

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Transportation Committee

BILL: SB 2036

INTRODUCER: Senator Braynon

SUBJECT: Uniform Traffic Control

DATE: April 12, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Spalla</u>	<u>TR</u>	Favorable
2.	<u>deMarsh-Mathues</u>	<u>Matthews</u>	<u>ED</u>	Pre-meeting
3.	_____	_____	<u>BC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill creates the “School Bus Safety Program,” authorizing a Florida school district to deploy school bus infraction detectors on its school buses for enforcing s. 316.172(1)(a) or s. 316.172(1)(b), F.S., when a driver fails to stop upon approaching any school bus which displays a stop signal. A school district deploying school bus traffic infraction detectors must coordinate the issuance of traffic citations with the Florida Highway Patrol, local sheriff’s office, local police department, local school board, if applicable, or any other entity having the authority and jurisdiction to enforce traffic laws. In addition, the bill authorizes the Department of Highway Safety and Motor Vehicles (DHSMV or department), to use images from school bus traffic infraction detectors on any state road under the original jurisdiction of the Florida Department of Transportation (FDOT), when permitted by the FDOT.

The bill provides for the issuance of citations to registered owners of motor vehicles and affirmative defenses available to vehicle owners. The bill provides a \$265 penalty for any violations of ss. 316.172(1)(a) or 316.172(1)(b), F.S., regardless of the method of enforcement. If the penalty is paid within 30 days of notification, the total penalty is \$265. However, if the penalty is not paid within 30 days of notification and a traffic citation is issued, the total penalty is \$265, plus court costs and fees of up to \$98, depending on the county where the offense occurs.

This bill substantially amends sections 316.003, 316.008, 316.640, 316.650, 318.14, 318.18, and 322.27, creates ss. 316.0084, 316.07457, 316.0777, and 321.51 of the Florida Statutes, and creates an undesignated section of law.

II. Present Situation:

National statistics have consistently demonstrated that school buses constitute one of the safest forms of transportation. The National Research Council concluded that children are at far more risk traveling to and from school by bike, walking, or in private passenger vehicles, especially if a teen-age driver is involved, than in school buses.¹ According to the National Highway Traffic Safety Administration, approximately 450,000 public school buses travel approximately 4.3 billion miles to transport 23.5 million children to and from school and school-related activities.² On average, 20 school-age children die each year in school bus-related crashes or incidents. Of these 20, five of the children are injured inside the bus, five are struck by other vehicles, and ten are struck by the school bus itself.³ According to the Florida Department of Education (DOE), from the 1999-2000 to the 2009-2010 school years there have been four pedestrian students struck by a vehicle illegally passing a stopped school bus.⁴ These statistics indicate that there may be an opportunity to improve even this very safe form of travel.⁵ Public health and traffic safety officials have examined the risks associated with school bus stops and noted the importance of carefully selecting bus stop locations.⁶

Current law requires district school boards to establish school bus stops, or provide by district school board rule for establishing school bus stops, as needed at the most reasonably safe locations available.⁷ Where unusual traffic hazards exist at school bus stops on roads maintained by the state outside of municipalities, the FDOT must place signs at the bus stops warning drivers of the location of the stops. The FDOT must place these signs in concurrence and cooperation with and upon request of the district school board. According to the FDOT, there are federal guidelines rather than requirements for states to use in placing “school bus ahead” signs.⁸

Documentation of stop locations and the specific procedures for ensuring stop safety are determined by the school district.⁹ Districts have safety professionals who review new stop locations or existing locations when there is an indication of a hazard.¹⁰ Some districts routinely review all stop locations. The DOE also notes that all school bus operators are trained and instructed to report hazards at stops.

According to the DOE, in 2009-2010, school districts reported that there were 293,126 public school bus stops in Florida.¹¹ There were 14,988 public school buses in daily service in 2009-

¹ *The Relative Risks of School Travel: A National Perspective and Guidance for Local Community Risk Assessment.* Transportation Research Board, 2002.

