

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 Criminal Justice

BILL: SB 1622

INTRODUCER: Senator Passidomo

SUBJECT: School Bus Safety

DATE: March 31, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Appel	Hrdlicka	CJ	Favorable
2.			TR	
3.			RC	

I. Summary:

SB 1622 creates the “Cameron Mayhew Act” to require a driver who illegally passes a stopped school bus resulting in death or serious bodily injury of another person to:

- Serve 120 community service hours in a trauma center or hospital.
- Participate in a victim’s impact panel or attend a Department of Highway Safety and Motor Vehicles (DHSMV) approved driver improvement course that relates to the rights of vulnerable road users relative to vehicles on the roadway.

The bill also imposes:

- A \$1,500 fine;
- A 1-year driver license suspension; and
- Two additional points, for a total of 6 points added to a person’s driver license.

The fiscal impact of this bill is indeterminate at this time. See Section V. Fiscal Impact Statement.

II. Present Situation:

Traffic Accidents Causing Death or Injury of Another

A driver who commits any traffic infraction that results in a crash that causes death or serious bodily injury of another person must attend a mandatory hearing at a specified time and location.¹ “Serious bodily injury” is “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.”²

¹ Section 319.19, F.S.

² Section 316.1933, F.S.

Anyone who causes death of another person in the commission of a noncriminal traffic infraction or a violation of ch. 316, F.S.,³ or s. 1006.66, F.S.,⁴ may be required by the court to serve 120 community service hours in a trauma center or hospital that regularly receives victims of vehicle accidents. The community service hours must be done under the supervision of a registered nurse, an emergency room physician, or an emergency medical technician pursuant to a voluntary community service program operated by the trauma center or hospital.⁵ This requirement for community service is in addition to any other civil, criminal, or administrative penalty imposed.

Additionally, a driver who is involved in a crash that causes death or a bodily injury that requires transportation to a medical facility will be required by the DHSMV 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.⁶

A driver who is convicted of violating any traffic law that results in a crash causing death or serious bodily injury of another person may have his or her driver license suspended by the DHSMV.⁷ A court may also order the suspension of a driver license "when the court feels that the seriousness of the offense and the circumstances surrounding the conviction warrant the suspension of the licensee's driving privilege."⁸

School Buses

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 not stop where visibility is obscured for a distance of 200 feet either way from the bus.⁹

Other drivers are required to bring their vehicles to a full stop when approaching a stopped school bus displaying a stop signal, until the signal has been withdrawn.¹⁰ It is unlawful to pass a school bus on the side that children enter and exit while the school bus displays a stop signal.¹¹

A person cited for failing to stop for a school bus displaying the stop signal can pay the civil penalty of the citation, or can request a hearing to contest the citation.¹² However, a person cited

³ Chapter 316, F.S., is the Florida Uniform Traffic Control Law.

⁴ Section 1006.66, F.S., relates to the regulation of traffic at universities.

⁵ Section 316.027(4), F.S.

⁶ Section 322.0261(2), F.S.

⁷ Section 322.27(1)(b), F.S.

⁸ Section 322.27(2), F.S.

⁹ Section 316.172(3), F.S.

¹⁰ Section 316.172(1)(a), F.S.

¹¹ 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.

¹² Section 318.14, F.S.

for passing a stopped school bus on the side children enter or exit must attend a mandatory hearing at a specified time and location.¹³

If a driver is found to have failed to fully stop for or illegally passed a stopped school bus, both of which are noncriminal traffic infractions, the driver must pay a minimum civil penalty and may be subject to driver license suspension if it is a subsequent offense.¹⁴

- The minimum civil penalty for failing to stop for a school bus displaying the stop signal is \$100. In addition, for a second or subsequent offense within a period of 5 years, the DHSMV shall suspend the driver license of the person for not less than 90 days and not more than 6 months. Subsequent service charges raises the total fine for this violation up to \$263, which is distributed to various funds.¹⁵
- The minimum civil penalty for passing a school bus on the side that children enter and exit when the school bus displays a stop signal is \$200. In addition, for a second or subsequent offense within a period of 5 years, the DHSMV shall suspend the driver license of the person for not less than 180 days and not more than 1 year. Subsequent service charges raises the total fine for this violation up to \$363, which is distributed to various funds.¹⁶

Included in the total fines is \$65 that is remitted to the Department of Revenue for deposit into the Emergency Medical Services Trust Fund of the Department of Health to be distributed as provided in s. 395.4036, F.S., to trauma centers.¹⁷

In addition to the above, a driver who illegally passes a stopped school bus will receive 4 points on his or her driver license.¹⁸ Section 322.27(3), F.S., establishes a point system for evaluation of convictions of violations of motor vehicle laws or ordinances that is used to determine if a person continues to be qualified to operate a motor vehicle. The point system assigns value relative to the convictions of the various violations on a graduated scale.

If the driver is convicted of or plead nolo contendere to illegally passing a stopped school bus, the DHSMV will require him or her 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.¹⁹

¹³ See ss. 316.172(1)(b) and 318.19(3), F.S.

¹⁴ Sections 318.18(5) and 322.27(1)(f), F.S.

¹⁵ Florida Association of Clerks of Court, *Distribution Schedule of Court-Related Filing Fees, Service Charges, Costs, and Fines, including a Fee Schedule for Recording*, effective July 1, 2016, available at: http://c.ymcdn.com/sites/www.flclerks.com/resource/reshttp://c.ymcdn.com/sites/www.flclerks.com/resource/resmgr/PublicationsAndDocuments/2016_Distribution_Schedule_w.pdf (Last visited March 24, 2017).

¹⁶ *Id.*

¹⁷ See s. 395.4036(1)(b), F.S.

¹⁸ See s. 322.27(1)(f) and (3)(d)4., F.S.

¹⁹ Section 322.0261(4)(c), F.S.

Data and Statistics on Illegal Passes of School Buses

According to DHSMV data, in 2016, 2,418 traffic citations were issued for failing to stop for a school bus or passing a stopped school bus. Is it unknown how many citations were issued for passing a school bus on the side children enter and exit.²⁰

The Department of Education created a survey for bus operators to complete regarding the illegal passing of their school buses. The newest survey from Academic Year 2015-2016 results show that 9,623 illegal passes were made on a single day with 8,007 school bus operator's reporting. Of these illegal passes, 329 were made on the right side of the bus where students generally enter/exit the vehicle.²¹

The National Highway Traffic Safety Administration indicates that 119 fatalities of school age pedestrians occurred within 2003-2012. Of these 119 fatalities, 65 percent were struck by a school bus, 5 percent by vehicles acting as school buses, and 30 percent from other motorists. Roughly 60 fatalities nationally occurred over the course of 10 years due to non-school bus vehicles. This makes the average fatalities from school pedestrians struck by other motorists 6 per year.²²

III. Effect of Proposed Changes:

The bill creates the "Cameron Mayhew Act." Cameron Mayhew was a 16 year old boy from Fort Myers who was hit by a motor vehicle illegally passing a stopped school bus on June 1, 2016.²³

The bill amends s. 316.027(4), F.S., (Section 2), to provide additional penalties to current civil, criminal, or administrative penalties imposed on a driver who illegally passes a school bus. If the driver's actions cause or result in serious bodily injury to or death of another person, the driver *shall* be required by the court to:

- Serve 120 community service hours in a trauma center or hospital that regularly receives victims of vehicle accidents, under the supervision of a registered nurse, an emergency room physician, or an emergency medical technician pursuant to the voluntary community service program operated by the trauma center or hospital.²⁴

²⁰ Email from the DHSMV (March 24, 2017) (on file with the Senate Criminal Justice Committee). Data from March 3, 2017. In 2015, 2,418 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. *Florida Senate Bill Analysis CS/SB 1570* (2016).

²¹ See Florida Department of Education, *School Transportation, Illegal Passing of School Buses – Survey Results for 2016*, available at: <http://www.fldoe.org/schools/safe-healthy-schools/transportation/> (last visited March 27, 2017). There were 167 vehicles that illegally passed buses for which the side passed was unknown.

²² National Highway Traffic Safety Administration, *Traffic Safety Facts, 2003-2012 Data, School-Transportation-Related Crashes*, DOT HS 811 890, revised June 2014, available at: <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/811890> (Last visited March 24, 2017).

²³ USA Today, Melissa Montoya, *Cameron Mayhew, struck and killed at bus stop, gets bill in Legislature*, March 9, 2017, available at: <http://www.usatoday.com/story/news/local/2017/03/09/cameron-mayhew-struck-bus-stop-gets-bill-fla-legislature/98965886/> (Last visited March 24, 2017).

²⁴ Under s. 316.027(4), F.S., the court *may* require such community service for a driver who causes the death of another.

- Participate in a victim's impact panel session in a judicial circuit if such a panel exists, or if such a panel does not exist, attend a driver improvement course approved by the DHSMV relating to the rights of vulnerable road users relative to vehicles on the roadway.²⁵

This bill creates s. 318.18(5)(d), F.S., (Section 3), to impose a \$1,500 fine and suspension of the driver's license for no less than one year when the driver illegally passed a school bus that results in death or serious bodily injury of another person. The driver may enter a payment plan with the clerk of the court.²⁶

The bill amends s. 322.27(3), F.S., related to the point system on driver licenses. The bill adds 2 additional points, for a total of 6 points, for illegally passing a stopped school bus resulting in death or serious bodily injury of another person. The points for illegally passing a school bus that does not result in death or serious bodily injury of another remain at 4 points.

The bill takes effect July 1, 2017.

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:

Any individual who illegally passes a school bus and causes death or serious bodily harm of another person will be required to pay an increased fine of \$1,500.

C. Government Sector Impact:

The DHSMV has not yet provided any estimate of a fiscal impact, if any, on the department to implement the provisions of the bill.

²⁵ As discussed above, s. 322.0261, F.S., requires *the DHSMV to require* a driver to take and complete the course.

²⁶ This is pursuant to s. 28.246, F.S.

Any fiscal impact for revenue from fees under the provisions of this bill will likely be minimal, given the data discussed above in the Present Situation on the frequency of these types of accidents.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill is currently effective July 1, 2017. An effective date of October 1, 2017, would allow the DHSMV sufficient time to develop, test, and implement programing for the provisions of the bill.

Current law requires a driver who is involved in a crash that causes death or a bodily injury that requires transportation to a medical facility or who illegally passes a school bus to complete a driver improvement course. The bill requires a court to require a driver who illegally passes a school bus and causes death or serious bodily injury of another person to:

- Participate in a victim's impact panel session, or
- If the judicial circuit does not have such a panel, complete a driver improvement course.

It appears that reading the provisions of the bill with current law, all such drivers will be required to complete a driver improvement course, no matter if the judicial circuit has a victim's impact panel.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.027, 318.18, and 322.27.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.