

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/CS/HB 231 Transportation

SPONSOR(S): Economic Affairs Committee; Criminal Justice Subcommittee; Highway & Waterway Safety Subcommittee; Passidomo; Fitzenhagen and others

TIED BILLS: None **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	12 Y, 0 N, As CS	Cunningham	Cunningham
3) Transportation & Economic Development Appropriations Subcommittee	12 Y, 0 N	Cobb	Davis
4) Economic Affairs Committee	16 Y, 0 N, As CS	Whittaker	Creamer

SUMMARY ANALYSIS

The bill amends and creates various sections of Florida Statutes designed to protect bicyclists and vulnerable users of a public roadway.

Specifically, the bill:

- Defines “bodily injury,” and “vulnerable user of a public roadway or vulnerable user;”
- Makes it a first degree misdemeanor for a person to commit a noncriminal traffic infraction that causes serious bodily injury or death and, within 5 years of such violation, commit another noncriminal traffic infraction that causes serious bodily injury or death. The license will also be suspended for 3 months and require the driver to apply for a new license, pass required exams and pay required fees;
- Requires a vehicle to pass at a safe distance of not less than three feet between any part of or attachment to the vehicle, anything extending from the vehicle, and any trailer or other thing being towed by the vehicle and a vulnerable user;
- Allows a driver to drive on the left side of a roadway in a no passing zone safely and briefly, when passing a vulnerable user in order to provide at least three feet between the vehicle and the vulnerable user;
- Specifies a fine of no more than \$2,000 may be imposed, in addition to any other penalty, if a traffic violation contributed to the bodily injury of a vulnerable user;
- Requires a person cited for specified traffic infractions that contributed to the bodily injury of a vulnerable user to appear before a judge for a hearing;
- Requires a law enforcement officer to note on certain traffic citations if the violation contributed to the bodily injury of a vulnerable user.

The bill has an indeterminate fiscal impact on state and local governments’ revenues and expenditures. The bill may also increase the need for jail beds because it creates a first degree misdemeanor offense. See fiscal section for additional detail.

The bill is effective July 1, 2015.

FULL ANALYSIS

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0231h.EAC

DATE: 4/16/2015

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Protecting Bicyclists

In Florida, 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.

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.¹

In 2014, the Florida Legislature passed legislation² that ranked a “leaving the scene of an accident” offense one level higher in the offense severity ranking chart³ if the victim of the offense was a vulnerable road user.⁴ The bill defined a “vulnerable road user” 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.⁵

Definitions

The bill creates definitions for the terms “bodily injury” and “vulnerable user or vulnerable user of a public roadway.” These definitions apply to all of ch. 316, F.S.

“Bodily injury” is defined as an injury to a human being consisting of:

- Broken bone;
- Torn ligament;
- Concussion;
- Laceration requiring stitches; or
- Any other physical injury that results in impairment of the function of a bodily member, organ, or mental faculty.

“Vulnerable user of a public roadway” or “vulnerable user” is defined 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, or who is a passenger on, a bicycle, motorcycle, scooter, or moped lawfully on the roadway;
- A person riding an animal; or
- A person lawfully operating on a public roadway, crosswalk, or shoulder of the roadway:
 - A farm tractor or similar vehicle designed primarily for farm use;
 - A horse-drawn carriage;
 - An electric personal assistive mobility device; or

¹ Florida Department of Highway Safety and Motor Vehicles, *Traffic Crash Facts Annual Report 2013*, <http://www.flhsmv.gov/html/safety.html> (last visited March 26, 2015).

² Ch. 2014-225, Laws of Florida.

³ Criminal offenses are ranked in the “offense severity ranking chart” from level one (least severe) to level ten (most severe) and are assigned points based on the severity of the offense. A defendant’s sentence is calculated based on points assigned for factors including: the offense for which the defendant is being sentenced; injury to the victim; additional offenses that the defendant committed at the time of the primary offense; the defendant’s prior record and other aggravating factors. The points are added in order to determine the “lowest permissible sentence” for the offense. See ss. 921.0022 and 921.0024, F.S.

⁴ s. 316.027(2)(f), F.S.

