

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 117 Bicycle and Pedestrian Safety
SPONSOR(S): Transportation & Infrastructure Subcommittee; Stone and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 116

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|---------------------|---------|---|
| 1) Transportation & Infrastructure Subcommittee | 11 Y, 0 N, As CS | Roth | Vickers |
| 2) Government Accountability Committee | | | |

SUMMARY ANALYSIS

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. Additionally, the bill defines “protected bicycle lane” as a bicycle lane that uses a physical barrier to separate bicycle and motor vehicle traffic.

The bill revises the requirements governing the overtaking and passing of pedestrians and bicyclists under specified circumstances. Specifically, the bill:

- Requires the driver of a motor vehicle overtaking a pedestrian or bicyclist in the same travel lane to move out of the lane the pedestrian or bicyclist is in; or stay at a safe distance behind the pedestrian or bicyclist until the driver can safely vacate the lane.
- Requires the driver of a motor vehicle overtaking a bicyclist in a bicycle lane to pass the bicyclist at a safe distance of at least 3 feet.
- Permits the driver of a motor vehicle overtaking a bicyclist, who is in a separate protected bicycle lane, to remain in the travel lane without taking additional precautions or actions.

Additionally, the bill requires DHSMV to provide an educational awareness campaign that informs the motoring public about bicycle and pedestrian safety precautions, and requires DHSMV to include a minimum of 20 percent of the Class E Knowledge Exam questions on bicycle and pedestrian safety.

The bill provides an exception to the no-passing zone statute when a vehicle is keeping a safe distance necessary to pass a bicycle, pedestrian, or nonmotorized vehicle.

The bill requires the driver of a motor vehicle who is overtaking a bicycle, to give an appropriate signal and make a right turn only if the bicycle is at least 20 feet from the intersection onto a highway, public or private roadway, or driveway.

The bill authorizes persons riding bicycles in groups, after coming to a full stop, to proceed through a stop sign in a group of 10 or fewer at a time. Additionally, the bill requires motor vehicle operators to allow the group of 10 or fewer to travel through the intersection before moving forward.

The bill will likely have a negative but indeterminate fiscal impact to state government. See fiscal analysis for discussion.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Overtaking and Passing

Section 316.083, F.S., provides certain requirements governing the overtaking and passing of a motor vehicle, bicycle, or nonmotorized vehicle. A driver of a vehicle overtaking another vehicle, must give an appropriate signal (by hand and arm or signal lamp), and must pass to the left at a safe distance until safely clear of the overtaken vehicle.¹ The driver of a vehicle overtaking a bicycle or other nonmotorized vehicle must pass the bicycle or other nonmotorized vehicle at a safe distance of not less than 3 feet between the vehicle and the bicycle or other nonmotorized vehicle.² The driver of an overtaken vehicle may not increase the speed of his or her vehicle when being overtaken.³ A violation of s. 316.083, F.S., is a noncriminal traffic infraction⁴ punishable as a moving violation citation of \$60 plus additional court costs and fees that vary by jurisdiction.⁵

In 1973, Wisconsin became the first state to enact a 3-foot passing law for bicyclists and as of December 2016, 27 states have enacted 3-foot passing laws.⁶ Two states have laws that go beyond a 3-foot passing law.⁷ Pennsylvania has a 4-foot passing law and South Dakota enacted a two-tiered passing law in 2015; with a 3-foot passing requirement on roads with posted speeds of 35 miles per hour or less and a minimum of 6 feet separation for roads with speed limits greater than 35 miles per hour.⁸

Some researchers have voiced doubts whether such laws can be enforced and whether 3 feet allows sufficient space for bicyclists.⁹ In 2014, 496 citations were issued in Florida for improper passing of a bicyclist.¹⁰ Of those citations, only eight violators were adjudicated guilty.¹¹

Move Over Act

In 2002, the “Mover Over Act” was enacted into law.¹² The Move Over Act states that drivers must move over as soon as it is safe to do so¹³ for any authorized emergency or service vehicles displaying any visible signals while stopped on the roadside, including sanitation vehicles, utility vehicles, and tow trucks.¹⁴ When motorists cannot vacate the lane closest to the emergency or service vehicle, they must slow to a speed that is 20 miles per hour less than the posted speed limit when the posted speed limit is 25 miles per hour or greater or to a speed of 5 miles per hour when the posted speed limit is 20 miles per hour or less.¹⁵ The Department of Highway Safety and Motor Vehicles (DHSMV) is the state agency charged with providing an educational awareness campaign informing the public about the Move Over

¹ Section 316.083(1), F.S.

