

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 473 School Bus Safety

SPONSOR(S): Williams and others

TIED BILLS: IDEN./SIM. BILLS:

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Roads, Bridges & Ports Policy Committee		Cater	Miller
2)	Public Safety & Domestic Security Policy Committee			
3)	Economic Development & Community Affairs Policy Council			
4)	Policy Council			
5)				

SUMMARY ANALYSIS

The bill creates the Ronshay Dugans Act.

The bill designates the first week in September as "Drowsy Driving Prevention Week" in Florida, and encourages the Department of Highway Safety and Motor Vehicles (DHSMV) and the Department of Transportation (DOT) to educate law enforcement and the public about the relationship between fatigue and the dangers of driving.

Effective October 1, 2009, the bill prohibits school bus drivers from using a mobile telecommunications device while driving or in actual physical control of a school bus. The prohibition does not apply in emergencies. A violation is a misdemeanor in the second degree punishable by up to six months in jail or a \$500 fine.

Any fiscal impact to the DHSMV and DOT can be absorbed within their existing resources. There is no fiscal impact to local governments.

Except as otherwise provided, the bill takes effect upon becoming law.

Note: The sponsor intends to offer an amendment removing the provision related to school bus drivers using mobile telecommunications devices.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The bill creates the "Ronshay Dugans Act"

Drowsy Driving

Current Situation

A 2005 National Sleep Foundation poll found that 60 percent of adult drivers had driven, in the past year, a vehicle while feeling drowsy, with more than one-third actually falling asleep behind the wheel. Forty percent of the drivers admitted to having an accident or near accident because they dozed off or were too tired to drive.

The National Highway Traffic Safety Administration estimates that each year, driver fatigue results in 100,000 police reported crashes, with an estimated 1,550 deaths, 71,000 injuries, and \$12.5 billion in monetary losses. However, it is difficult to attribute an accident to drowsiness because there is no test available to determine drowsiness, and there are inconsistent reporting practices related to drowsy driving. In addition, drowsiness may be a factor in crashes which are attributed to other causes.

Some of the dangers that sleepiness or fatigue may cause are:

- Impaired reaction time, judgment, or vision;
- Problems with information processing and short-term memory;
- Decreased performance, vigilance, and motivation; and
- Increased moodiness and aggressive behavior.

The National Sleep Foundation currently promotes a "Drowsy Driving Prevention Week." In 2008, that week was from November 10 through 16.¹

Proposed Changes

The bill designates the first week in September as "Drowsy Driving Prevention Week" in Florida. During this week, the Department of Highway Safety and Motor Vehicles (DHSMV) and the Department of

¹ Information concerning drowsy driving was obtained from www.drowsydriving.org, which is sponsored by the National Sleep Foundation.

Transportation (DOT) are encouraged to educate law enforcement and the public about the relationship between fatigue and performance and the research showing that fatigue is as much of an impairment as alcohol and is as dangerous behind the wheel.

According to DOT, its impaired driving initiatives incorporate educational information related to drowsy driving.

Use of Mobile Phones by School Bus Drivers

Current Situation

Chapter 316, Florida Statutes, creates the Uniform Traffic Control Law, providing for uniform traffic laws throughout the state. These laws include criminal violations, as well as non-criminal moving and non-moving traffic infractions.

The state has expressly preempted all regulation of the use of electronic communications devices in a motor vehicle.² It is a violation of current state law to operate a motor vehicle while wearing a headset, headphone, or other listening device other than a hearing aid;³ such violations are noncriminal traffic infractions punishable as nonmoving violations. Section 318.18(2), F.S., provides that a nonmoving violation requires a \$30 fine (plus court costs that vary by county).

Exceptions to the prohibition against headsets are made for law enforcement radio equipment,⁴ certain headsets built into motorcycle helmets,⁵ and cellular phone or other radio headsets used in only one ear.⁶ DHSMV is granted rulemaking authority to further detail the standards and specifications of radio equipment permitted by statute.⁷

Current Department of Education rules require school districts “[t]o adopt, after considering recommendations of the superintendent, a school board policy prohibiting the use of a cellular telephone by any school bus operator while actively driving the bus.”⁸

Proposed Changes

The bill creates s. 316.6152, F.S., relating to the use of mobile telecommunications devices by school bus drivers. Beginning on October 1, 2009, the bill prohibits a person who is driving or in actual physical control of a public or nonpublic school bus from using a mobile telecommunications device. This prohibition does not apply:

- When the school bus is stopped and the engine is not running, or when the school bus is stopped completely outside the normal flow of traffic; or
- When the device is being used to contact one of the following regarding an emergency situation:
 - A school administrator.
 - A law enforcement agency.
 - A firefighting service.
 - An emergency communications E911 system service.
 - A hospital or emergency rescue service.

A violation of this prohibition is a misdemeanor of the second degree, punishable by up to 60 days in jail⁹ or up to a \$500 fine.¹⁰

² Section 316.0075, F.S.

³ Section 316.304(1), F.S.

⁴ Section 316.304(2)(a), F.S.

⁵ Section 316.304(2)(c), F.S.

⁶ Section 316.304(2)(d) – (e), F.S.

⁷ Section 316.304(3), F.S.

⁸ Section 6A-3.0171(2)(e), F.A.C.

B. SECTION DIRECTORY:

- Section 1 Provides a short title.
- Section 2 Designates the first week in September as “Drowsy Driving Prevention Week” in Florida.
- Section 3 Creates s. 316.6152, F.S., prohibiting the use of mobile telecommunications devices by school bus drivers, provides an exception for emergency situations.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

According to DOT, any administrative expenses associated with reviewing its current initiatives for an appropriate focus on drowsy driving is expected to be absorbed within its existing resources.

According to DHSMV, the cost of creating and implementing educational materials related to drowsy driving will be absorbed by the department. DHSMV will also need to make programming modifications associated with the prohibiting school bus drivers from operating mobile communications devices while driving the school bus. The cost of the modifications will be absorbed by DHSMV.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Awareness of drowsy driving may reduce the number of accidents attributed to it.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not affect county or municipal government.

⁹ Section 775.082, F.S.

¹⁰ Section 775.083, F.S.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

The sponsor intends to offer an amendment to remove the provision related to the use of mobile telecommunications devices by school bus drivers.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES