

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 332

INTRODUCER: Transportation Committee and Senator Altman

SUBJECT: Highway Safety

DATE: February 23, 2016

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------------|-----------------|-----------|--------------------|
| 1. | <u>Eichin</u> | <u>Eichin</u> | <u>TR</u> | <u>Fav/CS</u> |
| 2. | <u>Dugger</u> | <u>Cannon</u> | <u>CJ</u> | <u>Favorable</u> |
| 3. | <u>Pace</u> | <u>Hrdlicka</u> | <u>FP</u> | <u>Pre-meeting</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 332 seeks to increase the safety of “vulnerable users of a public roadway.” The bill:

- Revises and creates various statutory provisions and penalties relating to traffic control laws and vulnerable users, such as pedestrians and bicyclists;
- Clarifies provisions relating to overtaking and passing vulnerable users, particularly with respect to maintaining the required distance between a passing vehicle and a vulnerable user;
- Sets requirements for making turns at certain locations when passing a vulnerable user;
- Allows drivers to cross the centerline in an identified no-passing zone when passing a vulnerable user;
- Requires appearance at a mandatory hearing for certain infractions contributing to the bodily injury of a vulnerable user;
- Provides a discretionary fine of not more than \$2,500 for a violation under s. 316.192, F.S., related to reckless driving, if the violation contributed to the bodily injury of a vulnerable user;
- Requires law enforcement officers issuing certain citations to note if the violation contributed to the bodily injury of a vulnerable user; and
- Revises cross-references to conform definitions.

The bill has an indeterminate impact on state and local government (see Section V.)

II. Present Situation:

Definitions

Current law defines certain relevant terms for purposes of ch. 316, F.S., relating to traffic control laws, as follows:

- “Vehicle” means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices used exclusively upon stationary rails or tracks.¹
- “Bicycle” means every vehicle propelled solely by human power, and every motorized bicycle propelled by a combination of human power and an electric helper motor capable of propelling the vehicle at a speed of not more than 20 miles per hour on level ground upon which any person may ride, having two tandem wheels, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels. The term does not include such a vehicle with a seat height of no more than 25 inches from the ground when the seat is adjusted to its highest position or a scooter or similar device.²
- “Roadway” means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder.³

The term “bodily injury,” is defined identically in various sections of Florida Statutes to mean:

- A cut, abrasion, bruise, burn, or disfigurement;
- Physical pain;
- Illness;
- Impairment of the function of a bodily member, organ, or mental faculty; or
- Any other injury to the body, no matter how temporary.⁴

The term “vulnerable road user,” as used in provisions relating to crashes involving death or personal injuries, is defined to mean:

- A pedestrian, including a person actually engaged in work upon a highway, upon utility facilities along a highway, or engaged in 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

¹ Section 316.003(75), F.S.

² Section 316.003(2), F.S.

³ Section 316.003(42), F.S.

⁴ *See ss.* 501.001(1)(c), F.S., 831.03(1), F.S., and 914.21(1), F.S.

⁵ Section 316.027(1), F.S.

Driving on Right Side of Roadway

Vehicles must generally be driven up the right half of the roadway, with certain exceptions, such as when overtaking and passing another vehicle proceeding in the same direction and when an obstruction exists making it necessary to drive to the left of the center of the highway.⁶ Additionally, any vehicle traveling at less than the normal speed of traffic under existing conditions must be driven in the right-hand lane or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.⁷ A violation is a noncriminal traffic infraction, punishable as a moving violation, the penalty for which is \$60.⁸

Similarly, any person operating a bicycle upon a roadway at less than normal speed of traffic under existing conditions must be ridden in the lane marked for bicycle use or, if no marked lane exists, as close as practicable to the right-hand curb or edge of the roadway except when:

- Overtaking and passing another bicycle or vehicle traveling in the same direction;
- Preparing for a left turn at an intersection or into a private road or driveway; or
- Reasonably necessary to avoid any condition or potential conflict, including 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.⁹

Overtaking and Passing

Section 316.083, F.S., requires the driver of a vehicle overtaking another proceeding in the same direction to appropriately signal,¹⁰ pass to the left at a safe distance, and not again drive to the right side of the roadway until safely clear of the overtaken vehicle.¹¹ When overtaking a bicycle or other nonmotorized vehicle, the driver of the overtaking vehicle must pass at a safe distance of not less than three feet between the vehicle and the bicycle or nonmotorized vehicle.¹²

Right Turns on Red

Generally, a vehicle facing a red signal must stop before entering a crosswalk on the near side of an intersection or, if none, then before entering the intersection, and remain stopped until a green indication is shown. Right turns on red are authorized, but a driver must yield the right-of-way to pedestrians and other traffic. Cities and counties may prohibit right-turns-on-red at any intersection with notice of the prohibition erected in a location visible to traffic approaching the intersection.¹³

⁶ Section 316.081(1), F.S.