² See <http://www.nhtsa.gov/staticfiles/nti/buses/pdf/SelectingSchoolBusStopLocations.pdf>.

³ *Id.*

⁴ DOE, Florida Public School Bus Transportation-related Fatalities Multi-Year Summary (Updated 10/13/10).

⁵ *Id.*

⁶ Schieber RA, Vegega ME Reducing childhood pedestrian injuries: summary of a multidisciplinary conference. *Injury Prevention*, 2002; 8:13-110. See http://www.cdc.gov/ncipc/pub-res/childhood_pedestrian/child_pedestrian.htm.

⁷ s. 1006.22(12)(c), F.S.

⁸ *Manual on Uniform Traffic Control Devices*, U.S. Department of Transportation, Federal Highway Administration, <http://mutcd.fhwa.dot.gov/pdfs/2009/mutcd2009edition.pdf>.

⁹ s. 1006.22(12)(c), F.S.

¹⁰ DOE, April 4, 2011, on file with the Education Pre-K – 12 committee.

¹¹ *Id.*

2010, equating to an average of 40 stops per day per bus (20 physical locations, morning and afternoon).¹²

Failure to Stop for a School Bus

A person commits a moving violation if he or she is driving a vehicle and fails to stop when approaching any school bus while the bus is displaying a stop signal.¹³ A violation of this offense is punishable as provided in ch. 318, F.S. Currently, there is a minimum \$100 civil penalty and an additional \$65 civil penalty for a driver who has been found guilty by the court for failing to stop for a school bus.¹⁴ The DHSMV must suspend the driver's license of any person who commits a second or subsequent violation of this section within a 5-year period for not less than 90 days and not more than six months.

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 as provided in ch. 318, F.S., and requires a mandatory hearing. Section 318.18(5)(b), F.S., assesses a minimum \$200 civil penalty and an additional \$65 civil penalty for a violation of s. 316.172(1)(b), F.S. In addition, the DHSMV must suspend the driver's license of any person who commits a violation of this section for not less than 180 days and not more than one year for a second or subsequent offense within a five year period.

According to the DHSMV, in 2009, there were 3,533 citations for failure to stop for a school bus (s. 316.172(1)(a), F.S.) and 295 citations for passing a stopped school bus (s. 316.172(1)(b), F.S.). This data is based on law enforcement citations. Reports of illegal "pass-by" of the school bus by bus operators or other non-law enforcement witnesses can be used for information and analysis, but not to find the offending motorist in violation of the law or impose consequences.¹⁵ In 2000, a Florida study by the Center for Urban Transportation Research found that there were 10,719 reported instances of motorists illegally passing school buses on the day of the survey.¹⁶ There were 14,108 public school buses in daily service at that time.¹⁷

Driver Improvement Courses

Section 322.0261, F.S., requires the DHSMV to identify any operator who was convicted of or who plead nolo contendere to a first violation of failure to stop for or pass a stopped school bus displaying a stop signal and require that operator, in addition to other applicable penalties, to attend a DHSMV-approved driver improvement course in order to maintain driving privileges. If the operator fails to complete the course within 90 days after receiving notice from the DHSMV, the operator's driver license is canceled by the DHSMV until the course is successfully completed. In determining whether to approve a driver improvement course, the DHSMV considers course content designed to promote safety, driver awareness, crash avoidance techniques, and other factors or criteria to improve driver performance from a safety viewpoint.

¹² *Id.*

¹³ s. 316.172(1)(a), F.S.

¹⁴ s. 318.18(5)(a)(c), F.S.

¹⁵ DOE, 2011 Bill Analysis: SB 2036, March 29, 2011, on file with the Transportation Committee.

