

HB 5107A

2009

1                   A bill to be entitled  
2           An act relating to the state judicial system; amending s.  
3           318.14, F.S.; eliminating a percentage reduction in  
4           penalties for noncriminal traffic infractions provided for  
5           attending a basic driver improvement course; providing for  
6           the distribution of a specified portion of penalty  
7           revenues; amending s. 318.15, F.S.; conforming a provision  
8           to the elimination of the percentage deduction in s.  
9           318.14, F.S.; amending s. 318.18, F.S.; increasing certain  
10          fines for speeding; creating an assessment to be paid for  
11          noncriminal moving and nonmoving traffic infractions;  
12          providing for distribution of the assessment; amending s.  
13          318.21, F.S.; providing for the distribution of funds from  
14          certain penalties for traffic infractions; amending s.  
15          775.03, F.S.; providing for distribution of fines for  
16          certain violations; defining the terms "convicted" and  
17          "conviction" for purposes of liability for payment of  
18          criminal and noncriminal fines; amending s. 948.01, F.S.;  
19          providing that the imposition of probation in certain  
20          nonfelony cases is discretionary rather than mandatory;  
21          authorizing the court to impose a fine without placing a  
22          nonfelony offender on probation; providing an effective  
23          date.

24  
25   Be It Enacted by the Legislature of the State of Florida:

26  
27           Section 1. Subsection (9) of section 318.14, Florida  
28   Statutes, is amended to read:

29           318.14 Noncriminal traffic infractions; exception;  
 30 procedures.--  
 31           (9) Any person who does not hold a commercial driver's  
 32 license and who is cited for an infraction under this section  
 33 other than a violation of s. 316.183(2), s. 316.187, or s.  
 34 316.189 when the driver exceeds the posted limit by 30 miles per  
 35 hour or more, s. 320.0605, s. 320.07(3)(a) or (b), s. 322.065,  
 36 s. 322.15(1), s. 322.61, or s. 322.62 may, in lieu of a court  
 37 appearance, elect to attend in the location of his or her choice  
 38 within this state a basic driver improvement course approved by  
 39 the Department of Highway Safety and Motor Vehicles. In such a  
 40 case, adjudication must be withheld, and ~~points~~, as provided by  
 41 s. 322.27, may not be assessed. ~~and the civil penalty that is~~  
 42 ~~imposed by s. 318.18(3) must be reduced by 18 percent.~~ However,  
 43 a person may not make an election under this subsection if the  
 44 person has made an election under this subsection in the  
 45 preceding 12 months. A person may make no more than five  
 46 elections within 10 years under this subsection. The requirement  
 47 for community service under s. 318.18(8) is not waived by a plea  
 48 of nolo contendere or by the withholding of adjudication of  
 49 guilt by a court. If a person makes an election to attend a  
 50 basic driver improvement course under this subsection, 18  
 51 percent of the civil penalty imposed under s. 318.18(3) shall be  
 52 deposited in the Operating Trust Fund within the state courts  
 53 system; however, that portion shall not be considered revenue  
 54 under s. 28.36 and shall not be used in establishing the budget  
 55 of the clerk of the court under that section or s. 28.35.

HB 5107A

2009

56 Section 2. Paragraph (b) of subsection (1) of section  
 57 318.15, Florida Statutes, is amended to read:

58 318.15 Failure to comply with civil penalty or to appear;  
 59 penalty.--

60 (1)

61 (b) However, a person who elects to attend driver  
 62 improvement school and has paid the civil penalty as provided in  
 63 s. 318.14(9), but who subsequently fails to attend the driver  
 64 improvement school within the time specified by the court shall  
 65 be deemed to have admitted the infraction and shall be  
 66 adjudicated guilty. In such a case in which there was an 18-  
 67 percent reduction pursuant to s. 318.14(9) as it existed prior  
 68 to February 1, 2009, the person must pay the clerk of the court  
 69 that amount ~~the 18 percent deducted pursuant to s. 318.14(9),~~  
 70 and a processing fee of up to \$18, after which no additional  
 71 penalties, court costs, or surcharges shall be imposed for the  
 72 violation. The clerk of the court shall notify the department of  
 73 the person's failure to attend driver improvement school and  
 74 points shall be assessed pursuant to s. 322.27.

