

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 253 Highway Safety

**SPONSOR(S):** Economic Affairs Committee; Criminal Justice Subcommittee; Passidomo and others

**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 332

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	13 Y, 0 N, As CS	Cox	White
2) Appropriations Committee	19 Y, 0 N	Cobb	Leznoff
3) Economic Affairs Committee	14 Y, 0 N, As CS	Johnson	Pitts

### SUMMARY ANALYSIS

The bill amends and creates various sections of the Florida Statutes, which are designed to protect bicyclists and other vulnerable users of a roadway.

Specifically, the bill:

- Defines “bicycle lane,” “bodily injury,” and “vulnerable user of a public roadway or vulnerable user;”
- 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, or any trailer or other thing being towed by the vehicle and a vulnerable user;
- Allows a driver to briefly and safely drive on the left side of a roadway in a no-passing zone when passing a vulnerable user in order to provide at least three feet between the vehicle and the vulnerable user;
- Requires a person making a right turn that overtakes a vulnerable user traveling in the same direction to signal appropriately and to complete the turn only if it can be achieved at a distance of at least 20 feet from the vulnerable user;
- Prohibits a person operating a vehicle who overtakes and passes a vulnerable user of a public roadway proceeding in the same direction from making a right or left 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;
- Requires a person operating a vehicle to allow a group of bicyclists to proceed through a stop sign as a group in specified instances; and
- Requires a law enforcement officer to note on specified traffic citations if the violation contributed to the bodily injury of a vulnerable user; and
- Requires the recipients of citations for infractions of specified sections which result in bodily injury to a vulnerable user to appear before a judge for a hearing.

According to the Department of Highway Safety and Motor Vehicles (DHSMV), the bill will have a negative but insignificant fiscal impact due to the programming hours necessary for implementation. The bill establishes a mandatory court hearing for certain violations that result in the bodily injury of a vulnerable road user.

According to the State Court System, these incidents typically go before a judge currently, so the provision’s impact to the judiciary will be minimal, and can be absorbed within current resources. See fiscal comments.

The bill is effective October 1, 2016.

# FULL ANALYSIS

## 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.<sup>1</sup>

Florida crash reports for the 2014 calendar year indicate that 7,737 pedestrians, 8,040 motorcyclists, 6,680 bicyclists, and 399 other non-motorists were injured in traffic crashes.<sup>2</sup>

During the 2014 Regular Session, the Florida Legislature passed legislation<sup>3</sup> that ranked a “leaving the scene of an accident” offense one level higher in the offense severity ranking chart<sup>4</sup> if the victim of the offense was a vulnerable road user.<sup>5</sup> 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.<sup>6</sup>

#### **Definitions**

The bill creates definitions for the terms “bicycle lane,” “bodily injury,” and “vulnerable user or vulnerable user of a public roadway” in s. 316.003, F.S. These definitions apply to all of Ch. 316, F.S., which is the Florida Uniform Traffic Control Law.

“Bicycle Lane” is defined as a portion of a roadway or highway that has been designated by pavement markings and signs for the preferential or exclusive use by bicycles.

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

- A broken bone;
- A torn ligament;
- A concussion;
- A laceration requiring stitches; or
- Any other physical injury that results in impairment of the function of a bodily member, organ, or mental faculty.<sup>7</sup>

“Vulnerable user of a public roadway” or “vulnerable user” is defined as:

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<sup>1</sup> s. 316.2065(1), F.S.

<sup>2</sup> Florida Department of Highway Safety and Motor Vehicles, *Traffic Crash Facts Annual Report 2014*, <https://firesportal.com/Pages/Public/DHSMVDocuments.aspx> (last visited October 21, 2015).

<sup>3</sup> Ch. 2014-225, Laws of Florida.

<sup>4</sup> 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 to determine the “lowest permissible sentence” for the offense. *See* ss. 921.0022 and 921.0024, F.S.

<sup>5</sup> s. 316.027(2)(f), F.S.

<sup>6</sup> s. 316.027 (1)(b), F.S.

<sup>7</sup> This definition does not apply to statutes that refer to the term “serious bodily injury.”

- 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
  - A wheelchair.

The bill also places the definitions in s. 316.003, F.S., in alphabetical order and amends ss. 212.05, 316.027, 316.1303, 316.235, 316.545, 316.605, 316.6105, 316.613, 316.622, 316.650, 316.70, 320.01, 320.08, 320.0801, 320.38, 322.0261, 322.031, 450.181, 559.903, 655.960, 732.402, and 860.065, F.S., to conform to the changes made in s. 316.003, F.S.

