

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 481

Highway Safety

**SPONSOR(S):** Full Appropriations Council on General Government & Health Care; Public Safety & Domestic Security Policy Committee; Kreegel

**TIED BILLS:**

**IDEN./SIM. BILLS:** CS/SB 1114

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Public Safety & Domestic Security Policy Committee	8 Y, 0 N, As CS	Padgett	Kramer
2)	Criminal & Civil Justice Policy Council	9 Y, 0 N	Padgett	Havlicak
3)	Finance & Tax Council	(ref. removed)		
4)	Full Appropriations Council on General Government & Health Care	27 Y, 0 N, As CS	Bradford	Leznoff
5)				

### SUMMARY ANALYSIS

The bill makes changes to current law as follows:

#### Increased Fines

Currently, a \$65 fine is assessed for violations of certain traffic infractions. The funds generated from these fines are deposited into the Administrative Trust Fund administered by the Department of Health. This trust fund provides funding for verified trauma centers in Florida.

The bill increases fines for failure to stop for a school bus, reckless driving and racing on highways by \$65. The \$65 is deposited into the Administrative Trust Fund.

#### Method of Disbursing Fines

Currently, funds from the Administrative Trust Fund are distributed to verified trauma centers using three criteria; each weighted differently as follows:

- 20% to verified trauma centers that have a local funding contribution; the funds are to be distributed based on caseload volume;
- 40% to verified trauma centers based on trauma caseload volume from the most recent calendar year;
- 40% to verified trauma centers based on severity of trauma patients for the most recent calendar year.

The bill provides that the funds collected from the \$65 fine created by the bill be distributed as follows:

- 30% to Level II trauma centers operated by a public hospital governed by an elected board of directors;
- 35% to verified trauma centers based on trauma caseload volume from the most recent calendar year available;
- 35% to verified trauma centers based on severity of trauma patients for the most recent calendar year available.

#### Driver Improvement Course Requirement

Currently, a person convicted of a second or subsequent violation of failure to obey a traffic control device or failure to obey a traffic control signal device within one year is required to attend a driver improvement course.

The bill requires a person who is convicted of a violation of failure to stop for a school bus, reckless driving and racing on highways to attend a driver improvement course, removing the stipulation regarding the "second or subsequent" violation.

The projected increase in funds generated by the bill is \$150,000 to \$400,000 annually.

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

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## 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:

##### Failure to Stop for a School Bus

Currently, s. 316.172(1)(a), F.S. provides a person commits a moving violation if a person driving a vehicle fails to stop when approaching any school bus while the bus is displaying a stop signal. A violation of this offense is punishable by a minimum \$100 fine.<sup>1</sup> The Department of Highway Safety and Motor Vehicles (DHSMV) must suspend the driver's license of any person who commits a second or subsequent violation of this section within a five year period.<sup>2</sup> Section 316.172(1)(b), F.S. provides that a person commits a moving violation if the person passes a school bus on the side children enter and exit while the bus is displaying a stop signal. A violation of this offense is punishable by a minimum \$200 fine.<sup>3</sup> DHSMV must suspend the driver's license of any person who commits a violation of this section a second or subsequent time within a five year period.<sup>4</sup>

The bill adds an additional \$65 fine for a violation of s. 316.172(a) and 316.172(b); failure to stop for a school bus. The additional \$65 fine is deposited in the Administrative Trust Fund of the Department of Health.<sup>5</sup> The bill also provides that a person who commits a violation of s. 316.172, F.S. shall attend a DHSMV approved driver improvement course.<sup>6</sup>

##### Racing on Highways

Section 316.191, F.S. provides a person commits the offense of racing on highways if the person:

- drives any motor vehicle in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, or exhibition of speed or acceleration or for the purpose of making a speed record on any highway, roadway, or parking lot;
- in any manner participates in, coordinates, facilitates, or collects moneys at any location for any such race, competition, contest, test, or exhibition;
- knowingly rides as a passenger in any such race, competition, contest, test, or exhibition; or

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<sup>1</sup> Section 318.18(5)(a), F.S. A person who violates s. 316.172(a) or (b) is currently required to pay fines and costs additional to the fines created by the bill. The fines are listed in s. 318.18, F.S. and include court costs and surcharges that are deposited in various trust fund accounts.

<sup>2</sup> Id. DHSMV must suspend the driver's license for not less than 90 days and not more than six months.

<sup>3</sup> Section 318.18(5)(b), F.S.

<sup>4</sup> Id. DHSMV must suspend the driver's license for not less than 180 days and not more than one year.

<sup>5</sup> See s. 395.4036, F.S.

<sup>6</sup> See s. 318.1451, F.S.

- purposefully causes the movement of traffic to slow or stop for any such race, competition, contest, test, or exhibition.<sup>7</sup>

A violation of this section is punishable as a first degree misdemeanor<sup>8</sup> with a minimum \$500 fine.<sup>9</sup> A first conviction for racing on highways results in a one year driver's license revocation.<sup>10</sup> A second or subsequent conviction for racing on highways within five years after the date of a prior conviction results in a two year driver's license suspension.<sup>11</sup>

The bill adds an additional \$65 fine for a conviction for racing on highways. The additional \$65 fine is deposited in the Administrative Trust Fund of the Department of Health. The bill also provides that a person who commits a violation of racing on highways must attend a DHSMV approved driver improvement course.

