

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 Committee on Fiscal Policy

BILL: CS/SB 1570

INTRODUCER: Transportation Committee and Senator Simmons

SUBJECT: School Bus Stop Safety

DATE: February 26, 2016

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|-----------------------------|
| 1. | Jones | Eichin | TR | Fav/CS |
| 2. | Sneed | Miller | ATD | Recommend: Favorable |
| 3. | Pace | Hrdlicka | FP | Pre-meeting |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1570 increases the penalty for passing a stopped school bus on the side that children enter and exit while the bus is displaying a stop signal, from a noncriminal traffic infraction to the criminal offense of reckless driving.

The Office of State Courts Administrator (OSCA) has indicated that the change to the offense to a reckless driving charge may have a minimal impact on revenues in the State Court Revenue Trust Fund, which currently receives \$5 for each non-criminal traffic violation. However, OSCA anticipates this revenue reduction would have an insignificant fiscal impact on the trust fund.

The Department of Highway Safety and Motor Vehicles (DHSMV) estimates programming and implementing the changes would cost \$13,448. These costs are expected to be absorbed within existing resources.

II. Present Situation:

School buses are required to stop as far to the right of the street as possible and display warning lights and stop signals before discharging or loading passengers, and, when possible, to stop where visibility is obscured for a distance of 200 feet either way from the bus.¹

¹ Section 316.172(3), F.S.

Florida law requires that a person bring his or her vehicle to a full stop when approaching a stopped school bus displaying a stop signal, until the signal has been withdrawn.² Furthermore, it is unlawful to pass a school bus on the side that children enter and exit while the school bus displays a stop signal.³

At the hearing,⁴ if a person is found to have failed to fully stop for or illegally passed a stopped school bus, both of which are noncriminal traffic infractions, the person must pay a minimum civil penalty of \$100 or \$200, respectively, plus an additional \$65.⁵ For a subsequent violation, the DHSMV may suspend a person's driver license if such violation is committed within a period of 5 years after the first violation.⁶

In addition, if a court withholds adjudication of a person who receives a traffic citation for illegally passing a school bus, the driver is required to complete a driver improvement course. If the course is not completed within 90 days of receiving a notice of the requirement to attend, the driver's license will be canceled until the improvement course is successfully completed.⁷

School Bus Safety

The National Highway Safety Transportation Safety Association (NHTSA) estimates approximately 24 children are killed in school bus accidents each year. However, few deaths occur while actually on the bus. Typically, one-third of the fatalities occur when a child is struck by the school bus in the loading or unloading zone, one-third are struck by motorists who fail to stop for the bus, and one-third are pedestrians killed while approaching or leaving the school bus.⁸

2015 Illegal Passing of School Buses

Since 2011, the Florida Department of Education has posted survey results on its website of the number of vehicles that illegally pass a stopped school bus in a single day of the school year, as reported by school bus drivers.⁹ In Academic Year 2014-2015, a total of 9,807 school bus drivers in the state completed the survey. The survey indicated that school buses were passed illegally by 10,987 vehicles throughout the day. Of those, 371 vehicles were reported passing to the right side of the bus, the side students generally enter and exit.¹⁰

² Section 316.172(1)(a), F.S.

³ Section 316.172(1)(b), F.S. A driver is not required to stop if the vehicle is traveling in the opposite direction of a stopped school bus "upon a divided highway with an unpaved space of at least 5 feet, a raised median, or a physical barrier." See s. 316.172(2), F.S.

⁴ A person cited for passing a stopped school bus on the side children enter or exit must attend a mandatory hearing at a specified time and location. See ss. 316.172(1)(b) and 318.19(3), F.S.

⁵ Section 318.18(5), F.S. The additional \$65 is remitted to the Department of Revenue for deposit into the Emergency Medical Services Trust Fund of the Department of Health for the purpose of funding trauma centers. See s. 395.4036, F.S.

⁶ *Id.* A person who illegally passes a stopped school bus will receive 4 points on his or her driver license; and depending on the circumstances may have his or her driver license suspended or revoked. See s. 322.27(1)(f) and (3)(d)4., F.S.

⁷ Section 322.0261(4)(c), F.S.

⁸ See National Conference of State Legislatures (NCSL), *Transportation Review – School Bus Safety*, (July 2012) at p. 1, available at: http://www.ncsl.org/documents/transportation/schoolbus_tranrev0810.pdf (last visited Feb. 24, 2016).

⁹ See Florida Department of Education, *School Transportation, Illegal Passing of School Buses – Survey Results for 2015*, available at: <http://www.fldoe.org/schools/safe-healthy-schools/transportation/> (last visited Feb. 24, 2016).