### **Overtaking and Passing**

Section 316.083, F.S., in part, 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.<sup>8</sup>

Section 316.084, F.S., provides specified instances when a vehicle may overtake and pass on the right of another vehicle.

#### 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, or any trailer or other thing being towed by the vehicle and the vulnerable user.

Violations of s. 316.083, F.S., remain a noncriminal traffic infraction. However, if the violation contributed to the bodily injury of a vulnerable user or damage to a motor vehicle and injury to an occupant of the motor vehicle, the bill requires the law enforcement officer issuing the citation to the responsible party to make a note of such on the citation.

The bill also amends s. 316.084, F.S., to clarify that a bicycle in the bicycle lane or on the shoulder of a roadway is not prohibited by the section's requirements from passing other vehicles on the right at their own risk with no liability to other motor vehicle drivers.

### **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.<sup>9</sup> 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.<sup>10</sup> A violation is a noncriminal traffic infraction, punishable as a moving violation.<sup>11</sup>

#### 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.

<sup>8</sup> s. 316.083(3), F.S.

<sup>9</sup> 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.

<sup>10</sup> s. 316.0875(3), F.S.

<sup>11</sup> s. 316.0875(4), F.S.

## **Turning at Intersections**

Section 316.151, F.S., in part, requires a driver of a vehicle turning right at an intersection to approach and make the turn as close as practicable to the right-hand curb or edge of the roadway.<sup>12</sup> The section also provides specified restrictions for a vehicle turning left at an intersection. A violation is a noncriminal traffic infraction, punishable as a moving violation.<sup>13</sup>

### Effect of the Bill

The bill amends s. 316.151, F.S., requiring a vehicle that is overtaking and passing a vulnerable user proceeding in the same direction by turning right to:

- Give an appropriate signal;<sup>14</sup> and
- Only complete the turn if it can be made at least 20 feet from the vulnerable user.

The bill also provides that a driver of a vehicle must yield the right-of-way to a bicycle or pedestrian when crossing a sidewalk, bicycle lane, or bicycle path to turn right.

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 the responsible party to make a note of such on the citation.

## **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.<sup>15</sup>

### 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.

## **Bicycle Regulations**

Every person operating a bicycle must comply with all the regulations of ch. 316, F.S., except for those which by their nature can have no application to bicyclists, or that are specially enumerated in s. 316.2065, F.S.<sup>16</sup> In part, s. 316.2065, F.S., prohibits persons riding bicycles on a roadway to ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. The statute is silent as to roadway operation of persons riding bicycles in groups of four or more.

### Effect of the Bill

The bill permits persons riding in groups of four or more, to proceed through a stop sign in a group, provided the group comes to a full stop at the stop sign and obeys all traffic laws, may proceed in groups of 10 or fewer at a time and motor vehicle operators are required to allow that group to move through the intersection before moving forward.

The bill also makes conforming changes to the section to include the new term "bicycle lane."

## **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;

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<sup>12</sup> s. 316.151(1)(a), F.S.

<sup>13</sup> s. 316.151(3), F.S.

<sup>14</sup> The bill references "an appropriate signal as provided for in s. 316.155, F.S." Section 316.155(2), F.S., provides "a signal of intention to turn right or left must be given continuously during not less than the last 100 feet traveled by the vehicle before turning, except that such a signal by hand or arm need not be given continuously by a bicyclist if the hand is needed in the control or operation of the bicycle."

<sup>15</sup> s. 316.1925(2), F.S.

<sup>16</sup> s. 316.2065(1), F.S.

- 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 adds that a person cited for any of the following traffic infractions that contributed to the bodily injury of a vulnerable user must appear before a judge for a hearing:

- Any infraction of s. 316.083, F.S. (overtaking or passing);
- Any infraction of s. 316.151, F.S. (turning when passing a vulnerable user); or
- Any violation of s. 316.1925, F.S. (careless driving).

#### **Statute Reenactment**

Finally, the bill reenacts ss. 316.072, 316.1923, 318.14, and 318.18, F.S., to incorporate amendments by the bill to statutes that are cross-referenced in the reenacted sections.

#### **B. SECTION DIRECTORY:**

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

Section 2. Amends s. 316.027, F.S., relating to crash involving death or personal injuries.