¹⁶ *Id.*

¹⁷ *Id.*

Trauma Centers

A verified trauma center (center) is a hospital with an established trauma program which includes health care practitioners who specialize in the treatment of emergency conditions and facilities appropriate to treat those patients.¹⁸ Part II of Chapter 395, F.S., provides for a tiered system of center verification within the 19 trauma service areas established in s. 395.402, F.S. The Florida Department of Health (DOH) selects hospitals for center designation through an application process. Standards for designation are based on national guidelines established by the American College of Surgeons.¹⁹ Standards for designation as a pediatric center are developed in conjunction with Children's Medical Services.²⁰ Florida's centers treat over 40,000 patients annually.²¹

There are three types of centers:

- Level I centers which have formal trauma care research and education programs, provide support to Level II and pediatric centers and general hospitals, and participate in an inclusive system of trauma care.²²
- Level II centers which serve as a resource for general hospitals and participate in an inclusive system of trauma care.²³
- Pediatric centers which must be in substantial compliance with DOH rules relating to pediatric trauma center operation.²⁴

There are a total of 21 verified centers in Florida: seven Level I centers; eight Level II centers, four Level II and Pediatric centers, and two Pediatric only centers.²⁵ A center may have more than one designation, for example, St. Mary's Medical Center in West Palm Beach carries both a Level II and a Pediatric center designation. Additionally, one provisional center exists in Ft. Pierce, Florida.

Centers are partially funded by traffic infraction fines deposited into the Administrative Trust Fund (Trust Fund) within the DOH. Currently, as provided in s. 318.18(5)(c), F.S., the Department of Revenue (DOR) deposits \$65 of the \$165 or \$265 traffic citation fine for failure to stop for a school bus or passing a school bus, respectively, assessed by law enforcement officers, into the DOH Emergency Medical Services Trust Fund for distribution to trauma centers. The DOH distributes these funds on a quarterly basis to centers based on a distribution methodology, as provided in s. 395.4036, F.S. The distribution methodology requires:

¹⁸ DOH, *The Costs of Trauma Center Readiness*, July 17, 2002, on file with the Transportation Committee.

¹⁹ s. 395.401(2), F.S. Section 395.4025, F.S., delineates the DOH verified trauma center designation process. Detailed DOH standards for designation are found in *Trauma Center Standards, Department of Health, Pamphlet 150-9, January 2008*, see <http://www.doh.state.fl.us/DEMO/Trauma/PDFs/TraumaCntrStandards-DOHPamphlet150-9Jan2008.pdf> (last visited April 3, 2011).

²⁰ *Id.*

²¹ DOH, Division of Emergency Medical Operations, Office of Trauma, see <http://www.doh.state.fl.us/DEMO/Trauma/index.html> (last visited April 3, 2011).

²² s. 395.4001(6), F.S.

²³ s. 395.4001(7), F.S.

²⁴ s. 395.4001(9), F.S.

²⁵ DOH, Division of Emergency Medical Operations, Office of Trauma, see <http://www.doh.state.fl.us/DEMO/Trauma/PDFs/TextEquivforTraumaCentersMap.doc> (last visited April 3, 2011).

- Thirty percent to Level II trauma centers operated by a public hospital governed by an elected board of directors as of December 31, 2008.²⁶
- Thirty-five percent to centers based on a center's trauma caseload for the most recent calendar year for which data is available. The determination of caseload volume for distribution of funds is based on DOH's Trauma Registry data.²⁷
- Thirty-five percent to centers based on the severity of a center's caseload. Severity determination is made by DOH according to the International Classification Injury Severity Scores.²⁸

Verified trauma centers are either subject to audit under s. 215.97, F.S., the Florida Single Audit Act, or, if not subject to audit requirements, must annually attest to DOH that proceeds from distributions under s. 395.4036, F.S., were used in compliance with that section.²⁹ Currently, traffic fine revenues do not directly fund any other type of health care facility or entity.

III. Effect of Proposed Changes:

School Bus Safety Program

Generally, this bill creates the "School Bus Safety Program" and provides a definition of the term "school bus traffic infraction detector." The bill authorizes the use of cameras to enforce the requirements of s. 316.172(1)(a) and s. 316.172(1)(b), F.S., for failing to stop for a school bus when so directed.

