

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Adams offered the following:

2
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5
6 Section 1. Subsection (9) of section 318.14, Florida
7 Statutes, is amended to read:

8 318.14 Noncriminal traffic infractions; exception;
9 procedures.--

10 (9) Any person who does not hold a commercial driver's
11 license and who is cited for an infraction under this section
12 other than a violation of s. 316.183(2), s. 316.187, or s.
13 316.189 when the driver exceeds the posted limit by 30 miles per
14 hour or more, s. 320.0605, s. 320.07(3) (a) or (b), s. 322.065,
15 s. 322.15(1), s. 322.61, or s. 322.62 may, in lieu of a court
16 appearance, elect to attend in the location of his or her choice
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17 within this state a basic driver improvement course approved by
18 the Department of Highway Safety and Motor Vehicles. In such a
19 case, adjudication must be withheld, ~~and~~ points, as provided by
20 s. 322.27, may not be assessed. ~~and the civil penalty that is~~
21 ~~imposed by s. 318.18(3) must be reduced by 18 percent.~~ However,
22 a person may not make an election under this subsection if the
23 person has made an election under this subsection in the
24 preceding 12 months. A person may make no more than five
25 elections within 10 years under this subsection. The requirement
26 for community service under s. 318.18(8) is not waived by a plea
27 of nolo contendere or by the withholding of adjudication of
28 guilt by a court. If a person makes an election to attend a
29 basic driver improvement course under this subsection, 18
30 percent of the civil penalty imposed under s. 318.18(3) shall be
31 deposited in the Operating Trust Fund within the state courts
32 system; however, that portion shall not be considered revenue
33 under s. 28.36 and shall not be used in establishing the budget
34 of the clerk of the court under that section or s. 28.35.

35 Section 2. Paragraph (b) of subsection (1) of section
36 318.15, Florida Statutes, is amended to read:

37 318.15 Failure to comply with civil penalty or to appear;
38 penalty.--

39 (1)

40 (b) However, a person who elects to attend driver
41 improvement school and has paid the civil penalty as provided in
42 s. 318.14(9), but who subsequently fails to attend the driver
43 improvement school within the time specified by the court shall
44 be deemed to have admitted the infraction and shall be

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45 adjudicated guilty. In such a case in which there was an 18-
 46 percent reduction pursuant to s. 318.14(9) as it existed prior
 47 to February 1, 2009, the person must pay the clerk of the court
 48 that amount ~~the 18 percent deducted pursuant to s. 318.14(9),~~
 49 and a processing fee of up to \$18, after which no additional
 50 penalties, court costs, or surcharges shall be imposed for the
 51 violation. The clerk of the court shall notify the department of
 52 the person's failure to attend driver improvement school and
 53 points shall be assessed pursuant to s. 322.27.

54 Section 3. Subsection (3) of section 318.18, Florida
 55 Statutes, is amended, and subsection (19) is added to that
 56 section to read:

57 318.18 Amount of penalties.--The penalties required for a
 58 noncriminal disposition pursuant to s. 318.14 or a criminal
 59 offense listed in s. 318.17 are as follows:

60 (3) (a) Except as otherwise provided in this section, \$60
 61 for all moving violations not requiring a mandatory appearance.

62 (b) For moving violations involving unlawful speed, the
 63 fines are as follows:

For speed exceeding the limit by:	Fine:
66 1-5 m.p.h.	Warning
67 6-9 m.p.h.....	\$25
68 10-14 m.p.h.....	\$100
69 15-19 m.p.h.....	<u>\$150</u> \$125
70 20-29 m.p.h.....	<u>\$175</u> \$150
71 30 m.p.h. and above.....	\$250

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72 (c) Notwithstanding paragraph (b), a person cited for
73 exceeding the speed limit by up to 5 m.p.h. in a legally posted
74 school zone will be fined \$50. A person exceeding the speed
75 limit in a school zone shall pay a fine double the amount listed
76 in paragraph (b).

77 (d) A person cited for exceeding the speed limit in a
78 posted construction zone, which posting must include
79 notification of the speed limit and the doubling of fines, shall
80 pay a fine double the amount listed in paragraph (b). The fine
81 shall be doubled for construction zone violations only if
82 construction personnel are present or operating equipment on the
83 road or immediately adjacent to the road under construction.

84 (e) A person cited for exceeding the speed limit in an
85 enhanced penalty zone shall pay a fine amount of \$50 plus the
86 amount listed in paragraph (b). Notwithstanding paragraph (b), a
87 person cited for exceeding the speed limit by up to 5 m.p.h. in
88 a legally posted enhanced penalty zone shall pay a fine amount
89 of \$50.

90 (f) If a violation of s. 316.1301 or s. 316.1303 results
91 in an injury to the pedestrian or damage to the property of the
92 pedestrian, an additional fine of up to \$250 shall be paid. This
93 amount must be distributed pursuant to s. 318.21.

