

By Senator Berman

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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

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30 s. 318.18, F.S.; providing disposition of civil
31 penalties for certain violations relating to stopping
32 for a school bus; amending s. 318.21, F.S.; revising
33 distribution of certain civil penalties; providing an
34 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 to
39 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46 been withdrawn.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 the
57 recording of photographic or electronic images or streaming
58 video. The department, a county, or a municipality may authorize

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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 violation 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 motor vehicle. The notice must state the time and place or
78 Internet location where the evidence may be examined and
79 observed.

80 c. Notwithstanding any other provision of law, a person who
81 receives a notice of violation under this paragraph may request
82 a hearing within 60 days following the notification of violation
83 or pay the penalty pursuant to the notice of violation, but a
84 payment or fee may not be required before the hearing requested
85 by the person. The notice of violation must be accompanied by,
86 or direct the person to a website that provides, information on
87 the person's right to request a hearing and on all court costs

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88 related thereto and a form to request a hearing. As used in this
89 sub-subparagraph, the term "person" includes a natural person,
90 registered owner or co-owner of a motor vehicle, or person
91 identified on an affidavit as having care, custody, or control
92 of the motor vehicle at the time of the violation.

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

100 2. An individual may not receive a commission from any
101 revenue collected from violations detected through the use of a
102 camera installed pursuant to this paragraph. A manufacturer or
103 vendor may not receive a fee or remuneration based upon the
104 number of violations detected through the use of a camera
105 installed pursuant to this paragraph.

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

114 b. Delivery of the traffic citation constitutes
115 notification under this paragraph. If the registered owner or
116 co-owner of the motor vehicle, or the person designated as

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117 having care, custody, or control of the motor vehicle at the
118 time of the violation, or a duly authorized representative of
119 the owner, co-owner, or designated person, initiates a
120 proceeding to challenge the citation pursuant to this section,
121 such person waives any challenge or dispute as to the delivery
122 of the traffic citation.

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

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

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

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

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

145 c. The motor vehicle was, at the time of the violation, in

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146 the care, custody, or control of another person;

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

150 e. The motor vehicle's owner was deceased on or before the
151 date that the uniform traffic citation was issued, as
152 established by an affidavit submitted by the representative of
153 the motor vehicle owner's estate or other designated person or
154 family member.

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

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

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

172 c. If the motor vehicle's owner to whom a traffic citation
173 has been issued is deceased, the affidavit must include a
174 certified copy of the owner's death certificate showing that the

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175 date of death occurred on or before the issuance of the uniform
176 traffic citation and one of the following:

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

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

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

189

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

194 3. Upon receipt of an affidavit, the person designated as
195 having care, custody, or control of the motor vehicle at the
196 time of the violation may be issued a notice of violation
197 pursuant to paragraph (c) for a violation of this subsection.
198 The affidavit is admissible in a proceeding pursuant to this
199 section for the purpose of providing proof that the person
200 identified in the affidavit was in actual care, custody, or
201 control of the motor vehicle. The owner of a leased vehicle for
202 which a traffic citation is issued for a violation of this
203 subsection is not responsible for paying the traffic citation

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204 and is not required to submit an affidavit as specified in this
205 subsection if the motor vehicle involved in the violation is
206 registered in the name of the lessee of such motor vehicle.

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

211 5. The submission of a false affidavit is a misdemeanor of
212 the second degree, punishable as provided in s. 775.082 or s.
213 775.083.

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

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

227 (h)1. Each school district that has installed a camera on
228 one or more school buses shall submit a report by October 1,
229 2022, and annually thereafter, to the department which details
230 the results of using the camera and the procedures for
231 enforcement for the preceding state fiscal year. The information
232 submitted by the school district must include statistical data

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233 and information required by the department to complete the
234 report required under subparagraph 2.

235 2. On or before December 31, 2022, and annually thereafter,
236 the department shall provide a summary report to the Governor,
237 the President of the Senate, and the Speaker of the House of
238 Representatives regarding the use and operation of cameras under
239 this subsection, along with the department's recommendations and
240 any necessary legislation. The summary report must include a
241 review of the information submitted to the department by the
242 school districts and must describe the enhancement of traffic
243 safety and enforcement.

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

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

250 2. The county or municipality electing to authorize traffic
251 infraction enforcement officers to issue traffic citations under
252 subparagraph (c)1. shall designate by resolution existing staff
253 to serve as the clerk to the local hearing 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

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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 local hearing officer
277 shall uphold or dismiss the violation. The local hearing officer
278 shall issue a final administrative order including the
279 determination and, if the notice of violation is upheld, require
280 the 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.

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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. Paragraph (e) is added to subsection (5) of
298 section 318.18, Florida Statutes, 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)

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

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

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

309 3. Ten percent shall be remitted to the fire department
310 having jurisdiction over the area in which the offense was
311 committed.

312 4. Twenty percent shall be remitted to the Department of
313 Law Enforcement.

314 5. Twenty percent shall be deposited in the General Revenue
315 Fund.

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

318 318.21 Disposition of civil penalties by county courts.—All
319 civil penalties received by a county court pursuant to the

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320 provisions of this chapter shall be distributed and paid monthly
321 as follows:

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

325 Section 4. This act shall take effect October 1, 2021.