.

Section 4. Amends s. 318.19, F.S., to require a mandatory hearing for an infraction resulting in a crash that causes any bodily injury or death, or for a red light violation.

Section 5. Amends s. 322.0261, F.S., to require driver improvement school attendance for persons violating the red light law twice within a 12-month period.

Section 6. Amends s. 322.27, F.S., to provide that violation of a traffic control device is assigned 4 points in the driver's licensing point system.

Section 7. Provides that the act shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS section below

2. Expenditures:

See FISCAL COMMENTS section below

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS section below.

2. Expenditures:

See FISCAL COMMENTS section below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

HB 875 w/CS requires the mandatory imposition of civil penalties and suspension of driver's licenses on any person found to have committed a traffic infraction resulting in a crash causing the bodily injury or death of another person. The bill also increases the penalty for red light running from \$60 to \$125.

D. FISCAL COMMENTS:

State Impacts

According to DHSMV, HB 875 w/CS requires 80 hours of contracted programming at \$135 per hour at a total cost of \$10,800 to modify the Driver License Software System.

DHSMV reports that 145,208 crashes resulted in some injury, and that 2,717 crashes resulted in death in 2001. Had all of these crashes resulted in a mandatory hearing, and had the provisions of HB 875 w/CS applied, fines of \$29 million or more might have been imposed against violators involved in crashes resulting in injury. Fines of \$2.7 million might have been imposed against violators involved in crashes resulting in death. Because DHSMV is unable to determine how many of these crashes involve serious bodily injury or something less, the minimum fine of \$200 provided in the bill is assumed in making the above calculations. Because the total revenue collected under the existing penalty structure is unknown, these calculations are totals and do not represent net increases in penalty revenue. Since the future number of incidents resulting in fines under the provisions of the bill is unknowable, the exact impacts are indeterminate.

The bill requires mandatory driver improvement school for persons convicted of a second red light violation within 12 months. Persons attending these schools are required to pay a \$2.50 fee that is deposited into the Highway Safety Operating Trust Fund. To the extent that it is impossible to forecast how many persons will be required to attend driver improvement school pursuant to the bill, the increase in revenue generated from this fee is indeterminate.

Local Impacts

In addition, enforcement of the bill's provisions is expected to result in an indeterminate increase in the number of traffic infraction cases requiring a hearing, thereby potentially creating an indeterminate increased burden on hearing officials, and an indeterminate increase in the amount of time law enforcement officers are required to attend hearings.

The revenue generated from increased collection of fines imposed at mandatory hearings, as discussed above in State Impacts, is indeterminate, and therefore, the positive fiscal impact on local governments is indeterminate.

The bill increases the penalty for running a red light from \$60 to \$125, of which the additional \$65 will be used to fund traffic education programs in public and nonpublic schools. Based on calendar year 2002 violations, approximately 248,178 dispositions were processed as guilty, paid, adjudication withheld, or pending. Final disposition of this number of cases could have resulted in an increase of \$16,131,570 in civil penalty revenue under the provisions of the bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to: require counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

HB 875 w/CS does not require any grant or exercise of rule-making authority to implement its provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 18, 2003, the Committee on transportation adopted one amendment by Rep. Gardiner, and reported the bill favorably with a committee substitute. The amendment requires a mandatory hearing for running a red light, and provides enhanced penalties for that infraction.