

1 A bill to be entitled
2 An act relating to school bus safety; amending s.
3 316.172, F.S.; authorizing a school district to
4 install cameras on district school buses for certain
5 purposes; authorizing the Department of Highway Safety
6 and Motor Vehicles, a county, or a municipality to
7 authorize a traffic infraction enforcement officer to
8 issue and enforce a citation for certain violations;
9 requiring notification to be sent to the registered
10 owner of the motor vehicle involved in the violation;
11 providing notification requirements; authorizing
12 request for a hearing; prohibiting an individual from
13 receiving a commission from any revenue collected from
14 violations detected through the use of a camera and a
15 manufacturer or vendor from receiving a fee or
16 remuneration based upon the number of violations
17 detected through the use of a camera; providing
18 requirements for issuance of a citation; requiring
19 payment of a citation unless certain information is
20 established in an affidavit; providing affidavit
21 requirements; providing penalties for submitting a
22 false affidavit; providing that certain evidence is
23 admissible in enforcement proceedings; providing
24 construction; requiring participating school districts
25 to submit annual reports to the department; requiring

26 | the department to submit annual reports to the
 27 | Governor and Legislature; providing hearing
 28 | procedures; authorizing an aggrieved party to appeal a
 29 | final order according to certain provisions; amending
 30 | s. 318.18, F.S.; revising and providing disposition of
 31 | civil penalties for certain violations relating to
 32 | stopping for a school bus; amending s. 318.21, F.S.;
 33 | revising distribution of certain civil penalties;
 34 | providing an effective date.

35 |

36 | Be It Enacted by the Legislature of the State of Florida:

37 |

38 | Section 1. Section 316.172, Florida Statutes, is amended
 39 | to read:

40 | 316.172 Traffic to stop for school bus.—

41 | (1) (a) A ~~Any~~ person using, operating, or driving a vehicle
 42 | on or over the roads or highways of this state shall, upon
 43 | approaching a ~~any~~ school bus that ~~which~~ displays a stop signal,
 44 | bring such vehicle to a full stop while the bus is stopped, and
 45 | the vehicle shall not pass the school bus until the signal has
 46 | been withdrawn. A person who violates this section commits a
 47 | moving violation, punishable as provided in chapter 318.

48 | (b) A ~~Any~~ person using, operating, or driving a vehicle
 49 | that passes a school bus on the side that children enter and
 50 | exit when the school bus displays a stop signal commits a moving

51 violation, punishable as provided in chapter 318, and is subject
52 to a mandatory hearing under ~~the provisions of~~ s. 318.19.

53 (c)1. A school district may, upon approval of the district
54 school board, install a camera on one or more school buses
55 owned, leased, operated, or contracted by the school district to
56 aid in the enforcement of paragraphs (a) and (b) through
57 recording of photographic or electronic images or streaming
58 video. The department, a county, or a municipality may authorize
59 a traffic infraction enforcement officer under s. 316.640 to
60 issue a traffic citation for a violation of paragraph (a) or
61 paragraph (b).

62 a. Within 30 days after a violation, notification must be
63 sent to the registered owner of the motor vehicle involved in
64 the violation specifying the remedies available under s. 318.14
65 and that the violator must pay the penalty provided in s.
66 318.18(5) to the department, county, or municipality, or furnish
67 an affidavit in accordance with paragraph (e), or request a
68 hearing within 60 days following the date of the notification in
69 order to avoid the issuance of a traffic citation. The
70 notification must be sent by first-class mail. The mailing of
71 the notice of violation constitutes notification.

72 b. Included with the notification to the registered owner
73 of the motor vehicle involved in the infraction must be a notice
74 that the owner has the right to review the photographic or
75 electronic images or the streaming video evidence that

76 constitutes a rebuttable presumption against the owner of the
77 vehicle. The notice must state the time and place or Internet
78 location where the evidence may be examined and observed.

79 c. Notwithstanding any other provision of law, a person
80 who receives a notice of violation under this paragraph may
81 request a hearing within 60 days following the notification of
82 violation or pay the penalty pursuant to the notice of
83 violation, but a payment or fee may not be required before the
84 hearing requested by the person. The notice of violation must be
85 accompanied by, or direct the person to a website that provides,
86 information on the person's right to request a hearing and on
87 all court costs related thereto and a form to request a hearing.
88 As used in this sub-subparagraph, the term "person" includes a
89 natural person, registered owner or coowner of a motor vehicle,
90 or person identified on an affidavit as having care, custody, or
91 control of the motor vehicle at the time of the violation.

