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CS/CS/HB 481, Engrossed 2

2009 Legislature

1 A bill to be entitled
2 An act relating to highway safety; amending s. 318.18,
3 F.S.; providing an additional penalty for violations of
4 provisions that require traffic to stop for a school bus,
5 prohibit racing on highways, and prohibit reckless
6 driving; providing for distribution of moneys collected;
7 amending s. 318.21, F.S.; providing for distribution of
8 specified civil penalties; amending s. 322.0261, F.S.;
9 requiring the Department of Highway Safety and Motor
10 Vehicles to identify a person who has committed a
11 violation of specified provisions and require such person
12 to complete a driver improvement course; providing for
13 cancellation of license for failure to complete such
14 course within a specified time period; amending s.
15 395.4036, F.S.; providing for distribution of funds to
16 trauma centers; amending s. 316.193, F.S.; requiring a
17 court to order a defendant, after a first conviction for
18 driving under the influence, to participate in a minimum
19 of 50 hours of community service as a condition of
20 probation; authorizing a court to impose a specified fine
21 under certain conditions; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsection (5) of section 318.18, Florida
26 Statutes, is amended, and subsection (19) is added to that
27 section, to read:

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28 | 318.18 Amount of penalties.--The penalties required for a
29 | noncriminal disposition pursuant to s. 318.14 or a criminal
30 | offense listed in s. 318.17 are as follows:

31 | (5) (a) One hundred dollars for a violation of s.
32 | 316.172(1) (a), failure to stop for a school bus. If, at a
33 | hearing, the alleged offender is found to have committed this
34 | offense, the court shall impose a minimum civil penalty of \$100.
35 | In addition to this penalty, for a second or subsequent offense
36 | within a period of 5 years, the department shall suspend the
37 | driver's license of the person for not less than 90 days and not
38 | more than 6 months.

39 | (b) Two hundred dollars for a violation of s.
40 | 316.172(1) (b), passing a school bus on the side that children
41 | enter and exit when the school bus displays a stop signal. If,
42 | at a hearing, the alleged offender is found to have committed
43 | this offense, the court shall impose a minimum civil penalty of
44 | \$200. In addition to this penalty, for a second or subsequent
45 | offense within a period of 5 years, the department shall suspend
46 | the driver's license of the person for not less than 180 days
47 | and not more than 1 year.

48 | (c) In addition to the penalty under paragraph (a) or
49 | paragraph (b), \$65 for a violation of s. 316.172(1) (a) or (b).
50 | If the alleged offender is found to have committed the offense,
51 | the court shall impose the civil penalty under paragraph (a) or
52 | paragraph (b) plus an additional \$65. The additional \$65
53 | collected under this paragraph shall be remitted to the
54 | Department of Revenue for deposit into the Administrative Trust
55 | Fund of the Department of Health to be used as provided in s.

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56 395.4036.

57 (19) In addition to any other penalty, \$65 for a violation
 58 of s. 316.191, prohibiting racing on highways, or s. 316.192,
 59 prohibiting reckless driving. The additional \$65 collected under
 60 this subsection shall be remitted to the Department of Revenue
 61 for deposit into the Administrative Trust Fund of the Department
 62 of Health to be used as provided in s. 395.4036.

63 Section 2. Subsection (18) is added to section 318.21,
 64 Florida Statutes, to read:

65 318.21 Disposition of civil penalties by county
 66 courts.--All civil penalties received by a county court pursuant
 67 to the provisions of this chapter shall be distributed and paid
 68 monthly as follows:

69 (18) Notwithstanding subsections (1) and (2), the proceeds
 70 from the additional penalties imposed pursuant to s.
 71 318.18(5)(c) and (19) shall be distributed as provided in that
 72 section.

73 Section 3. Subsection (3) of section 322.0261, Florida
 74 Statutes, is amended to read:

75 322.0261 Driver improvement course; requirement to
 76 maintain driving privileges; failure to complete; department
 77 approval of course.--

78 (3) The department shall identify any operator convicted
 79 of, or who pleaded nolo contendere to, a ~~second~~ violation of s.
 80 316.074(1), ~~or~~ s. 316.075(1)(c)1., s. 316.172, s. 316.191, or s.
 81 316.192 ~~which violation occurred within 12 months after the~~
 82 ~~first violation,~~ and shall require that operator, in addition to
 83 other applicable penalties, to attend a department-approved

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84 driver improvement course in order to maintain driving
85 privileges. If the operator fails to complete the course within
86 90 days after receiving notice from the department, the
87 operator's driver license shall be canceled by the department
88 until the course is successfully completed.

89 Section 4. Section 395.4036, Florida Statutes, is amended
90 to read:

91 395.4036 Trauma payments.--

92 (1) Recognizing the Legislature's stated intent to provide
93 financial support to the current verified trauma centers and to
94 provide incentives for the establishment of additional trauma
95 centers as part of a system of state-sponsored trauma centers,
96 the department shall utilize funds collected under s. 318.18~~(15)~~
97 and deposited into the Administrative Trust Fund of the
98 department to ensure the availability and accessibility of
99 trauma services throughout the state as provided in this
100 subsection.

101 (a) Funds collected under s. 318.18(15) shall be
102 distributed as follows:

103 1.(a) Twenty percent of the total funds collected ~~under~~
104 ~~this subsection~~ during the state fiscal year shall be
105 distributed to verified trauma centers that have a local funding
106 contribution as of December 31. Distribution of funds under this
107 subparagraph ~~paragraph~~ shall be based on trauma caseload volume
108 for the most recent calendar year available.

109 2.(b) Forty percent of the total funds collected ~~under~~
110 ~~this subsection~~ shall be distributed to verified trauma centers
111 based on trauma caseload volume for the most recent calendar

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112 year available. The determination of caseload volume for
 113 distribution of funds under this subparagraph ~~paragraph~~ shall be
 114 based on the department's Trauma Registry data.

115 3. ~~(e)~~ Forty percent of the total funds collected ~~under~~
 116 ~~this subsection~~ shall be distributed to verified trauma centers
 117 based on severity of trauma patients for the most recent
 118 calendar year available. The determination of severity for
 119 distribution of funds under this subparagraph ~~paragraph~~ shall be
 120 based on the department's International Classification Injury
 121 Severity Scores or another statistically valid and
 122 scientifically accepted method of stratifying a trauma patient's
 123 severity of injury, risk of mortality, and resource consumption
 124 as adopted by the department by rule, weighted based on the
 125 costs associated with and incurred by the trauma center in
 126 treating trauma patients. The weighting of scores shall be
 127 established by the department by rule.

128 (b) Funds collected under s. 318.18(5)(c) and (19) shall
 129 be distributed as follows:

130 1. Thirty percent of the total funds collected shall be
 131 distributed to Level II trauma centers operated by a public
 132 hospital governed by an elected board of directors as of
 133 December 31, 2008.

134 2. Thirty-five percent of the total funds collected shall
 135 be distributed to verified trauma centers based on trauma
 136 caseload volume for the most recent calendar year available. The
 137 determination of caseload volume for distribution of funds under
 138 this subparagraph shall be based on the department's Trauma
 139 Registry data.

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140 3. Thirty-five percent of the total funds collected shall
 141 be distributed to verified trauma centers based on severity of
 142 trauma patients for the most recent calendar year available. The
 143 determination of severity for distribution of funds under this
 144 subparagraph shall be based on the department's International
 145 Classification Injury Severity Scores or another statistically
 146 valid and scientifically accepted method of stratifying a trauma
 147 patient's severity of injury, risk of mortality, and resource
 148 consumption as adopted by the department by rule, weighted based
 149 on the costs associated with and incurred by the trauma center
 150 in treating trauma patients. The weighting of scores shall be
 151 established by the department by rule.