² Section 316.083(1), F.S.

³ Section 316.083(2), F.S.

⁴ Section 316.083(3), F.S.

⁵ Section 318.18(3)(a), F.S.

⁶ National Conference of State Legislatures, *Safely Passing Bicyclists Chart* (December 28, 2016), available at <http://www.ncsl.org/research/transportation/safely-passing-bicyclists.aspx> (last visited December 21, 2017).

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ Janine Zeitlin, *Few Florida Drivers Found Guilty of 3-Foot Rule*, NEWS-PRESS (March 31, 2015), available at <http://www.news-press.com/story/news/local/2015/03/31/cars-required-move-bikes/70725948/> (last visited January 5, 2018).

¹¹ *Id.*

¹² Section 316.126, F.S.

¹³ Section 316.126(b)1., F.S.

¹⁴ Section 316.126(b), F.S.

¹⁵ Section 316.126(b)2., F.S.

Act.¹⁶ DHSMV includes an overview of the Move Over Act in the Florida Class E Driver License Official Handbook.¹⁷ A violation of the Move Over Act is a noncriminal traffic infraction¹⁸ punishable as a moving violation citation of \$60 plus additional court costs and fees that vary by jurisdiction.¹⁹

No-Passing Zones

The Department of Transportation (DOT) and local authorities are authorized to determine when overtaking and passing or driving to the left of the roadway would be especially hazardous and to require signs and markings to be placed to designate a no-passing zone.²⁰ Drivers must comply with the no-passing signs and markings, except when 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.²¹ A violation of s. 316.0875, F.S., is a noncriminal traffic infraction²² punishable as a moving violation citation of \$60 plus additional court costs and fees that vary by jurisdiction.²³

Turning at Intersections

The driver of a vehicle turning right at an intersection must make the right turn as close as practicable to the right-hand curb or edge of the roadway.²⁴ The driver of a vehicle turning left at an intersection must make the left turn in a lane lawfully available for vehicles moving in such direction.²⁵ A person riding a bicycle and turning left is entitled to the full use of the left turn lane when making a left turn.²⁶ Additionally, a person riding a bicycle can make a left turn by staying to the right side of the road, proceeding across the intersection, then proceeding across the perpendicular intersection.²⁷ At intersections with a traffic control device, no driver may turn at an intersection other than as directed by such device.²⁸ A violation of s. 316.0875, F.S., is a noncriminal traffic infraction²⁹ punishable as a moving violation citation of \$60 plus additional court costs and fees that vary by jurisdiction.³⁰

Bicycle Regulations

There are specific regulations that bicyclists have to adhere to while on the road. These regulations are found in s. 316.2065, F.S. Some of the regulations include:

- A bicycle rider or passenger who is under 16 years of age must wear a bicycle helmet.³¹
- Any person operating a bicycle upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing must ride in the lane marked for bicycle use or, if no lane is marked for bicycle use, as close as practicable to the right-hand curb or edge of the roadway except under certain circumstances.³²
- Persons riding bicycles upon a roadway may not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.³³
- Every bicycle in use between sunset and sunrise shall be equipped with a lamp on the front exhibiting a white light visible from a distance of at least 500 feet to the front and a lamp and reflector on the rear each exhibiting a red light visible from a distance of 600 feet to the rear.³⁴

¹⁶ Section 316.126(c), F.S.