⁵ s. 316.027 (1)(b), F.S.

- A wheelchair.

Overtaking and Passing

Section 316.083, F.S., requires a driver of a vehicle overtaking a bicycle (or other non-motorized vehicle) to pass at a safe distance of no less than three feet between the vehicle and the bicycle. A violation is a noncriminal traffic infraction punishable as a moving violation.⁶

Effect of the Bill

The bill expands the requirements of s. 316.083, F.S., to apply to motor vehicles overtaking a vulnerable user of a public roadway. The bill requires a vehicle to pass at a safe distance of not less than three feet between any part of or attachment to the vehicle, anything extending from the vehicle, and any trailer or other thing being towed by the vehicle and the vulnerable user.

Violations remain a noncriminal traffic infraction. However, if the violation contributed to the bodily injury of a vulnerable user, the bill requires the law enforcement officer issuing the citation to make a note of such on the citation.

No Passing Zones

Section 316.0875, F.S., prohibits a driver from driving on the left side of a roadway in a no passing zone.⁷ This prohibition does not apply when an obstruction exists making it necessary to drive to the left of the center of the highway, nor to the driver of a vehicle turning left into or from an alley, private road or driveway.⁸ A violation is a noncriminal traffic infraction, punishable as a moving violation.⁹

Effect of the Bill

As noted above, s. 316.0875, F.S., prohibits a driver from driving on the left side of a roadway in a no passing zone. The bill specifies that this prohibition does not apply when the driver of a motor vehicle is required to cross pavement striping indicating a no-passing zone when passing a vulnerable user in order to provide at least three feet between the vehicle and the vulnerable user.

Careless Driving

Section 316.1925, F.S., requires a person operating a vehicle upon the streets or highways within the state to drive in a careful and prudent manner, having regard for the width, grade, curves, corners, traffic, and all other attendant circumstances, so as not to endanger the life, limb, or property of any person. A person's failure to do so is careless driving, citable as a moving violation.¹⁰

Effect of the Bill

The bill requires a law enforcement officer issuing a careless driving citation to make a note on the citation if the violation contributed to the bodily injury of a vulnerable user.

Newly-Created Sections

Noncriminal Traffic Infractions Causing Serious Bodily Injury or Death

The bill creates s. 316.0275, F.S., to make it a first degree misdemeanor¹¹ for a person to commit and be convicted of a noncriminal traffic infraction that causes serious bodily¹² injury or death and, within 5

⁶ s. 316.083(3), F.S.

⁷ Section 316.0875, F.S., authorizes the Department of Transportation and local authorities to determine those portions of any highway under their respective jurisdiction where overtaking and passing or driving to the left of the roadway would be especially hazardous. The statute also authorizes these entities to, by appropriate signs or markings on the roadway, indicate the beginning and end of such zones.

⁸ s. 316.0875(3), F.S.

⁹ s. 316.0875(4), F.S.

¹⁰ s. 316.1925(2), F.S.

¹¹ A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. ss. 775.082 and 775.083, F.S.

years of such violation, commit another noncriminal traffic infraction that causes serious bodily injury or death. A person who violates this provision must also have their driver license suspended for three months and at the end of the suspension, the individual must pass all required exams and pay all required fees as if they were obtaining a new driver license. During the three month suspension, the individual can apply for a hardship license.

The term “serious bodily injury” is defined as an injury to a person, excluding an injury to the at-fault driver, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Infractions Contributing to Bodily Injury of a Vulnerable User

The bill creates s. 318.142, F.S., which specifies a fine of no more than \$2,000 may be imposed, in addition to any other penalty, if a violation of ss. 316.083 or 316.1925, F.S., contributed to the bodily injury of a vulnerable user.

Mandatory Hearing

Section 318.19, F.S., requires persons cited for the following to appear before a judge for a hearing:

- Any infraction which results in a crash that causes the death of another;
- Any infraction which results in a crash that causes “serious bodily injury” of another;
- Any infraction of s. 316.172(1)(b), F.S. (requiring traffic to stop for a school bus);
- Any infraction of s. 316.520(1) or (2), F.S. (relating to loads on vehicles); or
- Any infraction of ss. 316.183(2), 316.187, or 316.189, F.S. (all relating to speed zones), of exceeding the speed limit by 30 miles per hour or more.

