

By the Committees on Appropriations; Community Affairs; and Education Pre-K - 12; and Senator Hays

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1 A bill to be entitled
2 An act relating to hazardous walking conditions;
3 providing a short title; amending s. 1006.23, F.S.;
4 requiring a district school board to correct hazardous
5 walking conditions and provide transportation to
6 students who would be subjected to hazardous walking
7 conditions; requiring state or local governmental
8 entities with jurisdiction over a road with a
9 hazardous walking condition to correct the condition
10 within a reasonable period of time; providing
11 requirements for a governmental entity relating to its
12 transportation work program; revising procedures for
13 inspection and identification of hazardous walking
14 conditions; requiring a district school superintendent
15 to initiate a formal request for correction of a
16 hazardous walking condition under certain
17 circumstances; authorizing a district school board to
18 initiate a declaratory judgment proceeding under
19 certain circumstances and providing requirements
20 therefor; deleting the requirement that the district
21 school superintendent and specified governmental
22 entities make a final determination that is mutually
23 agreed upon regarding hazardous walking conditions;
24 revising criteria that determine a hazardous walking
25 condition for public school students; providing
26 requirements relating to a civil action for damages;
27 authorizing a district school board and other
28 governmental entities to enter into a specified
29 interlocal agreement; providing criteria for such

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30 agreements; amending s. 1012.45, F.S.; providing that
31 a district school board may implement a safe driver
32 toll-free telephone hotline for specified purposes;
33 providing an effective date.
34

35 Be It Enacted by the Legislature of the State of Florida:
36

37 Section 1. This act may be cited as "Gabby's Law for
38 Student Safety."

39 Section 2. Section 1006.23, Florida Statutes, is reordered
40 and amended to read:

41 1006.23 Hazardous walking conditions.—

42 (1) DEFINITION.—As used in this section, the term "student"
43 means any public elementary school student whose grade level
44 does not exceed grade 6.

45 (4)~~(2)~~ TRANSPORTATION; CORRECTION OF HAZARDS.—

46 (a) A district school board ~~It is intended that district~~
47 ~~school boards~~ and other governmental entities shall work
48 cooperatively to identify conditions that are hazardous along
49 student walking routes to school, and a district school board
50 shall ~~that district school boards~~ provide transportation to
51 students who would be subjected to such conditions.

52 Additionally, It is further intended that state or local
53 governmental entities with having jurisdiction over a road along
54 which a hazardous walking condition is determined to exist shall
55 correct the condition ~~such hazardous conditions~~ within a
56 reasonable period of time.

57 (b) Upon a determination pursuant to subsection (3) ~~this~~
58 ~~section~~ that a hazardous walking condition exists ~~is hazardous~~

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59 ~~to students,~~ the district school superintendent ~~board~~ shall
60 request a position statement with respect to correction of such
61 condition determination from the state or local governmental
62 entity with having jurisdiction over the road. Within 90 days
63 after receiving such request, the state or local governmental
64 entity shall inform the district school superintendent ~~regarding~~
65 whether the entity will include correction of the hazardous
66 walking condition in its next annual 5-year transportation work
67 program hazard will be corrected and, if so, when correction of
68 the condition will be completed. If the hazardous walking
69 condition will not be included in the state or local
70 governmental entity's next annual 5-year transportation work
71 program, the factors justifying such conclusion must be stated
72 in writing to the district school superintendent and the
73 Department of Education regarding a projected completion date.

74 (c) State funds shall be allocated for the transportation
75 of students subjected to a hazardous walking condition. However,
76 ~~such hazards, provided that~~ such funding shall cease upon
77 correction of the hazardous walking condition ~~hazard~~ or upon the
78 projected completion date, whichever occurs first.

79 (3) IDENTIFICATION OF HAZARDOUS CONDITIONS.—

80 (a) When a request for review is made by ~~to~~ the district
81 school superintendent with respect to a road over which a state
82 or local governmental entity has jurisdiction ~~or the district~~
83 ~~school superintendent's designee~~ concerning a condition
84 perceived to be hazardous to students in that district who live
85 within the 2-mile limit and who walk to school, such condition
86 shall be inspected jointly by a representative of the school
87 district, ~~and~~ a representative of the state or local

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88 governmental entity with that has jurisdiction over the
89 perceived hazardous location, and a representative of the
90 municipal police department for a municipal road, a
91 representative of the sheriff's office for a county road, or a
92 representative of the Department of Transportation for a state
93 road. If the jurisdiction is within an area for which there is a
94 metropolitan planning organization, a representative of that
95 organization shall also be included. The governmental
96 representatives shall determine whether the condition
97 constitutes a hazardous walking condition as provided in
98 subsection (2). If the governmental representatives concur that
99 a condition constitutes a hazardous walking condition as
100 provided in subsection (2), the governmental entity with
101 jurisdiction shall report that determination in writing to the
102 district school superintendent, who shall initiate a formal
103 request for correction as provided in subsection (4).

