

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 231 Transportation  
**SPONSOR(S):** Passidomo and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 908

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Highway & Waterway Safety Subcommittee	8 Y, 4 N, As CS	Whittaker	Smith
2) Criminal Justice Subcommittee			
3) Appropriations Committee			
4) Economic Affairs Committee			

### SUMMARY ANALYSIS

The bill amends and creates various sections of Florida Statutes related to bodily injury of a vulnerable user or vulnerable user of a right of way and bicyclists.

Specifically, the bill:

- Defines Bodily Injury and Vulnerable User of a Right of Way or Vulnerable User.
- Provides that a person operating a vehicle who overtakes and passes a vulnerable user of a public right-of-way proceeding in the same direction may not make a right turn at an intersection or into a private road or driveway unless the turn can be made at a safe distance from the vulnerable user with reasonable safety and will not impede the travel of the vulnerable user.
- Provides an exemption for vehicles violating a no-passing zone when passing a vulnerable user.
- It is unlawful to harass, taunt, or maliciously throw an object at or in the direction of a person riding a bicycle.
- Allows a bicyclist to take the center of the lane if the lane is less than 14 feet wide and is not adjacent to a bicycle lane that is at least 5 feet wide.
- In addition to any other penalty imposed, if a violation contributed to the bodily injury of a vulnerable user, a fine of not more than \$2,000 shall be imposed.
- Requires a law enforcement officer to note on the traffic citation if said violation contributed to the bodily injury of a vulnerable user.
- A mandatory hearing is required before a designated official for any infraction of passing a vehicle in an unsafe manner, passing and turning in front of a vulnerable user in an unsafe manner, and a careless driving violation that contributes to bodily injury of a vulnerable user of a public right-of-way.
- Provides severability.

The bill has an indeterminate, negative fiscal impact on the Department of Highway Safety and Motor Vehicles.

The bill becomes effective July 1, 2015.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### 2013 Annual Crash Report

In 2013, Florida crash reports show that 7,467 pedestrians, 7,905 motorcyclists, 6,520 bicyclists, and 432 other non-motorists were injured in traffic crashes.<sup>1</sup>

##### Vulnerable Road User

“Vulnerable road user” is defined in current law as:

- A pedestrian, including a person actually engaged in work upon a highway, work upon utility facilities along a highway, or the provision of emergency services within the right of way;
- A person operating a bicycle, motorcycle, scooter, or moped lawfully on the roadway;
- A person riding an animal; or
- A person lawfully operating on a public right-of-way, crosswalk, or shoulder of the roadway:
  - A farm tractor or similar vehicle designed primarily for farm use;
  - A skateboard, roller skates, or in-line skates;
  - A horse-drawn carriage;
  - An electric personal assistive mobility device; or
  - A wheelchair.<sup>2</sup>

##### Protecting Bicyclists

Colorado, Louisiana, Mississippi and Vermont specifically passed measures to protect bicyclists from aggressive and deviant motorist behavior. All included language restricting throwing an object at bicyclists or taunting or harassing them. Louisiana law, for example, states: “It shall be unlawful to harass, taunt, or maliciously throw objects at or in the direction of any person riding a bicycle. Any person who violates this section shall be fined not less than two hundred dollars or imprisoned for not more than thirty days.” Mississippi law contains similar language. Colorado and Vermont also extended such protections to pedestrians.<sup>3</sup>

##### Bicyclists

Bicyclists are considered vehicle operators and are required to obey the same rules of the road as other vehicle operators, including obeying traffic signs, signals, and lane markings.

A bicyclist is required to ride in a bike lane or as far right as practicable with a few exceptions:

- When overtaking and passing another bicycle or vehicle proceeding in the same direction.
- When preparing for a left turn at an intersection or into a private road or driveway.
- When reasonably necessary to avoid any condition or potential conflict, including, but not limited to, a fixed or moving object, parked or moving vehicle, bicycle, pedestrian, animal, surface hazard, turn lane, or substandard width lane, which makes it unsafe to continue along the right hand curb or edge or within a bicycle lane.<sup>4</sup>

##### Substandard Width Lane

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<sup>1</sup> Florida Department of Highway Safety and Motor Vehicles, *Traffic Crash Facts Annual Report 2013*, <http://www.flhsmv.gov/html/safety.html> (last visited February 24, 2015).

<sup>2</sup> s. 316.027 (1)(b), F.S.

<sup>3</sup> National Conference of State Legislatures, *Bicycle and Pedestrian Safety*, <http://www.ncsl.org/research/transportation/bicycle-and-pedestrian-safety.aspx> (last visited March 5, 2015)

<sup>4</sup> s. 316.2065(5)(a), F.S.

In current law, “substandard-width lane” is referred to as a lane that is too narrow for a bicycle and another vehicle to travel safely side by side within the lane.<sup>5</sup> A bicyclist is exempt from the requirement to ride as close as practicable to the right-hand curb or edge of a roadway on a substandard-width lane and may take the center of the lane.

## **Proposed Changes**

### **Definitions**

The bill creates a definition for Bodily Injury and Vulnerable User or Vulnerable User of a Public Right-of-way:

Bodily Injury is defined as:

- a) A cut, abrasion, bruise, burn, or disfigurement;
- b) Physical pain;
- c) Illness;
- d) Impairment of the function of a bodily member, organ, or mental faculty; or
- e) Any other injury to the body, no matter how temporary.