¹⁰ *Id.*

The DHSMV has indicated that in 2015, approximately 2,136 traffic citations were issued for failure to stop for a school bus, and 44 citations were issued for passing a school bus on the side children enter and exit.¹¹

Reckless Driving

A person “who drives any vehicle in willful or wanton disregard for the safety of persons or property” or flees from a law enforcement officer in a vehicle shall be charged with reckless driving, which is a criminal offense.¹²

If convicted of reckless driving, a person is subject to punishment by imprisonment for not more than 90 days or by a fine of at least \$25 and up to \$500, or both.¹³ For any subsequent conviction, a person is subject to punishment by imprisonment for a maximum of 6 months or by a fine of at least \$50 and up to \$1,000, or both.¹⁴ If a person’s reckless driving causes damage to a person or property, he or she commits a first degree misdemeanor, punishable by imprisonment not exceeding 1 year or a fine of up to \$1,000.¹⁵ If a person’s reckless driving causes serious bodily injury to another person, he or she commits a third degree felony, punishable by imprisonment not to exceed 5 years, a fine of up to \$5,000 or, if a habitual felony offender, an extended term of imprisonment.¹⁶

If a person is convicted of a violation of illegally passing a school bus or reckless driving, four points are added to the person’s driver license.¹⁷

III. Effect of Proposed Changes:

Section 1 amends s. 316.172, F.S., to increase the penalty from a noncriminal moving violation to the criminal offense of reckless driving for a person operating a motor vehicle who passes a school bus on the side that children enter and exit when the bus displays a stop signal.

Section 2 amends s. 316.192, F.S., to retain the \$65 penalty currently collected for a violation of passing a school bus on the side that children enter and exit when the bus is displaying a stop signal.

Section 3 amends s. 318.17, F.S., to make conforming changes.

Section 4 amends s. 318.18, F.S., to remove the civil penalty for illegally passing a school bus on the side children enter and exit, as that penalty is reclassified as reckless driving.

¹¹ Email from the DHSMV (Feb. 15, 2016) (on file with the Senate Committee on Transportation).

¹² Sections 316.192(1) and 318.17(4), F.S.

¹³ Section 316.192(2)(a), F.S.

¹⁴ Section 316.192(2)(b), F.S..

¹⁵ See ss. 316.192(3)(c)1., 775.082(4)(a), 775.083(1)(d), F.S. A court has the discretion to suspend or cancel a driver license and impose any other civil penalty it deems fit. See s. 775.082(7), F.S.

¹⁶ See ss. 316.192(3)(c)2., 775.082(3)(e), 775.083(1)(c), and 775.084(1)(a), F.S. Section 316.192(3)(c)2., F.S., defines “serious bodily injury” as an injury to another person, 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.

¹⁷ Section 322.27(3)(d)4., F.S.

Sections 5 and 6 conform cross-references to changes made by the bill.

Section 7 provides the bill is effective October 1, 2016.

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:

Individuals cited for illegally passing a school bus will incur increased penalties.

C. Government Sector Impact:

Changing the violation for passing a school bus on the side children enter and exit from a noncriminal moving violation to a charge of reckless driving is expected to have an insignificant fiscal impact on state government.

The OSCA has indicated the change to the offense of passing a school bus on the side where children enter and exit from non-criminal traffic infraction to reckless driving could impact the revenues of the State Court Revenue Trust Fund, which currently receives \$5 for each non-criminal traffic infraction, but the OSCA anticipates that this revenue reduction would have a minimal impact on the trust fund. The State Court Revenue Trust Fund does not receive revenues associated with reckless driving penalties.¹⁸

¹⁸ See OSCA, *2015 Judicial Impact Statement for SB 346* (March 3, 2015) (on file with the Senate Committee on Transportation).

The DHSMV anticipates the bill will require approximately 298.5 hours of system programming and implementation, resulting in an estimated cost of \$13,448 to the DHSMV.¹⁹ These costs are expected to be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.172, 316.192, 318.17, 318.18, 318.21, and 395.4036.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Transportation on February 17, 2016:

The CS modifies the bill by removing the penalty increase for failing to stop for a school bus under s. 318.18(5)(a), F.S., and removes provisions allowing a school district to use cameras and video recording devices to enforce s. 316.172, F.S.

B. Amendments:

None.

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

¹⁹ DHSMV, *2016 Agency Legislative Bill Analysis for SB 1570* (Feb. 11, 2016) (on file with the Senate Committee on Transportation).