94 (g) A person cited for exceeding the speed limit within a
95 zone posted for any electronic or manual toll collection
96 facility shall pay a fine double the amount listed in paragraph
97 (b). However, no person cited for exceeding the speed limit in
98 any toll collection zone shall be subject to a doubled fine
99 unless the governmental entity or authority controlling the toll
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100 collection zone first installs a traffic control device
101 providing warning that speeding fines are doubled. Any such
102 traffic control device must meet the requirements of the uniform
103 system of traffic control devices.

104 (h) A person cited for a second or subsequent conviction
105 of speed exceeding the limit by 30 miles per hour and above
106 within a 12-month period shall pay a fine that is double the
107 amount listed in paragraph (b). For purposes of this paragraph,
108 the term "conviction" means a finding of guilt as a result of a
109 jury verdict, nonjury trial, or entry of a plea of guilty.

110 Moneys received from the increased fine imposed by this
111 paragraph shall be remitted to the Department of Revenue and
112 deposited into the Department of Health Administrative Trust
113 Fund to provide financial support to certified trauma centers to
114 assure the availability and accessibility of trauma services
115 throughout the state. Funds deposited into the Administrative
116 Trust Fund under this section shall be allocated as follows:

117 1. Fifty percent shall be allocated equally among all
118 Level I, Level II, and pediatric trauma centers in recognition
119 of readiness costs for maintaining trauma services.

120 2. Fifty percent shall be allocated among Level I, Level
121 II, and pediatric trauma centers based on each center's relative
122 volume of trauma cases as reported in the Department of Health
123 Trauma Registry.

124 (19) In addition to any penalties imposed, an Article V
125 assessment of \$10 must be paid for all noncriminal moving and
126 nonmoving traffic violations under chapter 316. The assessment
127 shall not be considered revenue under s. 28.36 and shall not be

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128 used in establishing the budget of the clerk of the court under
129 that section or s. 28.35. Of each assessment collected under
130 this subsection:

131 (a) The amount of \$5 shall be deposited in the Operating
132 Trust Fund within the state courts system;

133 (b) The amount of \$3.33 shall be deposited in the Grants
134 and Donations Trust Fund within the Justice Administrative
135 Commission for use by the state attorneys; and

136 (c) The amount of \$1.67 shall be deposited in the Grants
137 and Donations Trust Fund within the Justice Administrative
138 Commission for use by the public defenders.

139 Section 4. Subsections (18), (19), and (20) are added to
140 section 318.21, Florida Statutes, to read:

141 318.21 Disposition of civil penalties by county
142 courts.--All civil penalties received by a county court pursuant
143 to the provisions of this chapter shall be distributed and paid
144 monthly as follows:

145 (18) Notwithstanding subsections (1) and (2), the proceeds
146 from the administrative fee imposed under s. 318.18(18) shall be
147 distributed as provided in that subsection.

148 (19) Notwithstanding subsections (1) and (2), the proceeds
149 from the Article V assessment imposed under s. 318.18(19) shall
150 be distributed as provided in that subsection.

151 (20) For fines assessed under s. 318.18(3) for unlawful
152 speed, effective for violations occurring on or after February
153 1, 2009, the following amounts must be remitted to the
154 Department of Revenue for deposit in the Operating Trust Fund
155 within the state courts system; however, these collections shall

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156 not be considered revenue under s. 28.36 and shall not be used
157 in establishing the budget of the clerk of the court under that
158 section or s. 28.35:

159	
160	<u>For speed exceeding the limit by:.....Fine:</u>
161	<u>1-5 m.p.h.\$.00</u>
162	<u>6-9 m.p.h.\$.00</u>
163	<u>10-14 m.p.h.\$.00</u>
164	<u>15-19 m.p.h.....\$25.00</u>
165	<u>20-29 m.p.h.....\$25.00</u>
166	<u>30 m.p.h. and above.....\$.00</u>

167
168 The remaining amount must be distributed pursuant to subsections
169 (1) and (2).

170 Section 5. Section 775.083, Florida Statutes, is amended
171 to read:

172 775.083 Fines.--

173 (1) A person who has been convicted of an offense other
174 than a capital felony may be sentenced to pay a fine in addition
175 to any punishment described in s. 775.082; when specifically
176 authorized by statute, he or she may be sentenced to pay a fine
177 in lieu of any punishment described in s. 775.082. A person who
178 has been convicted of a noncriminal violation may be sentenced
179 to pay a fine. Fines for designated crimes and for noncriminal
180 violations shall not exceed:

181 (a) \$15,000, when the conviction is of a life felony.

182 (b) \$10,000, when the conviction is of a felony of the
183 first or second degree.

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184 (c) \$5,000, when the conviction is of a felony of the
185 third degree.

186 (d) \$1,000, when the conviction is of a misdemeanor of the
187 first degree.

188 (e) \$500, when the conviction is of a misdemeanor of the
189 second degree or a noncriminal violation.

