

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Transportation Committee

BILL: CS/SB 1264

SPONSOR: Transportation Committee and Senators Saunders and others

SUBJECT: Velez Memorial Traffic Safety Act

DATE: April 1, 2005

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Davis | Meyer | TR | Fav/CS |
| 2. | | | HE | |
| 3. | | | GE | |
| 4. | | | HA | |
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I. Summary:

The committee substitute for SB 1264 (CS) creates the “Anjelica and Victoria Velez Memorial Traffic Safety Act”. This CS increases the fine and points assessed against a person’s driving record for a red light violation. Specifically, the CS imposes a fine of one hundred twenty-five dollars for a violation of a traffic control steady red indication, of which \$60 would be distributed as provided in s. 318.21 F.S., and the remaining \$65 would be remitted to the Department of Revenue for deposit into the Administrative Trust Fund of the Department of Health (DOH). In addition, a red light violation results in four points being assessed against the violator’s driving record.

The CS would require the Department of Highway Safety and Motor Vehicles (DHSMV) to identify any operator convicted of or who pleaded nolo contendere to a second violation of s. 316.074(1) or s. 316.075(1)(c)1., F.S., which violation occurred within 12 months after the first violation, and shall require that operator, in addition to other applicable penalties, to attend a DHSMV- approved driver improvement course in order to maintain driving privileges. If the operator fails to complete the course within 90 days after receiving notice from DHSMV, the operator's driver license is canceled by DHSMV until the course is successfully completed.

The CS also creates funding intended to provide financial support to the current verified trauma centers and to provide incentives for the establishment of additional trauma centers. The DOH, would deposit funds from the additional penalty for traffic control steady red signal violations into the Administrative Trust Fund to fund the availability and accessibility of trauma services throughout the state, as follows:

- Twenty percent of the total funds collected would be distributed to verified trauma centers located in a region that has a local funding contribution as of December 31. Distribution of funds would be based on trauma caseload volume.
- Forty percent of the total funds collected would be distributed to verified trauma centers based on trauma caseload volume of the previous calendar year. The determination of caseload volume would be based on the DOH Trauma Registry data.
- Forty percent of the total funds would be distributed to verified trauma centers based on severity of trauma patients. The determination of severity would be based on the DOH Injury Severity Scores.

Any trauma center not subject to audit must annually attest, under penalties of perjury, the proceeds were used in compliance with law. The annual attestation must be made in a form and format determined by the DOH. Trauma centers subject to audit must submit an audit report in accordance with rules adopted by the Auditor General. The annual attestation would be submitted to the DOH for review within 9 months after the end of the organization's fiscal year. The DOH, working with the Agency for Health Care Administration, must maximize resources for trauma services wherever possible.

This CS substantially amends ss. 316.650, 318.18, 318.21, 322.0261 and 322.27; and creates s. 395.4036 of the Florida Statutes.

II. Present Situation:

Red Light Running

Section 316.074(1), F.S., requires a driver to obey all official traffic control devices, except in certain circumstances. "Official traffic control devices" are defined as all signs, signals, markings, and devices, placed or erected by authority of a public body or official having jurisdiction for the purpose, of regulating, warning or guiding traffic. Section 316.075(1)(c)1, F.S., 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. 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.

Traffic Citations

Section 316.650, F.S., requires DHSMV to prepare and supply every law enforcement agency in the state the appropriate traffic citation forms. Currently, the uniform traffic citation includes a box to be checked by a law enforcement officer when the officer believes a traffic violation or traffic accident was caused by aggressive driving.

Penalties and Distribution

Under current law the penalty for violations of traffic control steady red indications is a moving violation punishable by a \$60 fine. Section 318.21, F.S., authorizes the distribution of funds received as a result of traffic-related dispositions. Pursuant to s. 318.21, F.S., the moneys collected from violations of traffic law are distributed and paid monthly as follows:

- One dollar from every civil penalty is remitted to the Department of Revenue (DOR) for deposit into the Child Welfare Training Trust Fund for child welfare training purposes.
- One dollar from every civil penalty is remitted to DOR for deposit into the Juvenile Justice Training Trust Fund for juvenile justice purposes.