Effect of the Bill

The bill requires a person cited for any of the following traffic infractions that contributed to the bodily injury of a vulnerable user to appear before a judge for a hearing:

- Any infraction of s. 316.083, F.S. (overtaking or passing); or
- Any violation of s. 316.1925, F.S. (careless driving).

B. SECTION DIRECTORY:

Section 1. Amends s. 316.003, F.S., relating to definitions.

Section 2. Creates s. 316.0275, F.S., relating to noncriminal traffic infractions leading to serious bodily injury or death; reclassification.

Section 3. Amends s. 316.083, F.S., relating to overtaking and passing a vehicle.

Section 4. Amends s. 316.0875, F.S., relating to no-passing zones.

Section 5. Amends s. 316.1925, F.S., relating to careless driving.

Section 6. Creates s. 318.142, F.S., relating to infractions contributing to bodily injury of a vulnerable user of a public roadway.

Section 7. Amends s. 318.19, F.S., relating to infractions requiring a mandatory hearing.

Section 8. Provides an effective date of July 1, 2015.

¹² The bill defines “serious bodily injury” as an injury to a person, excluding the at fault driver, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
Indeterminate. See fiscal comments.
2. Expenditures:
See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
Indeterminate. See fiscal comments.
2. Expenditures:
Indeterminate. See fiscal comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

Payments of reinstatement fees for suspended licenses will have a positive impact to state revenues.

The DHSMV estimates approximately 626 nonrecurring programming hours, and associated costs of \$46,000, will be required to update current driver license issuance systems to comply with the new provisions. These expenses will be absorbed within existing departmental resources.

The bill creates one first degree misdemeanor. The bill makes it a first degree misdemeanor for a person committing a noncriminal traffic infraction which causes serious bodily injury or death to a person, twice within five years. This provision will have an indeterminate, negative impact on local jail beds.

The bill requires a person cited for certain traffic infractions (overtaking or careless driving) that contribute to the bodily injury of a vulnerable user to appear for a judicial hearing. This will have an indeterminate impact on the workload of the judiciary.

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:

The bill does not appear to create a need for rulemaking or rulemaking authority.

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:

- Specified 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.

On March 24, 2015, the Criminal Justice Subcommittee adopted a strike-all amendment and one amendment to the strike-all amendment and reported the bill favorably as a committee substitute. The amendments, collectively:

- Corrected references to a "vulnerable user of a public right-of-way" to a "vulnerable user of a public roadway;"
- Removed "skateboard, roller skates, or in-line skaters" from the definition of "vulnerable users;"
- Prohibited a person overtaking and passing a vulnerable user of a public roadway from making a right or left turn at an intersection unless the turn can be made at a safe distance;
- Removed the provision relating to substandard lane widths; and
- Made it a first degree misdemeanor for a person to commit a noncriminal traffic infraction that causes serious bodily injury or death and, within 5 years of such violation, commit another noncriminal traffic infraction that causes serious bodily injury or death.

On April 14, 2015, the Economic Affairs Committee adopted a strike all amendment and the reported the bill favorably as a committee substitute. The amendments, collectively:

- Revises the definition of the term "bodily injury."
- Requires a three month driver license suspension for a person who commits a noncriminal traffic infraction that causes serious bodily injury or death and, within 5 years of such violation, commits another noncriminal traffic infraction that causes serious bodily injury or death and provides requirements for a possible hardship license during the suspension period and for reinstatement once the three month period has expired. The term "serious bodily injury" is defined.
- Removed prohibiting passing and turning in front of a vulnerable user in an unsafe manner.
- Removed prohibiting harassing, taunting, or throwing objects at a person riding a bicycle.
- Specifies a fine of no more than \$2,000 may be imposed, in addition to any other penalty, if a violation of ss. 316.083 or 316.1925, F.S., contributed to the bodily injury of a vulnerable user.
- Removed the severability language.

The analysis is drafted to the committee substitute as reported favorably by the Economic Affairs Committee.