

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 89 Pedestrian Safety

SPONSOR(S): Kriseman and others

TIED BILLS: IDEN./SIM. BILLS: SB 154

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Infrastructure</u>	<u>9 Y, 0 N</u>	<u>Brown</u>	<u>Miller</u>
2) <u>Economic Expansion & Infrastructure Council</u>	<u></u>	<u></u>	<u></u>
3) <u>Policy & Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

Chapter 316, F.S., currently requires drivers of vehicles to yield the right-of-way to pedestrians. HB 89 adds the requirement that drivers of vehicles stop and remain stopped before entering the crosswalk when a pedestrian is in a crosswalk and is upon the half of the road upon which the vehicle is traveling. This requirement is added for intersections where there is a traffic control signal or signage requiring a stop. Where there is no traffic light, nor any other signage indicating otherwise, the bill requires drivers to yield right-of-way to pedestrians. The requirement for a driver of a vehicle to yield the right-of-way to pedestrians before turning right or left on a steady red signal remains in statute.

A violation of these provisions relating to pedestrians in crosswalks is made a noncriminal traffic infraction, punishable as a moving violation for the operator of a motor vehicle (\$60 plus costs and surcharges, and 3 points assessed on the driver's license), and will be assessed an additional \$60. The additional fine revenue must be used to educate the public about pedestrian safety. The bill may thus generate additional fine revenue for state and local government, the amount of which is indeterminate.

The bill is effective July 1, 2008.

Note: A strike-all amendment was adopted for HB 89. Please see Section IV for a summary of the strike-all.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

A pedestrian is defined in s. 316.003(28), F.S., as “any person afoot.” In 2006, 4,784 pedestrians were killed and 61,000 pedestrians were injured in traffic crashes in the United States.¹ Of these fatalities and injuries, Florida accounted for 546 of the fatalities and 7,754 of the injuries.² Only California had more pedestrian fatalities in 2006, with 717 pedestrians killed. On a per capita basis, Florida ranked third in the nation with its 2006 pedestrian fatality rate (3.02 fatalities per 100,000 residents), exceeded by Delaware (3.16) and New Mexico (3.53).

Section 316.075, F.S., requires a motor vehicle driver with a green light to yield the right-of-way to pedestrians lawfully in the intersection or an adjacent crosswalk. Pedestrians facing a green signal, except a green arrow, are authorized to proceed across the road in the crosswalk. Unless otherwise directed by a pedestrian signal, pedestrians facing a yellow signal are prohibited from starting across the road due to insufficient time to do so. Motor vehicle drivers with a red light must stop before entering the crosswalk and must remain standing until receiving a green light. The only exceptions to this provision are drivers turning right (or left from a one-way street onto another one-way street) on a red light, in which case the motor vehicle must yield the right-of-way to pedestrians. Pedestrians facing a red light, unless otherwise directed by a pedestrian signal, are not authorized to enter the roadway.

Section 316.130, F.S., states that when traffic control signals are not in place, drivers of motor vehicles shall yield the right-of-way by slowing down, or stopping if necessary, to yield to a pedestrian crossing the crosswalk when the pedestrian is “upon the half of the roadway upon which the vehicle is traveling or when the pedestrian is approaching so closely from the opposite half of the roadway to be in danger.” A violation of either section discussed above is a noncriminal traffic infraction, punishable as a pedestrian violation (\$15 plus court costs assessed by the county) or a moving violation for the operator of a vehicle (\$60, plus court costs assessed by the county, and 3 points assessed on the driver’s license).

Proposed Changes:

HB 89 adds language to s. 316.075, F.S., directing the driver of a motor vehicle facing a red signal to “stop before entering the crosswalk, and remain stopped” to allow a pedestrian with a permitted signal to cross the roadway when the pedestrian is either in the crosswalk or steps into the crosswalk and is upon the half of the road upon which the vehicle is traveling.