Of the remainder:

- Twenty and six-tenths percent is remitted to DOR for deposit into the General Revenue Fund of the state, except that the first \$300,000 is deposited into the Grants and Donations Trust Fund in the Justice Administrative Commission for administrative costs, training costs, and costs associated with the implementation and maintenance of Florida foster care citizen review panels in a constitutional charter county.
- Seven and two-tenths percent is remitted to DOR for deposit in the Emergency Medical Services Trust Fund.
- Five and one-tenth percent is remitted to DOR for deposit in the Additional Court Cost Clearing Trust Fund established for criminal justice purposes.
- Eight and two-tenths percent is remitted to DOR for deposit in the Brain and Spinal Cord Injury Rehabilitation Trust Fund.
- Two percent is remitted to DOR for deposit in the endowment fund of the Florida Endowment Foundation for Vocational Rehabilitation.
- Five-tenths percent is paid to the clerk of the court for administrative costs.
- If the violation occurred within a special improvement district of the Seminole or Miccosukee Indian Tribe, 56.4 percent is paid to that special improvement district.
- If the violation occurred within a municipality, 50.8 percent is paid to that municipality and 5.6 percent is deposited into the fine and forfeiture trust fund.
- If the violation occurred within the unincorporated area of a county that is not within a special improvement district of the Seminole Indian Tribe or Miccosukee Indian Tribe, 56.4 percent is deposited into the fine and forfeiture fund.
- Moneys paid to a municipality or special improvement district must be used to fund local criminal justice training when such a program is established by ordinance; to fund a municipal school crossing guard training program; and for any other lawful purpose.
- Twelve dollars and fifty cents from each moving traffic violation must be used by the county to fund that county's participation in an intergovernmental radio communication program or to fund local law enforcement automation.

Driver Improvement Courses

Section 322.0261, F.S., provides DHSMV to require operators convicted of, or who pled nolo contendere to, a traffic offense involving: (1) a crash in which a death or bodily injury requires transport to a medical facility; or (2) a second crash by the same operator within the previous 2-year period which involves property damage in an apparent amount of at least \$500, to attend a departmentally approved driver improvement course in order to maintain driving privileges. If the operator fails to complete the course within 90 days of receiving notice from DHSMV, the operator's driver's license must be cancelled until the course is successfully completed. In determining whether to approve a driver improvement course, DHSMV considers course content

designed to promote safety, driver awareness, crash avoidance techniques, and other factors of criteria to improve driver performance from a safety viewpoint.

Florida's Point System

Section 322.27, F.S., establishes a system of points assessed against a driver's license when a person is convicted of violating certain motor vehicle laws. The point system is used for the evaluation and determination of the continuing qualification of any person to operate a motor vehicle. The DHSMV is authorized to suspend the license of any person upon a showing of its records or other good and sufficient evidence the licensee has been convicted of violation of motor vehicle laws amounting to 12 or more points as determined by the point system. The suspension will be for a period of not more than one year. The statute provides the following provisions:

- When a licensee accumulates 12 points within a 12-month period, the period of suspension will be for not more than 30 days.
- When a licensee accumulates 18 points within an 18-month period, the suspension will be for a period of not more than 3 months.
- When a licensee accumulates 24 points within a 36-month period, the suspension will be for a period of not more than 1 year.
- The point system has, as its basic element, a graduated scale of points assigning relative values to convictions of the following violations:
 1. Reckless driving—4 points
 2. Leaving the scene of a crash resulting in property damage of more than \$50—6 points
 3. Unlawful speed resulting in a crash—6 points
 4. Passing a stopped school bus—4 points
 5. Unlawful speed:
 - a. Not in excess of 15 miles per hour of lawful or posted speed—3 points
 - b. In excess of 15 miles per hour of lawful or posted speed—4 points
 6. All other moving violations (including parking on a highway outside the limits of a municipality)—3 points
 7. Any moving violation, excluding unlawful speed, resulting in a crash—4 points
 8. Dumping litter in an amount exceeding 15 pounds, which involves the use of a motor vehicle—3 points
 9. Driving during restricted hours—3 points
 10. Violation of curfew—3 points
 11. Open container as an operator—3 points
 12. Child restraint violation—3 points

Moving violations typically result in assessment of 3 points, unless the infraction or offense is among those viewed as more serious. For example, reckless driving, passing a stopped school bus, and speeding in excess of 15 mph over the posted limit all require assessment of 4 points.

Leaving the scene of a crash and speeding resulting in a crash require assessment of 6 points. All other moving violations require assessment of 3 points.

- A conviction which occurred out-of-state or in a federal court may be recorded against a driver on the basis of the same number of points received had the conviction been made in a court of this state.
- In computing the total number of points, when the licensee reaches the danger zone, the DHSMV is authorized to send the licensee a warning letter advising any further convictions may result in suspension of their driving privilege.
- Three points are deducted from the driver history record of any person whose driving privilege has been suspended only once under the point system and has been reinstated, if such person has complied with all other requirements.
- The offense date of all convictions is used in computing the points and period of time for suspensions.
- The DHSMV revokes the license of any person designated a habitual offender, as set forth in s. 322.264, F.S., and such person is not eligible to be relicensed for a minimum of 5 years from the date of revocation, except as provided for in s. 322.271, F.S. Any person whose license is revoked may, by petition to DHSMV, show cause why his or her license should not be revoked.
- The DHSMV revokes the driving privilege of any person who is convicted of a felony for the possession of a controlled substance if, at the time of such possession, the person was driving or in actual physical control of a motor vehicle. A person whose driving privilege has been revoked pursuant to this subsection is not eligible to receive a limited business or employment purpose license during the term of such revocation.
- Review of an order of suspension or revocation is by writ of certiorari as provided in s. 322.31, F.S.

Trauma Centers

Part II, chapter 395, F.S., governs trauma services and trauma center operations in Florida. There are twenty-one state-approved trauma centers in Florida. DOH regulates trauma centers and has developed minimum standards for trauma centers based on national trauma standards. The DOH also has statutory authority to develop an inclusive trauma system to meet the needs of all injured trauma victims, which is accomplished through the development of a state trauma system plan and coordination with local trauma agencies.

Section 395.4001, F.S., defines various types of trauma centers. A "Level I trauma center" is defined to mean a trauma center that:

- Has formal research and education programs for the enhancement of trauma care and is determined by DOH to be in substantial compliance with Level I trauma center and pediatric trauma referral center standards.
- Serves as a resource facility to Level II trauma centers, pediatric trauma centers, and general hospitals through shared outreach, education, and quality improvement activities.
- Participates in an inclusive system of trauma care, including providing leadership, system evaluation, and quality improvement activities.

A "Level II trauma center" is defined to mean a trauma center that:

- Is determined by DOH to be in substantial compliance with Level II trauma center standards.
- Serves as a resource facility to general hospitals through shared outreach, education, and quality improvement activities.
- Participates in an inclusive system of trauma care.

A "Pediatric trauma center" is defined to mean a hospital determined by DOH to be in substantial compliance with pediatric trauma referral center standards as established by rule of DOH.

Part II, chapter 395, F. S., places legislative emphasis on the need for an inclusive trauma system which provides Floridians and visitors timely access to trauma care. Trauma standards and procedures are based on the "golden hour" principle, which is the optimal timeframe for the delivery of services to trauma victims. DOH has the primary responsibility for the oversight, planning, monitoring and establishment of a statewide inclusive trauma system. Of the twenty-one trauma centers in the state, specifically, there are seven Level I trauma centers, twelve Level II trauma centers, of which five are also pediatric centers, and two pediatric trauma centers only.

Currently there is the Trauma Services Trust Fund, which is used exclusively for the development and support of a system of state-sponsored trauma centers. Trust fund revenue is used for the purpose of funding trauma patient care in a provisional state-sponsored trauma center, or a state-sponsored trauma center; for funding the associated trauma claims processing costs, including the costs for the design, development, implementation, and operation of a payment system; and for administrative costs.