⁷ Section 316.081(2), F.S.

⁸ Sections 316.081(5) and 318.18(3), F.S. A person convicted of a noncriminal violation may not be sentenced to a term of imprisonment or to any other punishment more severe than a fine, forfeiture, or other civil penalty, except as provided in ch. 316, F.S., or by ordinance of any city or county. *See* Section 775.082(5), F.S.

⁹ Section 316.2065(5)(a), F.S.

¹⁰ Generally, by means of the hand and arm or by signal lamps. *See* ss. 316.155, 316.156, and 316.157, F.S.

¹¹ Section 316.083(1), F.S.

¹² *Id.*

¹³ Section 316.074(1), F.S., and s. 316.075(1)(c), F.S.

No-Passing Zones

A driver is prohibited from driving on the left side of a roadway if signs or markings are in place to define a no-passing zone, or on the left side of any pavement striping designed to mark such no-passing zone throughout its length.¹⁴ The driver is excluded from the provisions relating to no-passing zones if an obstruction exists making it necessary to drive to the left of the center of the highway, or if the driver is turning left into or from an alley, private road, or driveway.¹⁵ A no-passing zone violation is a noncriminal traffic infraction, punishable as a moving violation, the penalty for which is \$60.¹⁶

Infractions Requiring Mandatory Hearing

Current law requires appearance at a mandatory hearing for any person cited for the following:

- Any infraction resulting in a crash that causes the death of another;
- Any infraction resulting in a crash that causes “serious bodily injury” of another;¹⁷
- Any infraction for passing a school bus displaying a stop signal, when passing on the side that children enter or exit;
- Any infraction for failure to secure the load being hauled on a vehicle; or
- Any infraction for exceeding certain speed limits by 30 miles per hour or more.¹⁸

III. Effect of Proposed Changes:

Section 1 amends s. 316.003, F.S., transfers the definition of “vulnerable road user” from s. 315.027, F.S., to s. 316.003, F.S., and changes the term to “vulnerable user of a public roadway” or “vulnerable user.” The bill removes the users of skateboards, roller skates, or in-line skates from the definition and makes the following changes indicated in italics:

- 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.

¹⁴ Section 316.0875(2), F.S. Section 316.0875(1), F.S., authorizes the Florida Department of Transportation and local authorities to determine those portions of any highway where overtaking and passing or driving to the left of the roadway would be hazardous and, by appropriate signs or markings on the roadway, to indicate the beginning and end of such zones.

¹⁵ Section 316.0875(3), F.S.

¹⁶ Sections 316.0875(4) and 318.18(3), F.S.

¹⁷ Section 316.1933(1)(b), F.S., defines “serious bodily injury” to mean an injury to any person, including the 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.

¹⁸ Section 318.19, F.S.

The bill defines “bicycle lane” 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.

This section also renumbers all of the definitions found in s. 316.003, F.S., to allow for them to be listed in alphabetical order.

Section 2 amends s. 316.027, F.S., to make conforming changes.

Section 3 amends s. 316.083, F.S., to require the driver of a *motor* vehicle overtaking a *person operating* a bicycle or other *vulnerable user* to pass at a safe distance of no less than 3 feet¹⁹ *as measured from anything extending from the motor vehicle or trailer or other item towed by the motor vehicle*. A law enforcement officer issuing a citation for a violation must note on the citation if the violation contributed to the bodily injury of a vulnerable user of a public roadway.

Section 4 revises s. 316.084, F.S., to clarify that a bicyclist in a bike lane or on the shoulder may pass another vehicle on the right.

Section 5 amends s. 316.0875(3), F.S., to add an additional exclusion from the provisions relating to no-passing zones. The bill allows a driver to “safely and briefly” cross a double yellow striped centerline when passing a vulnerable user in order to provide at least 3 feet between the motor vehicle and anything extending from the motor vehicle, and the vulnerable user.

Section 6 revises s. 316.151, F.S., to prohibit a driver overtaking and passing a vulnerable user traveling in the same direction from making a right or left turn unless the turn can be made at a safe distance from the vulnerable user. This bill also requires a driver to signal as provided in s. 316.155, F.S., and to yield the right of way to a bicycle or pedestrian when crossing a sidewalk, bicycle lane, or bicycle path. A law enforcement officer issuing a citation for a violation must note on the citation if the violation contributed to the bodily injury of a vulnerable user of a public roadway.