Section 1. Amends s. 316.003, F.S., to provide a definition of the term "school bus traffic infraction detector." Specifically, a "school bus traffic infraction detector" is defined as a vehicle sensor installed to work in conjunction with a school bus and a camera or cameras synchronized to automatically record two or more sequenced photographic or electronic images or streaming video of a motor vehicle at the time the vehicle passes a school bus in violation of s. 316.172(1)(a) or s. 316.172(1)(b), F.S. Any notification under s. 316.0084(1)(b), F.S., or traffic citation issued by the use of a school bus traffic infraction detector must include a photograph, video feed, or other recorded image showing both the license tag of the offending vehicle and the school bus stop signal being violated.

Section 2. Amends s. 316.008, F.S., to authorize a Florida school district to deploy school bus infraction detectors on its school buses for enforcing s. 316.172(1)(a), or s. 316.172(1)(b), F.S., when a driver fails to stop upon approaching any school bus which displays a stop signal. A school district would coordinate the issuance of traffic citations with the Florida Highway Patrol, local sheriff's office, local police department, local school board, if applicable, or any other entity having the authority and jurisdiction to enforce the traffic laws and within the particular school district, as provided in ss. 316.006 and 316.640, F.S.

²⁶ s. 395.4036(1)(b)1., F.S.

²⁷ s. 395.4036(1)(b)2., F.S.

²⁸ s. 395.4036(1)(b)3., F.S. The International Classification Injury Severity Score (ICISS) is a mathematical ratio used to predict and score patient survival from severe injuries. Rule 64J-2.019, F.A.C., provides for classifications of trauma patients based on the ICISS scoring system.

²⁹ s. 395.4036(3), F.S.

Section 3. Creates s. 316.0084, F.S., to provide:

Notifications and Citations

If a traffic infraction detector identifies a person violating ss. 316.172(1)(a) or 316.172(1)(b), F.S., the visual information is captured and reviewed by a traffic infraction enforcement officer. The bill provides that a notification must be issued to the registered owner of the vehicle by first class mail within 10 days of the alleged infraction. The notice must be accompanied by a photograph or other recorded image of the violation, and must include a statement of the vehicle owner's right to review images or video of the violation, and the time, place, and Internet location where the evidence may be reviewed.

If the registered owner of the vehicle does not submit payment within 30 days of receipt of the notification described above, the traffic infraction enforcement officer must issue a traffic citation to the owner. A citation must be mailed by certified mail and must be issued no later than 45 days after the violation. The citation must also include the photograph and statements described above regarding a review of the photographic or video evidence. The report of an officer and images provided by a traffic infraction detector are admissible in court to provide a rebuttable presumption that the vehicle was used in a violation.

Affirmative Defenses

The registered owner of the motor vehicle is responsible for payment of the fine unless the owner can establish that the vehicle:

- Passed the bus at the direction of a law enforcement officer;
- Was, at the time of the violation, in the care, custody, or control of another person; or
- Received a Uniform Traffic Citation (UTC) for the alleged violation issued by a law enforcement officer.

To establish any of these affirmative defenses, the owner of the vehicle must furnish an affidavit to the appropriate governmental entity that provides detailed information supporting an exemption as provided above, including relevant documents such as a police report (if the car had been reported stolen) or a copy of the UTC, if issued. If the owner submits an affidavit that another driver was behind the wheel, the affidavit must contain the name, address, date of birth, and if known, the driver's license number, of the driver. A traffic citation may be issued to this person, and the affidavit from the registered owner may be used as evidence in a further proceeding regarding that person's alleged violation of ss. 316.172(1)(a) or 316.172(1)(b), F.S. Submission of a false affidavit is a second degree misdemeanor.

If a vehicle is leased, the owner of the leased vehicle is not responsible for paying the citation, nor is the owner required to submit an affidavit, if the motor vehicle is registered in the name of the lessee.

Fines

The bill increases the penalty for a violation of s. 316.172(1)(a), F.S., when a driver has failed to stop for a school bus when so directed, from \$100 to \$200. The fine for a violation of s. 316.172(1)(b), F.S., remains at \$200. The additional \$65 civil penalty still applies for either violation. Therefore, violations of both s. 316.172(1)(a), or s. 316.172(1)(b), F.S., results in a

penalty of \$265, regardless of whether the citation is issued by a law enforcement officer or a traffic infraction enforcement officer through the use of a school bus traffic infraction detector.

For violations detected through the use of a traffic infraction detector, the total penalty is \$265, if the penalty is paid within 30 days of notification. However, if the penalty is not paid within 30 days of notification and a traffic citation is issued, the total penalty is \$265, plus court costs and fees of up to \$98, depending on the county where the offense occurs.

Oversight and Accountability

Beginning in 2013, each school district that operates a traffic infraction detector is required to submit an annual report to the DHSMV. Thereafter, the DHSMV must submit a summary report and recommendations to the Governor and the Legislature.

Section 4. Creates s. 316.07457, F.S., to provide that the detectors deployed by a school district must meet requirements established by the DHSMV and must be tested at regular intervals according to specifications prescribed by the DHSMV. The DHSMV must establish the specifications by December 31, 2011.

Section 5. Creates s. 316.0777, F.S., to allow the placement and installation of school bus traffic infraction detectors on school buses when permitted by the DHSMV.

Section 6. Amends s. 316.640, F.S., to authorize traffic infraction enforcement officers to issue uniform traffic citations for violations of ss. 316.172(1)(a) and 316.172(1)(b), F.S., when a driver fails to stop upon approaching any school bus which displays a stop signal and when identified by school bus traffic infraction detectors.

Section 7. Amends s. 316.650, F.S., to specify that procedures relating to issuance of traffic citations under s. 316.0084, F.S., shall be identical to existing procedures for other specified sections of law. Specifically, this section requires a traffic infraction enforcement officer to provide by electronic transmission a replica of the citation data (when issued under s. 316.0084, F.S.) to the court having jurisdiction over the alleged offense or its traffic violations bureau within five business days after the issuance date of the citation to the violator.

Section 8. Amends s. 318.14, F.S., to provide an exception from provisions requiring a person cited for an infraction for failing to stop upon approaching any school bus which displays a stop signal (when issued under s. 316.084, F.S., which should be corrected to reference s. 316.0084, F.S.) to sign and accept a citation indicating a promise to appear.

Section 9. Amends s. 318.18(5), F.S., to increase the penalty for a violation of s. 316.172(1)(a), F.S., when a driver has failed to stop for a school bus when so directed, from \$100 to \$200. The fine for a violation of s. 316.172(1)(b), F.S., remains at \$200. The additional \$65 civil penalty still applies for either violation. Therefore, violations of both s. 316.172(1)(a), F.S., or s. 316.172(1)(b), F.S., result in a penalty of \$265.

For violations detected through the use of a traffic infraction detector, the total penalty is \$265, if the penalty is paid within 30 days of notification. However, if the penalty is not paid within 30

days of notification and a traffic citation is issued, the total penalty is \$265, plus court costs and fees of up to \$98, depending on the county where the offense occurs.

This section changes the distribution of penalties if the citation is issued by a law enforcement officer for violations of ss. 316.172(1)(a) or 316.172(1)(b), F.S.

The bill provides that if a person presents documentation from the appropriate governmental entity that the citation was issued in error, the clerk of the court may dismiss the case, and may not charge for such service.

Section 10. Creates s. 321.51, F.S., to authorize the DHSMV to use school bus traffic infraction detectors on any state road under the original jurisdiction of the FDOT, when permitted by the FDOT.

The purpose for, and meaning of section 10 of the bill is unclear. As written, this section grants the FDOT the power to allow (and by inference, to disallow) the use of images from school bus infraction detectors by the DHSMV to enforce s. 316.172(1)(a), F.S., or s. 316.172(1)(b), F.S., on state roads under the jurisdiction of the FDOT. It is not clear whether such permission is necessary for other entities (e.g., local sheriff's office, local police department, or local school board) to enforce these statutes or whether such permission is only necessary for enforcement activities that take place on state roads.