III. Effect of Proposed Changes:

The following discussion represents a section-by-section analysis of the CS:

Section 1 creates the "Anjelica and Victoria Velez Memorial Traffic Safety Act".

Section 2 amends s. 316.650, F.S., provides the traffic citation form is to include a box to be checked by law enforcement officers when citing a person for a violation of s. 316.074(1), F.S.

Section 3 amends s. 318.18, F.S., to increase the penalty for a red light violation (cited pursuant to ss. 316.074(1) or 316.075(1)(c)(1), F.S.) from \$60 to \$125, and to provide for distribution of the additional amount into the Administrative Trust Fund.

Section 4 amends s. 318.21, F.S., to provide for distribution of collected fines for red light violations.

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

Section 6 amends s. 322.27, F.S., to provide that violation of a traffic control signal device is assigned 4 points in the driver's licensing point system. Also, corrects an erroneous cross reference relating to assessment of points for littering violations.

Section 7 creates s. 395.4036, F.S., to establish Legislative intent to provide for the distribution by DOH 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 8 provides the act shall take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

Persons convicted of a red light violation would pay an increased fine.

B. Private Sector Impact:

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, which could result in additional license suspensions, the payment of reinstatement fees and higher insurance premiums.

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.

C. Government Sector Impact:

Local Government Impacts

The CS may have a positive fiscal impact on local governments to the extent some funds may be directed to trauma centers which receive local government funding.

State Impacts (DHSMV)

According to DHSMV, it is estimated \$18,589,220 will be generated annually as a result of increasing the civil penalty for a red light violation from \$60 to \$125 assuming a 100 percent compliance factor. The additional revenues are to be deposited into the Administrative Trust Fund for funding of trauma centers. The revenue impact assumes 285,988 red light violations occurred (based on the 2003 Annual Uniform Traffic Citation Statistics and the Driver License Warehouse) multiplied by the \$65 additional fine. This impact assumes traffic control violations cited pursuant to ss. 316.074(1) or 316.075(1)(c)(1), F.S., would be subject to the additional \$65 fine.

The revenue impact from requiring persons who are cited for a second red light violation (cited pursuant to ss. 316.074(1) or 316.075(1)(c)(1), F.S.) occurring twelve months after the first violation to attend a driver improvement school is indeterminate. The DHSMV has stated the number of persons who have committed a second violation of s. 316.075(1)(c)1, F.S., is unknown at this time.

This CS will also require contracted programming modifications to the Driver License information Systems at a cost of \$16,200, which is based on 120 hours of contracted programming modifications at a rate of \$135 per hour. However, DHSMV has not factored in the costs of revising the uniform traffic citation due to the additional check off box.

State Impacts (DOH)

According to DOH, historically, any funds distributed to the trauma centers are delivered through the Agency of Health Care Administration, which has the authority over health care facilities and can reimburse trauma centers for patient care. The management of the funds from violations deposited into the Administrative Trust Fund, and distribution of funds, would involve undetermined administrative cost to DOH. It is not possible to determine the level of staffing needed as the language regarding the allocation of funds to trauma centers lacks specific detail as to how the funds are to be distributed.

There are currently, 21 trauma centers in Florida as follows: 7 level I trauma centers, 7 level II trauma centers, 5 level II and pediatric trauma centers, and 2 pediatric only trauma centers. Shands Hospital at the University of Florida is a provisional level I trauma center.

The trauma center has not had a fluid reimbursement history. Currently, DOH receives no funding to support the existing trauma centers. Trauma centers in Florida received a lump sum disproportionate share in fiscal year 2002 of approximately \$11,000,000 and 2003 of \$ 13,000,000, but in other years have received no reimbursement for uncompensated care.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The DHSMV has expressed concerns about the effective date of the CS allowing sufficient time for implementation to make necessary modifications to the Driver License Software Systems. The DHSMV suggest an effective date of October 1, 2005.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
