

By Senator Hays

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1 A bill to be entitled
2 An act relating to hazardous walking conditions;
3 amending s. 1006.23, F.S.; revising criteria that
4 determine a hazardous walking condition for public
5 school students; revising procedures for inspection
6 and identification of hazardous walking conditions;
7 authorizing an administrative proceeding in certain
8 instances; authorizing a district school
9 superintendent to initiate a formal request for
10 correction of a hazardous walking condition under
11 certain circumstances; requiring a district school
12 board to provide transportation to students who would
13 be subjected to hazardous walking conditions;
14 requiring state or local governmental entities with
15 jurisdiction over a road with a hazardous walking
16 condition to correct the condition within a specified
17 period of time; providing requirements for a
18 governmental entity relating to its capital
19 improvements program; revising provisions relating to
20 funding for the transportation of students subjected
21 to a hazardous walking condition; providing
22 requirements relating to a civil action for damages;
23 providing an effective date.

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

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27 Section 1. Section 1006.23, Florida Statutes, is reordered
28 and amended to read:

29 1006.23 Hazardous walking conditions.-

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30 (1) DEFINITION.—As used in this section, “student” means
31 any public elementary school student whose grade level does not
32 exceed grade 6.

33 ~~(4)(2)~~ TRANSPORTATION; CORRECTION OF HAZARDS.—

34 (a) A district school board ~~It is intended that district~~
35 ~~school boards~~ and other governmental entities shall work
36 cooperatively to identify and correct conditions that are
37 hazardous along student walking routes to school, and a district
38 school board shall ~~that district school boards~~ provide
39 transportation to students who would be subjected to such
40 conditions. Additionally, ~~It is further intended that~~ state or
41 local governmental entities with having jurisdiction over a road
42 along which a hazardous walking condition is determined to exist
43 shall correct the condition ~~such hazardous conditions~~ within 3
44 years after such determination, unless a longer period is
45 reasonably required to acquire additional right-of-way needed to
46 correct the condition, but, in any event, the condition shall be
47 corrected within 5 years after the determination ~~a reasonable~~
48 ~~period of time.~~

49 (b) Upon a determination pursuant to subsection (3) ~~this~~
50 ~~section~~ that a hazardous walking condition exists ~~is hazardous~~
51 ~~to students,~~ the district school superintendent ~~board~~ shall
52 request a position statement with respect to correction of such
53 condition ~~determination~~ from the state or local governmental
54 entity with having jurisdiction over the road. Within 90 days
55 after receiving such request, the state or local governmental
56 entity shall inform the district school superintendent ~~regarding~~
57 whether the entity will include correction of the hazardous
58 walking condition in its next annual 5-year capital improvements

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59 program hazard will be corrected and, if so, when correction of
60 the condition will be completed. If the hazardous walking
61 condition will not be included in the state or local
62 governmental entity's next annual 5-year capital improvements
63 program, the factors justifying such conclusion must be stated
64 in writing to the district school superintendent and the
65 Department of Education regarding a projected completion date.

66 (c) State funds shall be allocated for the transportation
67 of students subjected to a hazardous walking condition during
68 the time provided for determination and correction of such
69 condition pursuant to this section. However, ~~such hazards,~~
70 ~~provided that~~ such funding shall cease upon correction of the
71 hazardous walking condition or, for a road within the
72 jurisdiction of a local governmental entity, expiration of the
73 time provided for correction in this section, whichever occurs
74 first. If a hazardous walking condition is not corrected by a
75 local governmental entity within the time provided in this
76 section and state funding is no longer authorized under this
77 section, funding for the actual operational cost of
78 transportation of students subjected to the hazardous walking
79 condition shall be reimbursed by the local governmental entity
80 to the district school board until the condition is corrected
81 hazard or upon the projected completion date, whichever occurs
82 first.

83 (3) IDENTIFICATION OF HAZARDOUS CONDITIONS.—

84 (a) When a request for review is made by ~~to~~ the district
85 school superintendent with respect to a road over which a state
86 or local governmental entity has jurisdiction ~~or the district~~
87 ~~school superintendent's designee~~ concerning a condition

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88 perceived to be hazardous to students in that district who live
89 within the 2-mile limit and who walk to school, such condition
90 shall be inspected jointly by a representative of the school
91 district, ~~and~~ a representative of the state or local
92 governmental entity with that has jurisdiction over the
93 perceived hazardous location, and a representative of the
94 municipal police department for a municipal road, a
95 representative of the sheriff's office for a county road, or a
96 representative of the Department of Transportation for a state
97 road. If the jurisdiction is within an area for which there is a
98 metropolitan planning organization, a representative of that
99 organization shall also be included. The governmental
100 representatives shall determine whether the condition
101 constitutes a hazardous walking condition as provided in
102 subsection (2). If the governmental representatives concur that
103 a condition constitutes a hazardous walking condition as
104 provided in subsection (2), they shall report that determination
105 in writing to the district school superintendent who shall
106 initiate a formal request for correction as provided in
107 subsection (4). ~~The district school superintendent or his or her~~
108 ~~designee and the state or local governmental entity or its~~
109 ~~representative shall then make a final determination that is~~
110 ~~mutually agreed upon regarding whether the hazardous condition~~
111 ~~meets the state criteria pursuant to this section. The district~~
112 ~~school superintendent or his or her designee shall report this~~
113 ~~final determination to the Department.~~

114 (b) If the governmental representatives are unable to reach
115 a consensus, the reasons for lack of consensus shall be reported
116 to the district school superintendent who shall provide a report

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117 and recommendation to the district school board. The district
118 school board may initiate an administrative proceeding under
119 chapter 120 seeking a determination as to whether the condition
120 constitutes a hazardous walking condition as provided in
121 subsection (2) after providing at least 30 days' notice in
122 writing to the local governmental entities having jurisdiction
123 over the road of its intent to do so, unless within 30 days
124 after such notice is provided, the local governmental entities
125 concur in writing that the condition is a hazardous walking
126 condition as provided in subsection (2). If an administrative
127 proceeding is initiated under this paragraph, the district
128 school board has the burden of proving such condition by the
129 greater weight of evidence. If the district school board
130 prevails, the district school superintendent shall report the
131 outcome to the Department of Education and initiate a formal
132 request for correction of the hazardous walking condition as
133 provided in subsection (4).

134 ~~(2)(4) STATE CRITERIA FOR DETERMINING HAZARDOUS WALKING~~
135 ~~CONDITIONS.-~~

136 (a) *Walkways parallel to the road.-*

137 1. It shall be considered a hazardous walking condition
138 with respect to any road along which students must walk in order
139 to walk to and from school if there is not an area at least 4
140 feet wide adjacent to the road, not including drainage ditches,
141 sluiceways, swales, or channels, having a surface upon which
142 students may walk without being required to walk on the road
143 surface. In addition, whenever the road along which students
144 must walk is uncurbed and has a posted speed limit of 50 ~~55~~
145 miles per hour or greater, the area as described above for

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146 students to walk upon shall be set off the road by no less than
147 3 feet from the edge of the road.

148 2. The provisions of subparagraph 1. do not apply when the
149 road along which students must walk:

150 ~~a. Is in a residential area which has little or no~~
151 ~~transient traffic;~~

152 a.b. Is a road on which the volume of traffic is less than
153 180 vehicles per hour, per direction, during the time students
154 walk to and from school; or

155 b.e. Is located in a residential area and has a posted
156 speed limit of 30 miles per hour or less.

157 (b) *Walkways perpendicular to the road.*—It shall be
158 considered a hazardous walking condition with respect to any
159 road across which students must walk in order to walk to and
160 from school if:

161 1. ~~If~~ The traffic volume on the road exceeds the rate of
162 360 vehicles per hour, per direction (including all lanes),
163 during the time students walk to and from school and if the
164 crossing site is uncontrolled. For purposes of this subsection,
165 an “uncontrolled crossing site” is an intersection or other
166 designated crossing site where no crossing guard, traffic
167 enforcement officer, or stop sign or other traffic control
168 signal is present during the times students walk to and from
169 school.

170 2. ~~If~~ The total traffic volume on the road exceeds 4,000
171 vehicles per hour through an intersection or other crossing site
172 controlled by a stop sign or other traffic control signal,
173 unless crossing guards or other traffic enforcement officers are
174 also present during the times students walk to and from school.

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176 Traffic volume shall be determined by the most current traffic
177 engineering study conducted by a state or local governmental
178 agency.

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(c) Crossings over the road.—It shall be considered a
180 hazardous walking condition with respect to any road at any
181 uncontrolled crossing site if:

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1. The road has a posted speed limit of 50 miles per hour

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or greater; or

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2. The road has six lanes or more, not including turn

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lanes, regardless of the speed limit.

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(5) CIVIL ACTION.—In a civil action for damages brought
187 against a governmental entity under s. 768.28, the designation
188 of a hazardous walking condition under this section is not
189 admissible in evidence.

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Section 2. This act shall take effect July 1, 2014.