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

Section 4. Amends s. 316.084, F.S., relating to when overtaking on the right is permitted.

Section 5. Amends s. 316.0875, F.S., relating to no-passing zones.

Section 6. Amends s. 316.151, F.S., relating to required position and method of turning at intersections.

Section 7. Amends s. 316.1925, F.S., relating to careless driving.

Section 8. Amends s. 316.2065, F.S., relating to bicycle regulations.

Section 9. Amends s. 318.19, F.S., relating to infractions requiring a mandatory hearing.

Section 10. Amends s. 212.05, F.S., relating to sales, storage, use tax.

Section 11. Amends s. 316.1303, F.S., relating to traffic regulations to assist mobility-impaired persons.

Section 12. Amends s. 316.235, F.S., relating to additional lighting equipment.

Section 13. Amends s. 316.545, F.S., relating to weight and load unlawful; special fuel and motor fuel tax enforcement; inspection; penalty; review.

Section 14. Amends s. 316.605, F.S., relating to licensing of vehicles.

Section 15. Amends s. 316.6105, F.S., relating to violations involving operation of motor vehicle in unsafe condition or without required equipment; procedure for disposition.

Section 16. Amends 316.613, F.S., relating to child restraint requirements.

Section 17. Amends s. 316.622, F.S., relating to farm labor vehicles.

Section 18. Amends s. 316.650, F.S., relating to traffic citations.

- Section 19. Amends s. 316.70, F.S., relating to nonpublic sector buses; safety rules.
- Section 20. Amends s. 320.01, F.S., relating to definitions.
- Section 21. Amends s. 320.08, F.S., relating to license taxes.
- Section 22. Amends s. 320.0801, F.S., relating to additional license tax on certain vehicles.
- Section 23. Amends s. 320.38, F.S., relating to when nonresident exemption not allowed.
- Section 24. Amends s. 322.0261, F.S., relating to driver improvement course; requirement to maintain driving privileges; failure to complete; department approval of course.
- Section 25. Amends s. 322.031, F.S., relating to nonresident; when license required.
- Section 26. Amends s. 450.181, F.S., relating to definitions.
- Section 27. Amends s. 559.903, F.S., relating to definitions.
- Section 28. Amends s. 655.960, F.S., relating to definitions.
- Section 29. Amends s. 732.402, F.S., relating to exempt property.
- Section 30. Amends s. 860.065, F.S., relating to commercial transportation; penalty for use in commission of a felony.
- Section 31. Reenacts s. 316.072, F.S., relating to obedience to and effect of traffic laws.
- Section 32. Reenacts s. 316.1923, F.S., relating to aggressive careless driving.
- Section 33. Reenacts s. 318.14, F.S., relating to noncriminal traffic infractions; exception; procedures.
- Section 34. Reenacts s. 318.18, F.S., relating to amount of penalties.
- Section 35. Provides an effective date.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

The bill requires a person cited for certain traffic infractions (overtaking or passing, turning when passing, or careless driving) that contribute to the bodily injury of a vulnerable user to appear for a judicial hearing. According to the DHSMV's annual crash reports, there are typically 6,500 to 7,000 crashes per year that result in bodily injury, including approximately 130 fatalities. The State Court System states that these cases typically go before a judge currently, so the provision's impact to the judiciary will be minimal, and can be absorbed within current resources.

The bill will have a negative but insignificant fiscal impact to the DHSMV due to the estimated \$36,240 in programming costs required to implement the bill.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

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:

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 November 4, 2015, the Criminal Justice Subcommittee adopted three amendments and reported the bill favorably as a committee substitute. Collectively, the amendments:

- Remove a provision creating a first degree misdemeanor offense for specified persons to commit a noncriminal traffic infraction that causes serious bodily or death;
- Make conforming changes in ss. 316.027 and 322.0261, F.S., for the bill's addition of the definition for "vulnerable user."
- Make a technical change to correct an "and" to "or" on line 693 of the bill; and
- Reenact statutes that cross-reference sections of law amended by the act.

On February 18, 2016, the Economic Affairs Committee adopted one amendment and reported the bill favorably as a committee substitute. The amendment:

- Provided for vulnerable road user responsibility for damage or injury in the same manner the bill does for motor vehicle drivers.
- Provided that groups of 10 vulnerable users may interrupt traffic flow at a single time.
- Provided a minimum distance a motor vehicle may make a right turn when venerable users are present.
- Removed all additional fines and penalties.

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