Vulnerable User of a Public Right of Way or Vulnerable User is defined as:

- a) A pedestrian, including a person actually engaged in work upon a highway, work upon utility facilities along a highway, or the provision of emergency services within the right-of-way;
- b) A person operating, or who is a passenger on, a bicycle, motorcycle, scooter, or moped lawfully on the roadway;
- c) A person riding an animal; or
- d) A person lawfully operating on a public right-of-way, crosswalk, or shoulder of the roadway:
  1. A farm tractor or similar vehicle designed primarily for farm use;
  2. A skateboard, roller skates, or in-line skates;
  3. A horse-drawn carriage;
  4. An electric personal assistive mobility device; or
  5. A wheelchair.

### **New Sections Created**

#### **Right turns when passing vulnerable user**

The bill provides that a person operating a vehicle who overtakes and passes a vulnerable user of a public right-of-way proceeding in the same direction may not make a right turn at an intersection or into a private road or driveway unless the turn can be made at a safe distance from the vulnerable user with reasonable safety and will not impede the travel of the vulnerable user.

A violation is a noncriminal moving violation.

#### **Harassing or taunting a person riding a bicycle**

It is unlawful to harass, taunt, or maliciously throw an object at or in the direction of a person riding a bicycle.

A violation is a 1<sup>st</sup> degree misdemeanor, punishable by a fine of at least \$250 or 30 day imprisonment or both.

#### **Infractions contributing to bodily injury of a vulnerable user of a public right-of-way**

The bill provides that in addition to any other penalty imposed, if a traffic violation contributed to the bodily injury of a vulnerable user, a fine of not more than \$2,000 shall be imposed.

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<sup>5</sup> s. 316.2065(5)(a)3., F.S.  
**STORAGE NAME:** h0231a.HWSS  
**DATE:** 3/12/2015

## **Exemption**

The bill provides an exemption for vehicles violating a no-passing zone in order to provide at least three feet between the vehicle and a vulnerable user when passing.

## **Law Enforcement Citation Note**

The bill requires a law enforcement officer to note on the traffic citation if said violation contributed to the bodily injury of a vulnerable user.

## **Substandard Width Lane**

The bill amends what constitutes a substandard-width lane from “a lane that is too narrow for a bicycle and another vehicle to travel safely side by side within the lane” to a lane that is “less than 14 feet wide which is not adjacent to a bicycle lane that is at least 5 feet wide.” A bicyclist is exempt from the requirement to ride as close as practicable to the right-hand curb or edge of a roadway on a substandard-width lane and may take the center of the lane.

According to the Florida Department of Transportation the standard lane width has been 12 feet for decades and the vast majority of the state’s highway system has 12 foot lanes with very few lanes that are greater than 12 feet. Variations on the width of travel lanes on both the state system and local roads are 10-11 foot lanes, or smaller. These variations are acceptable based on the American Association of State Highway and Transportation Officials (AASHTO) criteria.<sup>6</sup>

## **Mandatory Hearing**

The bill requires a mandatory hearing, before a designated officer, for any infraction of overtaking or passing a vehicle or vulnerable user in an unsafe manner, passing and turning in front of a vulnerable user in an unsafe manner, or a careless driving violation that contributes to bodily injury of a vulnerable user of a public right-of-way.

The bill will become effective July 1, 2015.

## **B. SECTION DIRECTORY:**

Section 1	Amends s. 316.003, F.S., providing definitions.
Section 2	Amends s. 316.083, F.S., revising provisions related to the passing of a vehicle
Section 3	Creates s. 316.0833, F.S., prohibiting passing and turning in front of a vulnerable user in an unsafe manner; providing penalties.
Section 4	Amends s. 316.0875, F.S., revising exceptions to provisions for designated no-passing zones
Section 5	Creates s. 316.1921, F.S., prohibiting harassing, taunting, or throwing object at person riding a bicycle; providing penalties.
Section 6	Amends s. 316.1925, F.S., revising provisions relating to careless driving.
Section 7	Amends s. 316.2065, F.S., revising the definition of the term “substandard-width lane.”
Section 8	Creates s. 318.142, F.S., providing penalties for specified infractions contributing to bodily injury of a vulnerable user.
Section 9	Amends s. 318.19, F.S., requiring a hearing for specified offenses.

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<sup>6</sup> Email from the Florida Department of Transportation on file with the Highway and Waterway Safety Subcommittee.

- Section 10 Providing severability
- Section 11 Provides an effective date of July 1, 2015.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

- A. FISCAL IMPACT ON STATE GOVERNMENT:
  - 1. Revenues:  
None
  - 2. Expenditures:  
None
- B. FISCAL IMPACT ON LOCAL GOVERNMENTS:
  - 1. Revenues:  
None
  - 2. Expenditures:  
None
- C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:  
None
- D. FISCAL COMMENTS:  
None

## III. COMMENTS

- A. CONSTITUTIONAL ISSUES:
  - 1. Applicability of Municipality/County Mandates Provision:  
The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.
  - 2. Other:  
None
- B. RULE-MAKING AUTHORITY:  
None
- C. DRAFTING ISSUES OR OTHER COMMENTS:  
None

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 11, 2015, The Highway & Waterway Safety Subcommittee adopted one amendment to HB 231 and reported the bill favorably as a committee substitute. The amendment provided:

- That in addition to any other penalty imposed, if a traffic violation contributed to the bodily injury of a vulnerable user, a fine of not more than \$2,000 shall be imposed.
- Removes the requirement for traffic education courses to include instruction on traffic laws relating to the rights and safety of vulnerable users.
- Removes the requirement for driver license and commercial driver license examinations to include testing of an applicant's knowledge of traffic laws relating to the rights and safety of vulnerable users.

This analysis is drafted to the committee substitute as reported favorably by the Highway & Waterway Safety Subcommittee.