Section 7 amends s. 316.1925, F.S., relating to careless driving, to require a law enforcement officer issuing a citation for a violation to note on the citation if the violation contributed to the bodily injury of a vulnerable user of a public roadway.

Section 8 amends s. 316.2065, F.S., regarding bicycle regulations, to clarify that a bicycle is a vehicle to be operated in the same manner as other vehicles with all of the rights and all of the duties incumbent upon operators of other vehicles inured by ch. 316, F.S., except where regulations state otherwise or are clearly not applicable. The bill also extends the prohibition on riding bicycles more than two abreast in the road to bicycle lanes. A new provision is added allowing a group of four or more cyclists to proceed through a stop sign *as a group*, after coming to a complete stop.

¹⁹ Section 316.209, F.S., provides that motorcycles are entitled to full use of a lane and no motor vehicle shall be driven in such a manner as to deprive any motorcycle of the full use of a lane. *See* Related Issues (Section VII).

Section 9 creates s. 318.142, F.S., to allow a designated official to impose a fine of not more than \$2,500 for any violation that contributes to the bodily injury of a vulnerable user, in addition to any other penalties imposed under s. 316.192, F.S., relating to reckless driving.

Section 10 amends s. 318.19, F.S., to require appearance at a mandatory hearing for any infraction of s. 316.083, s. 316.0833, or s. 316.1925, F.S., which contributes to the bodily injury of a vulnerable user of a public roadway.

Sections 11 through 35 amend multiple sections of the Florida Statutes to revise cross-references related to the relocated and revised definitions in the bill.

Section 36 provides that the bill is effective on October 1, 2016.

A number of editorial and grammatical revisions to existing statutes are also made in the bill.

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:

Offenders of the revised statutes will be subject to penalties including a fine of \$60 per violation. A discretionary fine of up to \$2,500 could be imposed if a violation contributes to the bodily injury of a vulnerable user.

C. Government Sector Impact:

According to the Department of Highway Safety and Motor Vehicles (DHSMV), the bill's revisions to penalties associated with the rights and safety of vulnerable users for violations contributing to bodily injuries may result in positive fiscal impacts to local government. The amount of additional fines and resulting revenues, as well as any

negative fiscal impact due to the need for reprogramming local e-citation systems, is indeterminate at this time.²⁰

Similarly, the DHSMV estimates that the bill's revisions to penalties associated with the rights and safety of vulnerable users of public roadways and for violations contributing to bodily injuries may result in positive fiscal impacts to state government. The amount of additional fines and resulting revenues is indeterminate at this time. The DHSMV estimates that the bill will require program and software updates, costing \$57,520.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 316.209, F.S., provides that motorcycles are entitled to full use of a lane and no motor vehicle can be driven in a manner as to deprive a motorcycle of the full use of the lane. According to the DHSMV the bill may cause some confusion in that it only requires 3 feet of separation between a vulnerable road user, which includes a motorcycle and a passing vehicle.

According to the DHSMV, there is limited space available on citations to include bodily injury information since information "marked" on the citation is not captured in the data exchange process between the clerk of courts and the DHSMV. In order to capture the "marked" information the bill would require modification to the data process (programming) and the data exchange process, the driver license system, and the paper and electronic citation process.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.003, 316.027, 316.083, 316.084, 316.0875, 316.151, 316.1925, 316.2065, and 318.19.

This bill creates section 318.142 of the Florida Statutes.

This bill corrects cross-references in the following sections of the Florida Statutes: 212.05, 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.

The bill reenacts the following sections of the Florida Statutes for the purpose of incorporating amendments made by the act: 316.072, 316.1923, 318.14 and 318.18.

²⁰ DHSMV, *2016 Agency Legislative Bill Analysis SB 332* (Oct. 6, 2015) (on file with the Senate Committee on Fiscal Policy).

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 January 27, 2016:

The CS:

- Renumbered all of the definitions in s. 316.003, F.S., to accommodate alphabetization which resulted in numerous cross-reference corrections;
- Deleted the definition of “bodily injury”;
- Deleted provisions creating s. 316.0833, F.S., related to turns by motor vehicles, and instead revised s. 316.151, F.S., to prohibit certain turns;
- Added revisions to s. 316.084, F.S., related to bicyclists’ ability to pass on the right;
- Added revisions to s. 316.2065, F.S., allowing groups of cyclists to proceed from a stop sign; and
- Removed the \$2000 fine for violations involving bodily injury under ss. 316.083, 316.0833, and 316.1925, F.S., and replaced it with a \$2500 fine for violations of s. 316.192, F.S.

- B. **Amendments:**

None.