75 Section 3. Subsection (3) of section 318.18, Florida  
 76 Statutes, is amended, and subsection (19) is added to that  
 77 section to read:

78 318.18 Amount of penalties.--The penalties required for a  
 79 noncriminal disposition pursuant to s. 318.14 or a criminal  
 80 offense listed in s. 318.17 are as follows:

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

HB 5107A

2009

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

For speed exceeding the limit by:	Fine:
87 1-5 m.p.h. ....	Warning
88 6-9 m.p.h.....	\$25
89 10-14 m.p.h.....	\$100
90 15-19 m.p.h.....	<u>\$150</u> <del>\$125</del>
91 20-29 m.p.h.....	<u>\$175</u> <del>\$150</del>
92 30 m.p.h. and above.....	\$250

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

98 (d) A person cited for exceeding the speed limit in a  
 99 posted construction zone, which posting must include  
 100 notification of the speed limit and the doubling of fines, shall  
 101 pay a fine double the amount listed in paragraph (b). The fine  
 102 shall be doubled for construction zone violations only if  
 103 construction personnel are present or operating equipment on the  
 104 road or immediately adjacent to the road under construction.

105 (e) A person cited for exceeding the speed limit in an  
 106 enhanced penalty zone shall pay a fine amount of \$50 plus the  
 107 amount listed in paragraph (b). Notwithstanding paragraph (b), a  
 108 person cited for exceeding the speed limit by up to 5 m.p.h. in  
 109 a legally posted enhanced penalty zone shall pay a fine amount  
 110 of \$50.

HB 5107A

2009

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

115 (g) A person cited for exceeding the speed limit within a  
116 zone posted for any electronic or manual toll collection  
117 facility shall pay a fine double the amount listed in paragraph  
118 (b). However, no person cited for exceeding the speed limit in  
119 any toll collection zone shall be subject to a doubled fine  
120 unless the governmental entity or authority controlling the toll  
121 collection zone first installs a traffic control device  
122 providing warning that speeding fines are doubled. Any such  
123 traffic control device must meet the requirements of the uniform  
124 system of traffic control devices.

125 (h) A person cited for a second or subsequent conviction  
126 of speed exceeding the limit by 30 miles per hour and above  
127 within a 12-month period shall pay a fine that is double the  
128 amount listed in paragraph (b). For purposes of this paragraph,  
129 the term "conviction" means a finding of guilt as a result of a  
130 jury verdict, nonjury trial, or entry of a plea of guilty.  
131 Moneys received from the increased fine imposed by this  
132 paragraph shall be remitted to the Department of Revenue and  
133 deposited into the Department of Health Administrative Trust  
134 Fund to provide financial support to certified trauma centers to  
135 assure the availability and accessibility of trauma services  
136 throughout the state. Funds deposited into the Administrative  
137 Trust Fund under this section shall be allocated as follows:

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

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

145 (19) In addition to any penalties imposed, an Article V  
 146 assessment of \$10 must be paid for all noncriminal moving and  
 147 nonmoving traffic violations under chapter 316. The assessment  
 148 shall not be considered revenue under s. 28.36 and shall not be  
 149 used in establishing the budget of the clerk of the court under  
 150 that section or s. 28.35. Of each assessment collected under  
 151 this subsection:

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

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

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

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

162 318.21 Disposition of civil penalties by county  
 163 courts.--All civil penalties received by a county court pursuant  
 164 to the provisions of this chapter shall be distributed and paid  
 165 monthly as follows:

HB 5107A

2009

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

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

172 (20) For fines assessed under s. 318.18(3) for unlawful  
 173 speed, effective for violations occurring on or after February  
 174 1, 2009, the following amounts must be remitted to the  
 175 Department of Revenue for deposit in the Operating Trust Fund  
 176 within the state courts system; however, these collections shall  
 177 not be considered revenue under s. 28.36 and shall not be used  
 178 in establishing the budget of the clerk of the court under that  
 179 section or s. 28.35:

180

181	<u>For speed exceeding the limit by:.....Fine:</u>
182	<u>1-5 m.p.h. ....\$.00</u>
183	<u>6-9 m.p.h. ....\$.00</u>
184	<u>10-14 m.p.h. ....\$.00</u>
185	<u>15-19 m.p.h.....\$25.00</u>
186	<u>20-29 m.p.h.....\$25.00</u>
187	<u>30 m.p.h. and above.....\$.00</u>

