

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 65 w/CS Traffic Infractions  
**SPONSOR(S):** Harrington  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 682

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

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### SUMMARY ANALYSIS

HB 65 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.

The bill will raise an estimated \$19.2 million in FY 2004-05, \$32.4 million in FY 2005-06, and \$48.8 million in FY 2006-07, of which \$3.3 million will be deposited into the Trauma Services Trust fund in the first year from mandatory penalties for required hearings, \$16.4 million in the second year, and \$32.9 million in the third year. One million dollars will be distributed to ABATE of Florida, Inc., annually for motorcycle safety awareness, education, and research programs related to accident prevention. It is estimated that \$16.9 million will be generated annually as a result of increasing the civil penalty for a red light violation from \$60 to \$125, and deposited into the Trauma Services Trust Fund. Revenues generated by this bill deposited into the Trauma Services Trust Fund will be used to provide support and incentives for the establishment of additional state-sponsored trauma centers. The bill is also expected to increase the workload for designated hearing officials, and to require law enforcement officers to spend more time attending hearings. For more detail, see the FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT section of this analysis.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h0065a.tr.doc  
**DATE:** March 12, 2004

## 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 (DHSMV), a law enforcement officer issuing a citation makes the determination (subject to judicial review) 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 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 65 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.

Moneys collected from imposition of mandatory civil penalties provided in this bill and penalties for violating traffic control signal devices that are in addition to current penalty amounts are deposited into the Trauma Services Trust Fund, however, the first \$1 million collected annually from the mandatory civil penalties is distributed to ABATE of Florida, Inc., to support motorcycle safety awareness, education, and research programs. ABATE of Florida, Inc., is made subject to audit by DHSMV and the Auditor General.

Moneys deposited into the Trauma Services Trust Fund will be distributed in the following manner by the Florida Department of Health, at its discretion:

- Each existing trauma center and each new center shall receive a one-time fixed payment toward offsetting startup costs;
- Equal payments will be made to all current verified trauma centers toward helping each center meet minimum trauma preparedness standards;
- Proportionate distribution of funds to trauma centers to pay for uncompensated trauma care;
- Any funds remaining are deposited into the Nursing Student Loan Forgiveness Trust Fund to be used equally for the Department of Health's Nursing Student Loan Forgiveness Program and the Nursing Scholarship Program.

If they are not subject to Florida's Single Audit Act, trauma centers receiving these moneys must maintain financial records and submit an annual attestation to the Department of Health, under penalties of perjury, that the funds are used in accordance with law. Trauma centers that are subject to the Single Audit Act must submit an annual audit report to the Auditor General.

#### 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, and to provide for distribution to ABATE of Florida, Inc., and to the Trauma Services Trust Fund.

**Section 3.** Amends s. 318.18, F.S., to increase the penalty for a red light violation from \$60 to \$125, and to provide for distribution of the additional amount into the Trauma Services Trust Fund.

**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. 318.21, F.S., to provide for distribution of mandatory civil penalties for traffic infractions resulting in crashes that cause bodily injury or death, and of fines for red light violations.

**Section 6.** 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. Failure to complete the requirement results in cancellation of driving privileges.

**Section 7.** 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 8.** Creates s. 395.4036, F.S., to provide for distribution by the Department of Health of moneys deposited into the Trauma Services Trust Fund pursuant to ss. 318.18(3) and 318.14(5), F.S., and to provide for audits and attestations of trauma centers receiving the distributions.

**Section 9.** Provides that the act shall take effect upon becoming law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>
1. Revenues:			
<i>Increase in the penalty for red light violations from \$60 to \$125: Sections 3 and 5.</i>			
Trauma Services Trust Fund	\$16,926,000	\$16,926,000	\$16,926,000
<i>Mandatory penalties for required hearings: Sections 1, 2, 4 and 5.</i>			
Trauma Services Trust Fund	<u>\$ 3,285,160</u>	<u>\$16,425,800</u>	<u>\$32,851,600</u>
TOTAL			
Trauma Services Trust Fund:	\$19,211,160	\$32,351,800	\$48,777,600

**Note: See FISCAL COMMENTS section, below for additional details.**

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:

Mandatory civil fines will be imposed, in addition to other penalties, on any person found to have committed a traffic infraction resulting in bodily injury or death.

The fine for running a red light would be increased from \$60 to \$125. Persons running a red light would have four points assessed on their driving record.

Persons found guilty of a second violation of running a red light within twelve months would be required to attend a driver improvement school to retain driving privileges.

From the moneys collected from fines imposed as a result of mandatory hearings, \$1 million annually will be distributed to ABATE of Florida, Inc., for motorcycle safety awareness, education, and research programs relating to accident prevention.

#### D. FISCAL COMMENTS:

All fiscal estimates have been provided by DHSMV.

#### **Methodology**

Estimated Trauma Services Trust Fund increases for red light violations assumes 260,400 offenses occurring resulting in payment of a \$125 fine, \$65 of which is deposited into the Trust Fund. In addition, the 2002 Florida Traffic Crash Statistics Report reflected 142,992 crashes occurring with some level of injury, and 2,816 crashes which resulted in death. In addition, DHSMV estimates that 9,484 crashes resulted in serious bodily injury. Revenue estimates for the mandatory hearings portion of the bill are based on these statistics and estimates which have been multiplied by the corresponding mandatory penalty imposed by the bill. Revenue estimates have been adjusted to account for behavioral changes and potential instances of non-payment by violators subject to the provisions in the bill.

#### **Local Government Impacts**

The workload and revenue impact to the courts from requiring a mandatory court appearance for persons violating s. 318.19(1)(c)1, F.S., which results in a crash is unknown. In addition, the bill may have a positive fiscal impact on local governments to the extent that some funds may be directed to trauma centers which receive local government funding.

#### **State Impacts**

It is estimated that implementation of this bill will generate \$19.2 million in FY 2004-05, \$32.4 million in FY 2005-06, and \$48.8 million in FY 2006-07, of which \$3.3 million will be deposited into the Trauma Services Trust fund in the first year from mandatory penalties for required hearings, \$16.4 million in the second year, and \$32.9 million in the third year. One million dollars will be distributed to ABATE of Florida, Inc., annually. It is estimated that \$16.9 million will be generated annually as a result of increasing the civil penalty for a red light violation from \$60 to \$125.

Implementation of this bill will also require programming modifications to the Florida Driver Information System which will be absorbed within existing resources of the Department of Highway Safety and Motor Vehicles.

### **III. COMMENTS**

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions 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 65 w/CS does not require any grant or exercise of rule-making authority to implement its provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On February 17, 2004, the Committee on Transportation adopted two amendments which:

- Restore local government revenue generated by fines for running red lights that had been redirected to the General Revenue Fund by the original bill;
- Provide for the distribution of the increased amount of the red light fine to the Trauma Services Trust Fund;
- Provide for the distribution of \$1 million to ABATE of Florida, Inc., from mandatory fines resulting from certain offenses and infractions requiring a mandatory hearing, and the remainder to the Trauma Services Trust Fund; and
- Provide a method of distributing those amounts deposited into the Trauma Services Trust Fund pursuant to the provisions of this bill.

The committee then reported the bill favorably as amended with a committee substitute.