104 (b) If the governmental representatives are unable to reach
105 a consensus, the reasons for lack of consensus shall be reported
106 to the district school superintendent, who shall provide a
107 report and recommendation to the district school board. The
108 district school board may initiate a proceeding under chapter 86
109 seeking a determination as to whether the condition constitutes
110 a hazardous walking condition as provided in subsection (2)
111 after providing at least 30 days' notice in writing to the state
112 or local governmental entity having jurisdiction over the road
113 of its intent to do so unless, within 30 days after such notice
114 is provided, the state or local governmental entity concurs in
115 writing that the condition is a hazardous walking condition as
116 provided in subsection (2) and provides the position statement

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117 pursuant to subsection (4). If a proceeding is initiated under
118 this paragraph, the district school board has the burden of
119 proving such condition by the greater weight of evidence. If the
120 district school board prevails, the district school
121 superintendent shall report the outcome to the Department of
122 Education and initiate a formal request for correction of the
123 hazardous walking condition as provided in subsection (4) ~~The~~
124 ~~district school superintendent or his or her designee and the~~
125 ~~state or local governmental entity or its representative shall~~
126 ~~then make a final determination that is mutually agreed upon~~
127 ~~regarding whether the hazardous condition meets the state~~
128 ~~criteria pursuant to this section. The district school~~
129 ~~superintendent or his or her designee shall report this final~~
130 ~~determination to the Department.~~

131 ~~(2)(4) STATE CRITERIA FOR DETERMINING HAZARDOUS WALKING~~
132 ~~CONDITIONS.-~~

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

134 1. It shall be considered a hazardous walking condition
135 with respect to any road along which students must walk in order
136 to walk to and from school if there is not an area at least 4
137 feet wide adjacent to the road, not including drainage ditches,
138 sluiceways, swales, or channels, having a surface upon which
139 students may walk without being required to walk on the road
140 surface. In addition, whenever the road along which students
141 must walk is uncurbed and has a posted speed limit of 50 ~~55~~
142 miles per hour or greater, the area as described above for
143 students to walk upon shall be set off the road by no less than
144 3 feet from the edge of the road.

145 2. ~~The provisions of Subparagraph 1.~~ does ~~de~~ not apply when

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146 the road along which students must walk:

147 ~~a. Is in a residential area which has little or no~~
148 ~~transient traffic;~~

149 a.b. Is a road on which the volume of traffic is less than
150 180 vehicles per hour, per direction, during the time students
151 walk to and from school; or

152 b.c. Is located in a residential area and has a posted
153 speed limit of 30 miles per hour or less.

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

158 1. ~~If~~ The traffic volume on the road exceeds the rate of
159 360 vehicles per hour, per direction (including all lanes),
160 during the time students walk to and from school and if the
161 crossing site is uncontrolled. For purposes of this subsection,
162 an “uncontrolled crossing site” is an intersection or other
163 designated crossing site where no crossing guard, traffic
164 enforcement officer, or stop sign or other traffic control
165 signal is present during the times students walk to and from
166 school.

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

172
173 Traffic volume shall be determined by the most current traffic
174 engineering study conducted by a state or local governmental

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175 agency.

176 (c) Crossings over the road.—It shall be considered a
177 hazardous walking condition with respect to any road at any
178 uncontrolled crossing site which students must walk in order to
179 walk to and from school if:

180 1. The road has a posted speed limit of 50 miles per hour
181 or greater; or

182 2. The road has six lanes or more, not including turn
183 lanes, regardless of the speed limit.

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

188 (6) INTERLOCAL AGREEMENTS.—This section does not prohibit a
189 district school board and other governmental entities from
190 entering into an interlocal agreement pursuant to s. 163.31777
191 that addresses the identification and correction of hazardous
192 walking conditions, if such agreement:

193 (a) Implements the Safe Paths to Schools Program as
194 provided in s. 335.066; or

195 (b) Establishes standards for the safety of students
196 walking to school and procedures for identifying and correcting
197 hazardous walking conditions that meet or exceed the standards
198 and procedures provided in subsections (2), (3), and (4).

199 Section 3. Subsection (5) is added to section 1012.45,
200 Florida Statutes, to read:

201 1012.45 School bus drivers; requirements and duties.—

202 (5) Each district school board may implement a safe driver
203 toll-free telephone hotline for motorists or others who observe

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204 improper driving or operation by a school bus driver to report
205 such violations to the district school board for investigation
206 and corrective or disciplinary action by the school board.

207 Section 4. This act shall take effect July 1, 2015.