The bill amends the same language into s. 316.130, F.S. In that section, it also directs the driver to “stop and remain stopped” at any crosswalk to allow a pedestrian to cross the roadway where signage so indicates. The bill also specifies that when traffic signals are not in place and there is no signage indicating otherwise, a driver of a vehicle shall yield the right-of-way to a pedestrian crossing the road within a crosswalk.

¹ *Traffic Safety Facts 2006*, National Highway Traffic Safety Administration. As of March 10, 2008, this is the most recent available federal data.

² *Traffic Crash Statistics Report 2006*, Florida Department of Highway Safety and Motor Vehicles.

A violation of these new provisions would be a noncriminal traffic infraction, punishable as a moving violation for the operator of a vehicle (\$60, plus court costs assessed by the county, and 3 points assessed on the driver's license).

The bill amends s. 318.18, F.S. to provide an additional \$60 fine (that is, on top of the existing fines for the noncriminal violation) for violations of both the existing laws in s. 316.075(1)(c) as well as the additional violations described above.

C. SECTION DIRECTORY:

Section 1. Amends s. 316.075, F.S., requiring a driver to stop and remain stopped at certain intersections to allow a pedestrian to cross a roadway when the pedestrian is either in the crosswalk or steps into the crosswalk and is upon the half of the road upon which the vehicle is traveling; providing penalties.

Section 2. Amends s. 316.130, F.S., requiring a driver to stop and remain stopped at certain intersections to allow a pedestrian to cross a roadway when the pedestrian is either in the crosswalk or steps into the crosswalk and is upon the half of the road upon which the vehicle is traveling; providing penalties.

Section 3. Amends s. 318.18, F.S.; providing additional penalties for certain infractions; directing the department to spend funds on certain educational activities.

Section 4. Amends 318.21, F.S.; directing certain funds to be deposited in the Highway Safety Operating Trust Fund.

Section 5. Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Using historical data as a guide, the Department estimates that there would be approximately 1,797 "violations of failure to yield to a pedestrian resulting in either a guilty or adjudication withheld by court disposition."³ If this number is accurate, the Department would receive an additional \$107,820 annually.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

³ *DHSMV Bill Analysis – HB 89*, Department of Highway Safety and Motor Vehicles, October 15, 2007. This document is on file with the committee.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Drivers failing to yield to pedestrians will be subject to an additional \$60 fine.

D. FISCAL COMMENTS:

The additional \$60 generated by each violation is directed to be spent by the Department of Highway Safety and Motor Vehicles (the "Department") specifically to "educate the public about pedestrian safety and traffic laws governing crosswalks in this state."

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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Department has suggested that the changes to section 316.130(7)(a) – (b) do not contemplate intersections without crosswalks.⁴ SB 154 contains an additional phrase that may alleviate this concern, by adding the phrase "or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger."

D. STATEMENT OF THE SPONSOR

This bill addresses Florida's growing pedestrian safety crisis. We are consistently ranked among the most dangerous in the nation in pedestrian fatalities. According to the annual Mean Streets report, Florida cities make up three of the five most dangerous communities to walk in. Ft. Lauderdale, Miami, and the Tampa Bay area consistently join Atlanta and Dallas as the least friendly for pedestrians. In fact, recent data showed that it is 11 times more dangerous to walk in Ft. Lauderdale than it is to walk in Pittsburgh. Encouraging walking as an alternative mode of transportation also helps us to address much bigger concerns regarding the environment and personal health. Furthermore, with a large senior population, Florida should be a leader in making our streets safe to cross and therefore protecting our most vulnerable citizens.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 13, 2008, the Committee on Infrastructure reported the bill favorably with a strike-all amendment. The amendment clarifies that drivers must also stop "when the pedestrian is approaching so closely from the opposite half of the roadway so as to be in danger."

The amendment also removes the additional \$60 fee discussed in the analysis and Fiscal Comments above.

⁴ *Id.*