152 (2) Funds deposited in the department's Administrative
 153 Trust Fund for verified trauma centers may be used to maximize
 154 the receipt of federal funds that may be available for such
 155 trauma centers. Notwithstanding this section and s. 318.14,
 156 distributions to trauma centers may be adjusted in a manner to
 157 ensure that total payments to trauma centers represent the same
 158 proportional allocation as set forth in this section and s.
 159 318.14. For purposes of this section and s. 318.14, total funds
 160 distributed to trauma centers may include revenue from the
 161 Administrative Trust Fund and federal funds for which revenue
 162 from the Administrative Trust Fund is used to meet state or
 163 local matching requirements. Funds collected under ss. 318.14
 164 and 318.18~~(15)~~ and deposited in the Administrative Trust Fund of
 165 the department shall be distributed to trauma centers on a
 166 quarterly basis using the most recent calendar year data
 167 available. Such data shall not be used for more than four

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168 quarterly distributions unless there are extenuating
 169 circumstances as determined by the department, in which case the
 170 most recent calendar year data available shall continue to be
 171 used and appropriate adjustments shall be made as soon as the
 172 more recent data becomes available.

173 (3)~~(2)~~(a) Any trauma center not subject to audit pursuant
 174 to s. 215.97 shall annually attest, under penalties of perjury,
 175 that such proceeds were used in compliance with law. The annual
 176 attestation shall be made in a form and format determined by the
 177 department. The annual attestation shall be submitted to the
 178 department for review within 9 months after the end of the
 179 organization's fiscal year.

180 (b) Any trauma center subject to audit pursuant to s.
 181 215.97 shall submit an audit report in accordance with rules
 182 adopted by the Auditor General.

183 (4)~~(3)~~ The department, working with the Agency for Health
 184 Care Administration, shall maximize resources for trauma
 185 services wherever possible.

186 Section 5. Paragraph (a) of subsection (6) of section
 187 316.193, Florida Statutes, is amended to read:

188 316.193 Driving under the influence; penalties.--

189 (6) With respect to any person convicted of a violation of
 190 subsection (1), regardless of any penalty imposed pursuant to
 191 subsection (2), subsection (3), or subsection (4):

192 (a) For the first conviction, the court shall place the
 193 defendant on probation for a period not to exceed 1 year and, as
 194 a condition of such probation, shall order the defendant to
 195 participate in public service or a community work project for a

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196 | minimum of 50 hours. ~~;~~ ~~or~~ The court may order a ~~instead,~~ ~~that any~~
 197 | defendant to pay a ~~an additional~~ fine of \$10 for each hour of
 198 | public service or community work otherwise required only, ~~if the~~
 199 | court finds that, ~~after consideration of~~ the residence or
 200 | location of the defendant at the time public service or
 201 | community work is required or the defendant's employment
 202 | obligations would create an undue hardship for the defendant,
 203 | ~~payment of the fine is in the best interests of the state.~~

204 | However, the total period of probation and incarceration may not
 205 | exceed 1 year. The court must also, as a condition of probation,
 206 | order the impoundment or immobilization of the vehicle that was
 207 | operated by or in the actual control of the defendant or any one
 208 | vehicle registered in the defendant's name at the time of
 209 | impoundment or immobilization, for a period of 10 days or for
 210 | the unexpired term of any lease or rental agreement that expires
 211 | within 10 days. The impoundment or immobilization must not occur
 212 | concurrently with the incarceration of the defendant. The
 213 | impoundment or immobilization order may be dismissed in
 214 | accordance with paragraph (e), paragraph (f), paragraph (g), or
 215 | paragraph (h).

216 |
 217 | For the purposes of this section, any conviction for a violation
 218 | of s. 327.35; a previous conviction for the violation of former
 219 | s. 316.1931, former s. 860.01, or former s. 316.028; or a
 220 | previous conviction outside this state for driving under the
 221 | influence, driving while intoxicated, driving with an unlawful
 222 | blood-alcohol level, driving with an unlawful breath-alcohol
 223 | level, or any other similar alcohol-related or drug-related

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224 traffic offense, is also considered a previous conviction for
225 violation of this section. However, in satisfaction of the fine
226 imposed pursuant to this section, the court may, upon a finding
227 that the defendant is financially unable to pay either all or
228 part of the fine, order that the defendant participate for a
229 specified additional period of time in public service or a
230 community work project in lieu of payment of that portion of the
231 fine which the court determines the defendant is unable to pay.
232 In determining such additional sentence, the court shall
233 consider the amount of the unpaid portion of the fine and the
234 reasonable value of the services to be ordered; however, the
235 court may not compute the reasonable value of services at a rate
236 less than the federal minimum wage at the time of sentencing.
237 Section 6. This act shall take effect October 1, 2009.