Section 11. Amends s. 322.27(3), F.S., to provide that violations of ss. 316.172(1)(a) or s. 316.172(1)(b), F.S., when a driver has failed to stop upon approaching a school bus displaying a stop signal, which are enforced by traffic infraction enforcement officers may not result in points assessed against the operator's driver's license, and may not be used for the purpose of setting motor vehicle insurance rates.

Section 12. Provides a severability clause.

Section 13. Provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill increases the fine from \$100 to \$200 for a violation of s. 316.172(1)(a), F.S.

According to the DHSMV, in 2009, there were 3,533 citations for failure to stop for a school bus (s. 316.172(1)(a), F.S.) and 295 citations for passing a stopped school bus (s. 316.172(1)(b), F.S.). This data is based on law enforcement citations. As the use of school bus traffic infraction detection devices and the penalties for violations are made known, the frequency of these violations may decrease, improving the safety of school bus passengers.

To the extent that school districts choose to permit the use of traffic infraction detectors there may be a fiscal impact to the private sector. Traffic infraction detectors will increase the scope of a local government's enforcement of violations for failing to stop for a school bus and passing a stopped school bus; therefore, increasing the possibility of a motor vehicle owner receiving a citation for these violations. The fine for the violation is \$265.

C. Government Sector Impact:

Section 318.18(5), F.S., changes the distribution of penalties if the citation is issued by a law enforcement officer for violations of ss. 316.172(1)(a) or 316.172(1)(b), F.S.

Regardless of whether the citation is issued by a law enforcement officer or a traffic infraction enforcement officer through the use of a school bus traffic infraction detector, the \$265 penalty is distributed as follows:

- \$170 to the school district in which the violation occurred;
- \$65 to the DOH's Emergency Medical Services Trust Fund;
- \$15 to the DHSMV; and
- \$15 to the county or municipality issuing the notice or citation or the DHSMV if the department issued the notice or citation.

The bill increases the penalty for failing to stop for a school bus or passing a stopped school bus. To the extent the department and school districts choose to permit the use of school bus traffic infraction detectors, there will be a fiscal impact for the cost of the installation and maintenance of the devices, the amount of which will vary depending on the negotiated agreement with any private vendor providing the equipment.

There may be an increase in fine revenue for the school districts and local governments choosing to permit the use of traffic infraction detectors, the amount of which is indeterminate and reliant on driver awareness and future behavior.

The bill requires the DHSMV to adopt rules implementing specifications for installation, placement, and testing of school bus traffic infraction detectors.

VI. Technical Deficiencies:

According to DOE, all aspects of current Florida school bus equipment specifications are adopted by the State Board of Education (SBE) under the authority of s. 1006.25, F.S., and Rule 6A-3.0291, FAC.³⁰ The DOE notes that the bill sponsor may wish to consider delegating the authority for adopting specifications relating to installation, placement, functioning, inspection, and testing of the school bus traffic crash infraction detectors to the SBE rather than to the DHSMV.³¹

Section 8 of the bill should reference s. 316.0084, F.S., instead of s. 316.084, F.S.

Lines 131-137 require penalties assessed and collected by the DHSMV, a county, or a municipality, less the amount to be retained by the county or municipality, to be remitted to the Department of Revenue (DOR) weekly by electronic funds transfer. However, lines 141-148 also provides that specified portions of the funds are to be remitted to the school district and the DHSMV. The DOR recommends that the bill clarify that the funds are remitted to the DOR for payment to the school district and for deposit into a designated fund of the DHSMV.³²

VII. Related Issues:

None.

VIII. Additional Information:

A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

³⁰ DOE, 2011 Bill Analysis: SB 2036, March 29, 2011, on file with the Transportation Committee.

³¹ *Id.*

³² DOR, 2011 Bill Analysis: SB 2036, March 24, 2011, on file with the Transportation Committee.