#### Reckless Driving

Section 316.192, F.S. provides that a person commits the offense of reckless driving if a person drives any vehicle in willful or wanton disregard for the safety of persons or property. A first conviction for the offense of reckless driving is punishable by up to 90 days in county jail and a fine of not less than \$25 and not more than \$500; plus an additional \$5 fine which is deposited in the Emergency Medical Services Trust Fund.<sup>12</sup>

The bill adds s. 318.18(19), F.S. to provide an additional \$65 fine for a conviction for reckless driving. The additional \$65 fine is deposited in the Administrative Trust Fund of the Department of Health. The bill also provides that a person who is convicted of reckless driving must attend a DHSMV approved driver improvement course.

#### Distribution of Funds to Trauma Centers

Currently, verified trauma centers<sup>13</sup> in Florida are partially funded through the Administrative Trust Fund of the Department of Health (DOH).<sup>14</sup> A portion of the fines from certain traffic infractions is deposited in the DOH Administrative Trust Fund. These offenses include: failure to obey a traffic control device, exceeding the speed limit by more than 30 miles per hour, exceeding the speed limit in an enhanced penalty zone, and a traffic infraction that is the result of a crash that causes the death or serious bodily injury to a person.<sup>15</sup> The money is distributed as follows:

- 20% to verified trauma centers that have a local funding contribution,
- 40% to verified trauma centers based on trauma caseload volume for the previous year

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<sup>7</sup> Section 316.191(2)(a), F.S.

<sup>8</sup> A first degree misdemeanor is punishable by up to one year in county jail and a maximum \$1,000 fine. Sections 775.082, 775.083, F.S.

<sup>9</sup> Section 316.191(2) F.S.

<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> Section 316.192(2), F.S. A second or subsequent conviction for the offense of reckless driving is punishable by up to 6 months in jail and a fine of between \$50 and \$1,000. If a person commits the offense of reckless driving and damages the property or person of another, the person commits a first degree misdemeanor. If a person commits the offense of reckless driving and causes serious bodily injury to another, the person commits a third degree felony, punishable by up to five years imprisonment and a maximum \$5,000 fine (Sections 775.082, 775.083, 775.084, F.S.). If the court has reasonable cause to believe alcohol or controlled substances were a factor contributed to a violation of this section, the court is required to order the defendant to complete a DUI substance abuse course.

<sup>13</sup> The Department of Health selects a hospital as a verified trauma center through an application and review process. The Department uses standards developed by the American College of Surgeons and Children's Medical Services as selection criteria for trauma centers. Section 395.401(2), F.S. Section 395.4025, F.S. There are currently 20 verified trauma centers in Florida. <http://www.doh.state.fl.us/demo/Trauma/center.htm>. (Last visited March 4, 2009.)

<sup>14</sup> Section 395.4036(1), F.S.

<sup>15</sup> Section 318.19(1), 318.19(2), F.S.

- 40% to verified trauma centers based on the severity<sup>16</sup> of trauma patients for the previous year<sup>17</sup>

The bill directs that funds collected from the \$65 fines imposed by the bill are to be distributed as follows:

- 30% to Level II trauma centers operated by a public hospital governed by an elected board of directors as of December 31, 2008;
- 35% to verified trauma centers based on trauma caseload volume for the most recent calendar year available;
- 35% to verified trauma centers based on the severity of trauma patients for the previous year

**B. SECTION DIRECTORY:**

Section 1: Amends s. 318.18, F.S. relating to the amount of penalties.

Section 2: Amends s. 318.21, F.S., relating to the disposition of civil penalties by county courts.

Section 3: Amends s. 322.0261, F.S., relating to driver improvement courses; requirements to maintain driving privileges; failure to complete; department approval of course.

Section 4: Amends s. 395.4036, F.S., relating to trauma payments.

Section 6: Provides an effective date of July 1, 2009.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

DOH estimates that the increase in funds generated by the bill would be in the \$150,000 to \$400,000 range annually.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Verified trauma centers in Florida may benefit from funds generated by the increase in fines.

Persons convicted of failure to stop for a school bus, reckless driving, and racing on highways will be subject to increased \$65 fines.

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<sup>16</sup> The determination of the severity of trauma patients is based on DOH rules for classifying a trauma patient's severity of injury.

<sup>17</sup> Section 318.18(15), F.S. The DOH Administrative Trust Fund assists in maximizing federal funds that are available to trauma centers.

The increased number of offenses that require mandatory driver improvement school could result in greater attendance in driver improvements schools and benefit operators of the driver improvement schools.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DOH is granted the authority to implement rules in determining the weighting of the severity of trauma injury scores.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill provides any violation of s. 316.191 F.S., racing on highways, requires a person to attend driver improvement school. A person can be convicted of a violation of s. 316.191, F.S. for being a spectator at a drag race, riding as a passenger in a drag race, and coordinating a drag race. These offenses do not require a person to be driving a vehicle. If the offense requiring a person to attend driver improvement school was limited to s. 316.191(2)(a), the bill would appear to capture all violations of racing on highways that require a person to be driving a vehicle.

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 10, 2009, the Public Safety & Domestic Security Committee adopted an amendment to the bill that appropriates \$2.5 million from recurring general revenue to the Administrative Trust Fund of the Department of Health to provide funding for trauma centers in accordance with the act.

On April 15, 2009, the Full Appropriations Council on General Government & Health Care adopted two amendments:

- Specifying when an additional \$65 civil penalty is assessed.
- Identifying when an individual convicted of, or who pleaded nolo contendere to, a violation is required to complete a driving course to maintain driving privileges.
- Removing a \$2.5 million appropriation in General Revenue.

The bill was reported favorably as a Council Substitute.  
This analysis reflects the bill as amended.