92 d. If the registered owner or coowner of the motor
93 vehicle, or the person designated as having care, custody, or
94 control of the motor vehicle at the time of the violation, or an
95 authorized representative of the owner, coowner, or designated
96 person, initiates a proceeding to challenge the violation
97 pursuant to this paragraph, such person waives any challenge or
98 dispute as to the delivery of the notice of violation.

99 2. An individual may not receive a commission from any
100 revenue collected from violations detected through the use of a

101 camera installed pursuant to this paragraph. A manufacturer or
102 vendor may not receive a fee or remuneration based upon the
103 number of violations detected through the use of a camera
104 installed pursuant to this paragraph.

105 (d)1.a. A traffic citation issued under this section shall
106 be issued by mailing the traffic citation by certified mail to
107 the address of the registered owner of the motor vehicle
108 involved in the violation if payment has not been made within 60
109 days after notification under subparagraph (c)1., if the
110 registered owner has not requested a hearing as authorized under
111 subparagraph (c)1., or if the registered owner has not submitted
112 an affidavit under this section.

113 b. Delivery of the traffic citation constitutes
114 notification under this paragraph. If the registered owner or
115 coowner of the motor vehicle, or the person designated as having
116 care, custody, or control of the motor vehicle at the time of
117 the violation, or a duly authorized representative of the owner,
118 coowner, or designated person, initiates a proceeding to
119 challenge the citation pursuant to this section, such person
120 waives any challenge or dispute as to the delivery of the
121 traffic citation.

122 c. In the case of joint ownership of a motor vehicle, the
123 traffic citation shall be mailed to the first name appearing on
124 the registration, unless the first name appearing on the
125 registration is a business organization, in which case the

126 second name appearing on the registration may be used.

127 2. Included with the notification to the registered owner
 128 of the motor vehicle involved in the infraction shall be a
 129 notice that the owner has the right to review, in person or
 130 remotely, the photographic or electronic images or the streaming
 131 video evidence that constitutes a rebuttable presumption against
 132 the owner of the vehicle. The notice must state the time and
 133 place or Internet location where the evidence may be examined
 134 and observed.

135 (e)1. The owner of the motor vehicle involved in the
 136 violation is responsible and liable for paying the uniform
 137 traffic citation issued for a violation of this subsection
 138 unless the owner can establish that:

139 a. The motor vehicle proceeded past the school bus in
 140 order to yield right-of-way to an emergency vehicle or as part
 141 of a funeral procession;

142 b. The motor vehicle proceeded past the school bus at the
 143 direction of a law enforcement officer;

144 c. The motor vehicle was, at the time of the violation, in
 145 the care, custody, or control of another person;

146 d. A uniform traffic citation was issued by a law
 147 enforcement officer to the driver of the motor vehicle for the
 148 alleged violation of this subsection; or

149 e. The motor vehicle's owner was deceased on or before the
 150 date that the uniform traffic citation was issued, as

151 established by an affidavit submitted by the representative of
152 the motor vehicle owner's estate or other designated person or
153 family member.

154 2. In order to establish such facts, the owner of the
155 motor vehicle shall, within 30 days after the date of issuance
156 of the traffic citation, furnish to the appropriate governmental
157 entity an affidavit setting forth detailed information
158 supporting an exemption as provided in this paragraph.

159 a. An affidavit supporting an exemption under sub-
160 subparagraph 1.c. must include the name, address, date of birth,
161 and, if known, the driver license number of the person who
162 leased, rented, or otherwise had care, custody, or control of
163 the motor vehicle at the time of the alleged violation. If the
164 vehicle was stolen at the time of the alleged violation, the
165 affidavit must include the police report indicating that the
166 vehicle was stolen.

167 b. If a traffic citation for a violation of this
168 subsection was issued at the location of the violation by a law
169 enforcement officer, the affidavit must include the serial
170 number of the uniform traffic citation.

171 c. If the motor vehicle's owner to whom a traffic citation
172 has been issued is deceased, the affidavit must include a
173 certified copy of the owner's death certificate showing that the
174 date of death occurred on or before the issuance of the uniform
175 traffic citation and one of the following:

176 (I) A bill of sale or other document showing that the
177 deceased owner's motor vehicle was sold or transferred after his
178 or her death, but on or before the date of the alleged
179 violation.

180 (II) Documentary proof that the registered license plate
181 belonging to the deceased owner's vehicle was returned to the
182 department or any branch office or authorized agent of the
183 department, but on or before the date of the alleged violation.

184 (III) A copy of a police report showing that the deceased
185 owner's registered license plate or motor vehicle was stolen
186 after the owner's death, but on or before the date of the
187 alleged violation.

188
189 Upon receipt of the affidavit and documentation required under
190 this sub-subparagraph, the governmental entity must dismiss the
191 citation and provide proof of such dismissal to the person who
192 submitted the affidavit.

193 3. Upon receipt of an affidavit, the person designated as
194 having care, custody, or control of the motor vehicle at the
195 time of the violation may be issued a notice of violation
196 pursuant to paragraph (c) for a violation of this subsection.
197 The affidavit is admissible in a proceeding pursuant to this
198 section for the purpose of providing proof that the person
199 identified in the affidavit was in actual care, custody, or
200 control of the motor vehicle. The owner of a leased vehicle for

201 which a traffic citation is issued for a violation of this
202 subsection is not responsible for paying the traffic citation
203 and is not required to submit an affidavit as specified in this
204 subsection if the motor vehicle involved in the violation is
205 registered in the name of the lessee of such motor vehicle.

206 4. Paragraphs (c) and (d) apply to the person identified
207 on the affidavit, except that the notification under sub-
208 subparagraph (c)1.a. must be sent to the person identified on
209 the affidavit within 30 days after receipt of an affidavit.

210 5. The submission of a false affidavit is a misdemeanor of
211 the second degree, punishable as provided in s. 775.082 or s.
212 775.083.

213 (f) The photographic or electronic images or streaming
214 video attached to or referenced in the traffic citation is
215 evidence that a violation of this subsection has occurred and is
216 admissible in any proceeding to enforce this section and raises
217 a rebuttable presumption that the motor vehicle named in the
218 report or shown in the photographic or electronic images or
219 streaming video evidence was used in violation of this
220 subsection.

221 (g) Paragraphs (c)-(f) supplement the enforcement of this
222 subsection by law enforcement officers and do not prohibit a law
223 enforcement officer from issuing a traffic citation for a
224 violation of this subsection in accordance with normal traffic
225 enforcement techniques.

226 (h)1. Each school district that has installed a camera on
227 one or more school buses shall submit a report by October 1,
228 2020, and annually thereafter, to the department which details
229 the results of using the camera and the procedures for
230 enforcement for the preceding state fiscal year. The information
231 submitted by the school district must include statistical data
232 and information required by the department to complete the
233 report required under subparagraph 2.

234 2. On or before December 31, 2020, and annually
235 thereafter, the department shall provide a summary report to the
236 Governor, the President of the Senate, and the Speaker of the
237 House of Representatives regarding the use and operation of
238 cameras under this subsection, along with the department's
239 recommendations and any necessary legislation. The summary
240 report must include a review of the information submitted to the
241 department by the school districts and must describe the
242 enhancement of traffic safety and enforcement.

243 (i) Procedures for a hearing under this subsection are as
244 follows:

245 1. The department shall publish and make available
246 electronically to each school district a model Request for
247 Hearing form to assist each school district administering this
248 subsection.

249 2. The county or municipality electing to authorize
250 traffic infraction enforcement officers to issue traffic

251 citations under subparagraph (c)1. shall designate by resolution
252 existing staff to serve as the clerk to the local hearing
253 officer.

254 3. Any person, referred to in this paragraph as the
255 "petitioner," who elects to request a hearing under subparagraph
256 (c)1. shall be scheduled for a hearing by the clerk to the local
257 hearing officer to appear before a local hearing officer with
258 notice to be sent by first-class mail. Upon receipt of the
259 notice, the petitioner may reschedule the hearing once by
260 submitting a written request to reschedule to the clerk to the
261 local hearing officer at least 5 calendar days before the day of
262 the originally scheduled hearing. The petitioner may cancel his
263 or her appearance before the local hearing officer by paying the
264 penalty assessed under s. 318.18(5), plus \$50 in administrative
265 costs, before the start of the hearing.

266 4. All testimony at the hearing shall be under oath and
267 shall be recorded. The local hearing officer shall take
268 testimony from a traffic infraction enforcement officer and the
269 petitioner and may take testimony from others. The local hearing
270 officer shall review the photographic or electronic images or
271 the streaming video made available under sub-subparagraph
272 (c)1.b. Formal rules of evidence do not apply, but due process
273 shall be observed and govern the proceedings.

274 5. At the conclusion of the hearing, the local hearing
275 officer shall determine whether a violation under this

276 subsection has occurred, in which case the hearing officer shall
277 uphold or dismiss the violation. The local hearing officer shall
278 issue a final administrative order including the determination
279 and, if the notice of violation is upheld, require the
280 petitioner to pay the penalty previously assessed under s.
281 318.18(5) and may also require the petitioner to pay county or
282 municipal costs, not to exceed \$250. The final administrative
283 order shall be mailed to the petitioner by first-class mail.

284 6. An aggrieved party may appeal a final administrative
285 order consistent with the process provided under s. 162.11.

286 (2) The driver of a vehicle upon a divided highway with an
287 unpaved space of at least 5 feet, a raised median, or a physical
288 barrier is not required to stop when traveling in the opposite
289 direction of a school bus that ~~which~~ is stopped in accordance
290 with ~~the provisions of~~ this section.

291 (3) Every school bus shall stop as far to the right of the
292 street as possible and shall display warning lights and stop
293 signals as required by rules of the State Board of Education
294 before discharging or loading passengers. When possible, a
295 school bus shall not stop where the visibility is obscured for a
296 distance of 200 feet in either direction ~~way~~ from the bus.

297 Section 2. Subsection (5) of section 318.18, Florida
298 Statutes, is amended to read:

299 318.18 Amount of penalties.—The penalties required for a
300 noncriminal disposition pursuant to s. 318.14 or a criminal

301 offense listed in s. 318.17 are as follows:

302 (5) (a) Two ~~One~~ hundred dollars for a violation of s.
 303 316.172(1) (a), failure to stop for a school bus. If, at a
 304 hearing, the alleged offender is found to have committed this
 305 offense, the court shall impose a minimum civil penalty of \$200
 306 ~~\$100~~. In addition to this penalty, for a second or subsequent
 307 offense within a period of 5 years, the department shall suspend
 308 the driver license of the person for not less than 90 days and
 309 not more than 6 months.

310 (b) Four ~~Two~~ hundred dollars for a violation of s.
 311 316.172(1) (b), passing a school bus on the side that children
 312 enter and exit when the school bus displays a stop signal. If,
 313 at a hearing, the alleged offender is found to have committed
 314 this offense, the court shall impose a minimum civil penalty of
 315 \$400 ~~\$200~~. In addition to this penalty, for a second or
 316 subsequent offense within a period of 5 years, the department
 317 shall suspend the driver license of the person for not less than
 318 180 days and not more than 1 year.

319 (c) In addition to the penalty under paragraph (a) or
 320 paragraph (b), \$65 for a violation of s. 316.172(1) (a) or (b).
 321 If the alleged offender is found to have committed the offense,
 322 the court shall impose the civil penalty under paragraph (a) or
 323 paragraph (b) plus an additional \$65. The additional \$65
 324 collected under this paragraph shall be remitted to the
 325 Department of Revenue for deposit into the Emergency Medical

326 Services Trust Fund of the Department of Health to be used as
327 provided in s. 395.4036.

328 (d) Notwithstanding any other provision of law to the
329 contrary, \$1,500 for a violation of s. 316.172(1)(a) or (b) that
330 causes or results in serious bodily injury to or death of
331 another. The person may enter into a payment plan with the clerk
332 of court pursuant to s. 28.246. In addition to this penalty, the
333 department shall suspend the driver license of the person for
334 not less than 1 year.

335 (e) Of the amount of the penalties imposed under
336 paragraphs (a), (b), and (d):

337 1. Forty percent shall be remitted to the school district
338 in which the offense was committed.

339 2. Ten percent shall be remitted to the sheriff's office
340 of the county in which the offense was committed.

341 3. Ten percent shall be remitted to the fire department
342 having jurisdiction over the area in which the offense was
343 committed.

344 4. Twenty percent shall be remitted to the Department of
345 Law Enforcement.

346 5. Twenty percent shall be deposited in the General
347 Revenue Fund.

348 Section 3. Subsection (22) is added to section 318.21,
349 Florida Statutes, to read:

350 318.21 Disposition of civil penalties by county courts.—

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351 All civil penalties received by a county court pursuant to the
352 provisions of this chapter shall be distributed and paid monthly
353 as follows:

354 (22) Notwithstanding subsections (1) and (2), the proceeds
355 from the penalties imposed under s. 318.18(5)(a), (b), and (d)
356 shall be distributed as provided in s. 318.18(5)(e).

357 Section 4. This act shall take effect October 1, 2019.