188

189 The remaining amount must be distributed pursuant to subsections  
 190 (1) and (2).

191 Section 5. Section 775.083, Florida Statutes, is amended  
 192 to read:  
 193 775.083 Fines.--

194 (1) A person who has been convicted of an offense other  
 195 than a capital felony may be sentenced to pay a fine in addition  
 196 to any punishment described in s. 775.082; when specifically  
 197 authorized by statute, he or she may be sentenced to pay a fine  
 198 in lieu of any punishment described in s. 775.082. A person who  
 199 has been convicted of a noncriminal violation may be sentenced  
 200 to pay a fine. Fines for designated crimes and for noncriminal  
 201 violations shall not exceed:

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

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

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

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

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

211 (f) Any higher amount equal to double the pecuniary gain  
 212 derived from the offense by the offender or double the pecuniary  
 213 loss suffered by the victim.

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

215  
 216 Fines imposed in this subsection shall be deposited by the clerk  
 217 of the court in the fine and forfeiture fund established  
 218 pursuant to s. 142.01, except that fines imposed when  
 219 adjudication is withheld shall be deposited in the Operating  
 220 Trust Fund within the state courts system and shall not be  
 221 considered revenue under s. 28.36 and shall not be used in

HB 5107A

2009

222 establishing the budget of the clerk of the court under that  
223 section or s. 28.35. If a defendant is unable to pay a fine, the  
224 court may defer payment of the fine to a date certain. As used  
225 in this subsection, the term "convicted" or "conviction" means a  
226 determination of guilt that is the result of a trial or the  
227 entry of a plea of guilty or nolo contendere, regardless of  
228 whether adjudication is withheld.

229 (2) In addition to the fines set forth in subsection (1),  
230 court costs shall be assessed and collected in each instance a  
231 defendant pleads nolo contendere to, or is convicted of, or  
232 adjudicated delinquent for, a felony, a misdemeanor, or a  
233 criminal traffic offense under state law, or a violation of any  
234 municipal or county ordinance if the violation constitutes a  
235 misdemeanor under state law. The court costs imposed by this  
236 section shall be \$50 for a felony and \$20 for any other offense  
237 and shall be deposited by the clerk of the court into an  
238 appropriate county account for disbursement for the purposes  
239 provided in this subsection. A county shall account for the  
240 funds separately from other county funds as crime prevention  
241 funds. The county, in consultation with the sheriff, must expend  
242 such funds for crime prevention programs in the county,  
243 including safe neighborhood programs under ss. 163.501-163.523.

244 (3) The purpose of this section is to provide uniform  
245 penalty authorization for criminal offenses and, to this end, a  
246 reference to this section constitutes a general reference under  
247 the doctrine of incorporation by reference.

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

HB 5107A

2009

250 948.01 When court may place defendant on probation or into  
 251 community control.--

252 (2) If it appears to the court upon a hearing of the  
 253 matter that the defendant is not likely again to engage in a  
 254 criminal course of conduct and that the ends of justice and the  
 255 welfare of society do not require that the defendant presently  
 256 suffer the penalty imposed by law, the court, in its discretion,  
 257 may either adjudge the defendant to be guilty or stay and  
 258 withhold the adjudication of guilt.~~;~~ ~~and,~~ In either case, the  
 259 court ~~it~~ shall stay and withhold the imposition of sentence upon  
 260 the ~~such~~ defendant ~~and shall place the defendant upon probation.~~  
 261 If the defendant is determined guilty of a felony as the result  
 262 of trial or the entry of a plea of guilty or nolo contendere,  
 263 regardless of whether adjudication is withheld, the court shall  
 264 place the defendant upon probation. If the defendant is  
 265 determined guilty of a nonfelony offense as the result of trial  
 266 or the entry of a plea of guilty or nolo contendere, regardless  
 267 of whether adjudication is withheld, the court may place the  
 268 defendant on probation. In the court's discretion, in addition  
 269 to court costs and fees, a fine authorized by law may be imposed  
 270 upon a nonfelony offender who has neither been adjudged guilty  
 271 nor first placed on probation, notwithstanding any law to the  
 272 contrary. However, no defendant placed on probation for a  
 273 misdemeanor may be placed under the supervision of the  
 274 department unless the circuit court was the court of original  
 275 jurisdiction.

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