¹⁷ Department of Highway Safety and Motor Vehicles, The Official Handbook, Florida Class E Driver License (2017), p. 44 available at <https://www.flhsmv.gov/handbooks/englishdriverhandbook.pdf> (last visited January 5, 2018).

¹⁸ Section 316.126(6), F.S.

¹⁹ Section 318.18(3)(a), F.S.

²⁰ Section 316.0875(1), F.S.

²¹ Section 316.0875(3), F.S.

²² Section 316.0875(4), F.S.

²³ Section 318.18(3)(a), F.S.

²⁴ Section 316.151(1)(a), F.S.

²⁵ Section 316.151(1)(b), F.S.

²⁶ Section 316.151(1)(b), F.S.

²⁷ Section 316.151(1)(c), F.S.

²⁸ Section 316.151(2), F.S.

²⁹ Section 316.151(3), F.S.

³⁰ Section 318.18(3)(a), F.S.

³¹ Section 316.2065(3)(d), F.S.

³² Section 316.2065(5)(a), F.S.

³³ Section 316.2065(6), F.S.

³⁴ Section 316.2065(7), F.S.

Driver License Knowledge Exam

With certain exceptions, every applicant for an original driver license is required to pass an examination.³⁵ An applicant for a Class E driver license will be given a Class E Knowledge Exam (Exam) that includes understanding highway signs and traffic laws in this state.³⁶ The Exam consists of 50 multiple-choice questions.³⁷ To pass the Exam, an applicant must answer 40 out of 50 questions correctly.³⁸ The Official Florida Driver License Handbook (Handbook)³⁹ is provided to applicants by DHSMV to prepare applicants for the Exam. The Handbook provides information on bicycle safety, including bicycle lanes,⁴⁰ bicycle crossings,⁴¹ and sharing the road with bicycles.⁴² Likewise, the Handbook provides information on pedestrian safety, including crosswalks,⁴³ yielding to pedestrians,⁴⁴ and sharing the road with pedestrians.⁴⁵ The number of questions regarding bicycle and pedestrian safety vary on each Exam.

Vulnerable Road User

The term “vulnerable road user” is only referenced in s. 316.027, F.S., for purposes of providing penalty enhancements to motorists involved in leaving the scene of a crash resulting in injury or the death of a person. Such an offense is ranked one level higher (for purposes of sentencing and determining incentive gain-time eligibility) if the victim of the offense was a vulnerable road user.⁴⁶ A pedestrian⁴⁷ and a person riding a bicycle⁴⁸ are both considered vulnerable road users for purposes of s. 316.027, F.S.

Pedestrian and Bicycle Traffic Crash Data

Currently, pedestrians and bicyclists account for 25.4 percent of all traffic fatalities in Florida.⁴⁹ In 2015, Florida was ranked second nationwide in the fatality rate of pedestrians per capita with 628 pedestrian fatalities and first nationwide in the fatality rate of bicyclists per capita with 150 fatalities.⁵⁰ In 2016, there were 6,580 bicycle crashes in Florida.⁵¹ As a result of these crashes there were 133 bicycle fatalities in 2016.⁵² Although bicyclists age 15-19 had the highest number of bicycle crashes out of all the age groups, bicyclists age 50-59 had the highest number of fatalities from bicycle crashes in 2016.⁵³

³⁵ Section 322.12(1), F.S.

³⁶ Section 322.12(3), F.S.

³⁷ Department of Highway Safety and Motor Vehicles, *Class E Knowledge Exam & Driving Skills Test*, available at <https://www.flhsmv.gov/driver-licenses-id-cards/licensing-requirements-teens-graduated-driver-license-laws-driving-curfews/class-e-knowledge-exam-driving-skills-test/> (last visited January 10, 2018).

³⁸ *Id.*

³⁹ Department of Highway Safety and Motor Vehicle, *Official Florida Driver License Handbook* (2017), available at <https://www.flhsmv.gov/handbooks/englishdriverhandbook.pdf> (last visited January 10, 2018).

⁴⁰ *Id.* at 14.

⁴¹ *Id.* at 19.

⁴² *Id.* at 40.

⁴³ *Id.* at 15.

⁴⁴ *Id.* at 22.

⁴⁵ *Id.* at 39.

⁴⁶ Section 316.027(2)(f), F.S.

⁴⁷ Section 316.027(1)(b)1., F.S.

⁴⁸ Section 316.027(1)(b)2., F.S.

⁴⁹ Florida Department of Transportation Pedestrian and Bicycle Focused Initiative, *Fast Facts*, p.2 (on file with the House Transportation & Infrastructure Subcommittee).

⁵⁰ *Id.*

⁵¹ Department of Highway Safety and Motor Vehicles, *Protect Florida's Vulnerable Road Users, Share the Road* (May 1, 2017), available at <https://www.flhsmv.gov/2017/05/01/protect-floridas-vulnerable-road-users-share-road/> (last visited January 5, 2018).

⁵² *Id.*

⁵³ *Id.*

Florida Pedestrian and Bicycle Fatality Statistics 2011-2015⁵⁴

| Year | Pedestrian Fatalities | Bicycle Fatalities |
|------|-----------------------|--------------------|
| 2015 | 628 | 150 |
| 2014 | 588 | 139 |
| 2013 | 499 | 133 |
| 2012 | 477 | 124 |
| 2011 | 490 | 126 |

Safety Initiatives for Bicyclists and Pedestrians

The Florida Strategic Highway Safety Plan (SHSP) provides a framework for reducing traffic fatalities and serious injuries on all public roads.⁵⁵ The SHSP establishes targeted statewide goals, objectives, and key emphasis areas developed in consultation with federal, state, local, and private sector safety stakeholders.⁵⁶ One of the key areas addressed in the SHSP are vulnerable road users, as well as pedestrian and bicycle safety issues with a goal to reduce the rates of fatalities, injuries, and crashes of those users.⁵⁷ The Florida Pedestrian and Bicycle Strategic Safety Plan (PBSSP) supplements and expands on the SHSP by providing more detailed objectives and strategies to improve pedestrian and bicycle safety in Florida.⁵⁸ The purpose of Florida's PBSSP is to focus funding and resources on the areas that have the greatest opportunity to reduce pedestrian and bicycle fatalities, injuries, and crashes.⁵⁹ DOT is the designated lead agency for the PBSSP and provides funding and support.⁶⁰

"Alert Today Florida" also known as "Alert Today Alive Tomorrow" is DOT's campaign brand for Florida's pedestrian and bicycle focused initiative.⁶¹ The campaign establishes messaging that supports engineering and enforcement efforts, increases awareness, improves compliance with traffic laws, and calls communities to action.⁶² Educational materials are distributed to motorists, pedestrians, and bicyclists to ensure the right message reaches the right person in a language they can understand.⁶³ The materials are in the form of print, television, radio, billboards, digital and social media, and transit advertising.⁶⁴

Proposed Changes

The bill amends s. 316.003, F.S., to define "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. Additionally, the bill defines "protected bicycle lane" as a bicycle lane that uses a physical barrier to separate bicycle and motor vehicle traffic.

The bill amends s. 316.083, F.S. revising the requirements governing the overtaking and passing of pedestrians and bicyclists under specified circumstances. Specifically, the bill:

⁵⁴ *Supra* FN 49.

⁵⁵ The Center for Urban Transportation Research University of South Florida, *Florida Pedestrian and Bicycle Strategic Safety Plan* (February 2013), p. 1, available at <http://www.fdot.gov/safety/6-Resources/FloridaPedestrianandBicycleStrategicSafetyPlan.pdf> (last visited January 5, 2018).

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.* at 3.

⁶⁰ *Id.*

⁶¹ *Supra*, FN 50, at 4. See also Florida Department of Transportation, *Florida's Pedestrian & Bicycle Focused Initiative*, available at <http://www.alerttodayflorida.com/index.html> (last visited January 5, 2018).

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

- Requires the driver of a motor vehicle overtaking a pedestrian or bicyclist in the same travel lane to move out of the lane the pedestrian or bicyclist is in; or stay at a safe distance behind the pedestrian or bicyclist until the driver can safely vacate the lane.
- Requires the driver of a motor vehicle overtaking a bicyclist operating in a bicycle lane to pass the bicyclist at a safe distance of at least 3 feet.
- Permits the driver of a motor vehicle overtaking a bicyclist, who is operating in a separate protected bicycle lane, to remain in the travel lane without taking additional precautions or actions.

Additionally, the bill creates language that requires DHSMV to provide an educational awareness campaign that informs the motoring public about bicycle and pedestrian safety precautions, and requires DHSMV to include a minimum of 20 percent of the Class E Knowledge Exam questions on bicycle and pedestrian safety.

The bill provides an exception to the no-passing zone requirements in s. 316.0875, F.S., when a vehicle is keeping a safe distance necessary to pass a bicycle, pedestrian, or nonmotorized vehicle.

The bill amends s. 316.151, F.S., to require the driver of a motor vehicle who is overtaking a bicycle, to give an appropriate signal and make a right turn only if the bicycle is at least 20 feet from the intersection onto a highway, public or private roadway, or driveway.

The bill amends s. 316.2065, F.S., to create language authorizing persons riding bicycles in groups, after coming to a full stop, to proceed through a stop sign in a group of 10 or fewer at a time. Additionally, the bill requires motor vehicle operators to allow the group of 10 or fewer bicyclists to travel through the intersection before moving forward.

The bill provides technical and conforming changes in ss. 212.05, 322.12, and 655.960, F.S.

B. SECTION DIRECTORY:

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

Section 2: Amends s. 316.083, F.S., relating to overtaking and passing a vehicle.

Section 3: Amends s. 316.0875, F.S., relating to no-passing zones.

Section 4: Amends s. 316.151, F.S., relating to required position and method of turning at intersections.

Section 5: Amends s. 316.2065, F.S., relating to bicycle regulations.

Section 6: Amends s. 322.12, F.S., relating to examination for applicants.

Section 7: Amends s. 212.05, F.S., relating to sales, storage, use tax.

Section 8: Amends s. 655.960, F.S., relating to definitions.

Section 9: Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

To the extent there is an increase in the number of traffic citations issued due to the new requirements relating to overtaking and passing a bicycle, pedestrian, or nonmotorized vehicle the state may realize additional revenues. However, the fiscal impact cannot be quantified and is indeterminate.

2. Expenditures:

DHSMV may incur expenses related to public awareness and education efforts relating to the changes in requirements relating to overtaking and passing a bicycle, pedestrian, or nonmotorized vehicle. Additionally, driver license educational materials may need to be updated to reflect the change in law. As a result, the bill will likely have a negative but indeterminate fiscal impact.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

To the extent there is an increase in the number of traffic citations issued due to the new requirements relating to overtaking and passing a bicycle, pedestrian, or nonmotorized vehicle, local governments may realize additional revenues. However, the fiscal impact cannot be quantified and is indeterminate.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The change in enforcement of requirements relating to overtaking and passing a bicycle, pedestrian, or nonmotorized vehicle may result in more motorists being assessed traffic fines.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 9, 2018, the Transportation & Infrastructure Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Creates definitions for the terms “bicycle lane” and “protected bicycle lane.”
- Provides new requirements governing the overtaking and passing a bicycle, pedestrian, or nonmotorized vehicle.
- Creates language that requires DHSMV to provide an educational awareness campaign as well as include a minimum of 20 percent of the Class E Knowledge Exam questions on bicycle and pedestrian safety.
- Provides an exception to the no-passing zone statute.
- Requires the driver of a motor vehicle who is overtaking a bicycle, to give an appropriate signal and make a right turn only if the bicycle is at least 20 feet from the intersection.
- Provides requirements for persons riding bicycles in groups when stopping at a stop sign.
- Provides technical and conforming changes in ss. 212.05, 316.1995, 322.12, and 655.960, F.S.

This analysis is written to the committee substitute as reported favorably by the Transportation & Infrastructure Subcommittee.