190 (f) Any higher amount equal to double the pecuniary gain
191 derived from the offense by the offender or double the pecuniary
192 loss suffered by the victim.

193 (g) Any higher amount specifically authorized by statute.

194

195 Fines imposed in this subsection shall be deposited by the clerk
196 of the court in the fine and forfeiture fund established
197 pursuant to s. 142.01, except that fines imposed when
198 adjudication is withheld shall be deposited in the Operating
199 Trust Fund within the state courts system and shall not be
200 considered revenue under s. 28.36 and shall not be used in
201 establishing the budget of the clerk of the court under that
202 section or s. 28.35. If a defendant is unable to pay a fine, the
203 court may defer payment of the fine to a date certain. As used
204 in this subsection, the term "convicted" or "conviction" means a
205 determination of guilt that is the result of a trial or the
206 entry of a plea of guilty or nolo contendere, regardless of
207 whether adjudication is withheld.

208 (2) In addition to the fines set forth in subsection (1),
209 court costs shall be assessed and collected in each instance a
210 defendant pleads nolo contendere to, or is convicted of, or
211 adjudicated delinquent for, a felony, a misdemeanor, or a
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212 criminal traffic offense under state law, or a violation of any
213 municipal or county ordinance if the violation constitutes a
214 misdemeanor under state law. The court costs imposed by this
215 section shall be \$50 for a felony and \$20 for any other offense
216 and shall be deposited by the clerk of the court into an
217 appropriate county account for disbursement for the purposes
218 provided in this subsection. A county shall account for the
219 funds separately from other county funds as crime prevention
220 funds. The county, in consultation with the sheriff, must expend
221 such funds for crime prevention programs in the county,
222 including safe neighborhood programs under ss. 163.501-163.523.

223 (3) The purpose of this section is to provide uniform
224 penalty authorization for criminal offenses and, to this end, a
225 reference to this section constitutes a general reference under
226 the doctrine of incorporation by reference.

227 Section 6. Subsection (2) of section 948.01, Florida
228 Statutes, is amended to read:

229 948.01 When court may place defendant on probation or into
230 community control.--

231 (2) If it appears to the court upon a hearing of the
232 matter that the defendant is not likely again to engage in a
233 criminal course of conduct and that the ends of justice and the
234 welfare of society do not require that the defendant presently
235 suffer the penalty imposed by law, the court, in its discretion,
236 may either adjudge the defendant to be guilty or stay and
237 withhold the adjudication of guilt. ~~and,~~ In either case, the
238 court ~~it~~ shall stay and withhold the imposition of sentence upon
239 the ~~such~~ defendant ~~and shall place the defendant upon probation.~~

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240 If the defendant is determined guilty of a felony as the result
241 of trial or the entry of a plea of guilty or nolo contendere,
242 regardless of whether adjudication is withheld, the court shall
243 place the defendant upon probation. If the defendant is
244 determined guilty of a nonfelony offense as the result of trial
245 or the entry of a plea of guilty or nolo contendere, regardless
246 of whether adjudication is withheld, the court may place the
247 defendant on probation. In the court's discretion, in addition
248 to court costs and fees, a fine authorized by law may be imposed
249 upon a nonfelony offender who has neither been adjudged guilty
250 nor first placed on probation, notwithstanding any law to the
251 contrary. However, no defendant placed on probation for a
252 misdemeanor may be placed under the supervision of the
253 department unless the circuit court was the court of original
254 jurisdiction.

255 Section 7. This act shall take effect February 1, 2009.
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257

258 -----
259 **T I T L E A M E N D M E N T**

260 Remove the entire title and insert:

261 A bill to be entitled

262 An act relating to the state judicial system; amending s.
263 318.14, F.S.; eliminating a percentage reduction in
264 penalties for noncriminal traffic infractions provided for
265 attending a basic driver improvement course; providing for
266 the distribution of a specified portion of penalty
267 revenues; amending s. 318.15, F.S.; conforming a provision

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HOUSE AMENDMENT

Bill No. CS/SB 12A

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268 to the elimination of the percentage deduction in s.
269 318.14, F.S.; amending s. 318.18, F.S.; increasing certain
270 fines for speeding; creating an assessment to be paid for
271 noncriminal moving and nonmoving traffic infractions;
272 providing for distribution of the assessment; amending s.
273 318.21, F.S.; providing for the distribution of funds from
274 certain penalties for traffic infractions; amending s.
275 775.03, F.S.; providing for distribution of fines for
276 certain violations; defining the terms "convicted" and
277 "conviction" for purposes of liability for payment of
278 criminal and noncriminal fines; amending s. 948.01, F.S.;
279 providing that the imposition of probation in certain
280 nonfelony cases is discretionary rather than mandatory;
281 authorizing the court to impose a fine without placing a
282 nonfelony offender on probation; providing an effective
283 date.

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