

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government—HB 1041 provides judicial discretion for certain traffic infractions requiring a mandatory hearing.

B. EFFECT OF PROPOSED CHANGES:

Currently, s. 318.19, F.S., 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.

Under these provisions, a person committing an infraction resulting in “serious bodily injury” of another is required to appear before a designated official and if found to have committed the infraction must pay a \$500 fine and the person’s driver license must be suspended for 3 months.

“Serious bodily injury” is defined in s. 316.1933, F.S., 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 definition involves factual determinations that can be 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 under s. 322.27, F.S., 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.

HB 1041 allows for judicial or hearing official discretion in cases where a traffic infraction results in a crash causing serious bodily injury. The bill provides that if the person is found to have committed the infraction at the hearing the designated official may impose a civil penalty of \$500 in addition to any other penalties and may suspend the person’s driver’s license for 3 months.

C. SECTION DIRECTORY:

Section 1. Amends s. 318.14, F.S., to revise a penalty requirement for certain traffic infractions requiring a mandatory hearing.

Section 2. The bill takes effect July 1, 2006.

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:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Money received from additional penalties imposed on persons required to appear before a designated official are remitted to the Department of Revenue and deposited into the Department of Health Administrative Trust Fund to provide financial support to certified trauma centers to assure the availability and accessibility of trauma services throughout the state.

In providing discretion regarding the mandatory \$500 additional civil penalty, the bill could reduce the amount of penalties imposed on persons committing a traffic infraction resulting in a crash causing serious bodily injury. This penalty reduction could cause a negative revenue impact on trauma centers. The amount of this impact cannot be accurately estimated because the amount of the penalty imposed will be at the discretion of the judge or designated hearing official.

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:

DHSMV has sufficient rule-making authority to carry out the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES