

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 Rules

BILL: CS/SB 950

INTRODUCER: Transportation Committee and Senator Book

SUBJECT: Bicycle and Pedestrian Safety

DATE: April 15, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Proctor</u>	<u>Vickers</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Proctor</u>	<u>Phelps</u>	<u>RC</u>	<u>Pre-meeting</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 950 addresses issues relating to bicycle and pedestrian safety. In summary, the bill:

- Defines the terms “bicycle lane” and “separated bicycle lane.”
- Provides requirements for a vehicle overtaking a bicycle or other nonmotorized vehicle, an electric bicycle, or a pedestrian occupying the same travel lane.
- Requires the Department of Highway Safety and Motor Vehicles (DHSMV) to provide an awareness campaign regarding vehicles overtaking a bicycle, other nonmotorized vehicle, an electric bicycle, or a pedestrian.
- Provides that no-passing zones do not apply to drivers who safely and briefly drive to the left of center of the roadway to overtake a bicycle, other nonmotorized vehicle, an electric bicycle, or a pedestrian.
- Requires a vehicle making a right turn while overtaking and passing a bicycle proceeding in the same direction, to do so only if the bicycle is at least 20 feet from the intersection.
- Authorizes bicyclists riding in groups, after coming to a full stop, to go through an intersection in groups of 10 or fewer.
- Provides guidelines for riding a bicycle in a substandard-width lane and authorizes riders to ride two abreast if certain conditions exist.
- Requires at least 25 questions in the test bank for the driver license test to address bicycle and pedestrian safety.

The bill may have a negative, likely insignificant, fiscal impact to the DHSMV due to program changes to the driver license test and the requirement to provide an awareness campaign. See Section V. Fiscal Impact Statement.

The bill has an effective date of July 1, 2021.

II. Present Situation:

Florida law defines the term “bicycle” as every vehicle propelled solely by human power, 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 a scooter or similar device.¹

Florida law defines the term “electric bicycle” as a bicycle or tricycle equipped with fully operable pedals, a seat or saddle for the use of the rider, and an electric motor of less than 750 watts which meets the requirements of one of the following three classifications:

- “Class 1 electric bicycle” means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the electric bicycle reaches the speed of 20 miles per hour.
- “Class 2 electric bicycle” means an electric bicycle equipped with a motor that may be used exclusively to propel the electric bicycle and that ceases to provide assistance when the electric bicycle reaches the speed of 20 miles per hour.
- “Class 3 electric bicycle” means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the electric bicycle reaches the speed of 28 miles per hour.²

An electric bicycle is subject to the same rules and regulations applicable to a bicycle.

Florida law does not define the terms “bicycle lane” or “separated bicycle lane.”

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.³ 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.⁴ The driver of an overtaken vehicle may not increase the speed of his or her vehicle when being overtaken.⁵ A violation of s. 316.083, F.S., is a noncriminal traffic infraction⁶ punishable as a moving violation citation of \$60 plus additional court costs and fees that vary by jurisdiction.⁷

¹ Section 316.003(4), F.S.

² Section 316.003(22), F.S.

³ Section 316.083(1), F.S.

⁴ Section 316.083(1), F.S.

⁵ Section 316.083(2), F.S.

⁶ Section 316.083(3), F.S.

⁷ Section 318.18(3)(a), F.S.

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.⁸ Two states have laws that go beyond a 3-foot passing law.⁹ Pennsylvania has a 4-foot passing law and South Dakota enacted a two-tiered passing law in 2015: 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.¹⁰

Move Over Act

In 2002, the “Move Over Act” was enacted into law.¹¹ The Move Over Act states that drivers must move over as soon as it is safe to do so¹² for any authorized emergency or service vehicles displaying any visible signals while stopped on the roadside, including sanitation vehicles, utility vehicles, and tow trucks.¹³ 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.¹⁴

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 Act.¹⁵ The DHSMV includes an overview of the Move Over Act in the Florida Class E Driver License Official Handbook,¹⁶ and provides numerous educational and informational materials on the Move Over Act on the DHSMV website.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

⁸ 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 March 26, 2021).

⁹ *Id.*

¹⁰ *Id.*

¹¹ Section 316.126, F.S.

¹² Section 316.126(b)1., F.S.

¹³ Section 316.126(b), F.S.

¹⁴ Section 316.126(b)2., F.S.

¹⁵ Section 316.126(c), F.S.

¹⁶ Department of Highway Safety and Motor Vehicles, *Official Florida Driver License Handbook* (2020), p. 56 available at <https://www3.flhsmv.gov/handbooks/englishdriverhandbook.pdf> (last visited March 26, 2021).

¹⁷ Department of Highway Safety and Motor Vehicles, *Driving Safety: Move Over, Florida!*, available at <https://www.flhsmv.gov/safety-center/driving-safety/move-over/> (last visited March 26, 2021).

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.

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:

- Requiring a bicycle rider or passenger who is under 16 years of age to wear a bicycle helmet.³¹
- Requiring 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 to 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
- Prohibiting persons riding bicycles upon a roadway from riding more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.³³
- Requiring every bicycle in use between sunset and sunrise to 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

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 *Id.*

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 The questions are selected randomly from the 309 questions contained in the DHSMV's test bank, which has 18 questions specific to pedestrian and bicycle safety. Whether or not an applicant will see a bicycle or pedestrian question on the test depends on the number of questions within that category, the number of questions pulled from a category, and how many questions a customer sees while taking the test.³⁸ To pass the Exam, an applicant must answer 40 out of 50 questions correctly.³⁹

The Official Florida Driver License Handbook (Handbook)⁴⁰ is provided to applicants by the DHSMV to prepare applicants for the Exam. The Handbook provides information on bicycle safety, including bicycle lanes,⁴¹ bicycle crossings,⁴² and sharing the road with bicycles.⁴³ Likewise, the Handbook provides information on pedestrian safety, including crosswalks,⁴⁴ yielding to pedestrians,⁴⁵ and sharing the road with pedestrians.⁴⁶

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.⁴⁷ A pedestrian⁴⁸ and a person riding a bicycle⁴⁹ 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 26 percent of all traffic fatalities in Florida.⁵⁰ In 2018, Florida was ranked tenth nationwide in the fatality rate of pedestrians with 3.14 pedestrian

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 March 26, 2021).

³⁸ Department of Highway Safety and Motor Vehicles, *2021 Legislative Bill Analysis for SB 950*, p. 4. (March 9, 2021).

³⁹ *Supra*, FN 37.

⁴⁰ *Supra*, FN 16.

⁴¹ *Id.* at 14.

⁴² *Id.* at 19.

⁴³ *Id.* at 39.

⁴⁴ *Id.* at 15.

⁴⁵ *Id.* at 15.

⁴⁶ *Id.* at 39.

⁴⁷ Section 316.027(2)(f), F.S.

⁴⁸ Section 316.027(1)(b)1., F.S.

⁴⁹ Section 316.027(1)(b)2., F.S.

⁵⁰ Florida Department of Transportation, Traffic Crash Reports, Crash Dashboard, available at <https://www.flhsmv.gov/traffic-crash-reports/crash-dashboard/> (last visited on February 24, 2021).

fatalities per 100,000 population.⁵¹ In 2019, there were 6,590 bicycle crashes in Florida.⁵² As a result of these crashes there were 160 bicycle fatalities in 2019.⁵³

Florida Pedestrian and Bicycle Fatality Statistics 2018-2020⁵⁴

Year	Pedestrian Fatalities	Bicycle Fatalities
2020	699	157
2019	734	156
2018	720	160

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

⁵¹ Governors Highway Safety Association, *Pedestrian Traffic Fatalities by State*, available at https://www.ghsa.org/sites/default/files/2019-02/FINAL_Pedestrians19.pdf (last visited March 26, 2021).

⁵² *Supra*, FN 49.

⁵³ *Id.*

⁵⁴ *Id.*

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.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

III. Effect of Proposed Changes:

The bill amends s. 316.003, F.S., to define “bicycle lane” as any portion of a roadway or highway which is designated by pavement markings and signs for preferential or exclusive use by bicycles. Additionally, the bill defines “separated bicycle lane” as a bicycle lane that is separated from motor vehicle traffic by a physical barrier.

The bill amends s. 316.083, F.S., providing that the driver of a vehicle overtaking a bicycle or other nonmotorized vehicle, electric bicycle, or pedestrian occupying the same travel lane must pass the bicycle, other nonmotorized vehicle, electric bicycle or pedestrian at a safe distance of not less than 3 feet, or if such movement cannot be safely accomplished, must remain at a safe distance behind the bicycle or other nonmotorized vehicle, electric bicycle, or pedestrian until the driver can safely pass at a distance of not less than 3 feet and is safely clear of the overtaken bicycle, other nonmotorized vehicle, electric bicycle, or pedestrian.

The provisions relating to overtaking bicycles, other nonmotorized vehicles, electric bicycles, do not apply when the bicycle, other nonmotorized vehicle, or electric bicycle occupies a separated bicycle lane. A violation is a noncriminal traffic infraction, punishable as a moving violation as provided in ch. 318, F.S. The statutory base fine is \$60,⁶⁵ with additional court costs and fees that vary by jurisdiction.⁶⁶

Additionally, the bill requires the DHSMV to provide an annual educational awareness campaign that informs the motoring public about the safety precautions that must be taken when overtaking a bicycle, other nonmotorized vehicle, electric bicycle, or pedestrian, and to provide information about such precautions in all newly printed driver license education materials.

The bill amends s. 322.12, F.S., to require at least 25 questions in DHSMV’s test bank for each noncommercial driver license applicant to address bicycle and pedestrian safety. This may lead to fewer questions devoted to an applicant’s understanding of highway signs and knowledge of traffic laws.⁶⁷

The bill provides an exception to the no-passing zone requirements in s. 316.0875, F.S., when a driver safely and briefly drives to the left of the center line only to the extent necessary to pass a bicycle, other nonmotorized vehicle, electric bicycle, or pedestrian occupying the same travel lane.

The bill amends s. 316.151, F.S., to require the driver of a motor vehicle who is overtaking a bicycle proceeding in the same direction, 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 provide that on roads that contain a substandard width lane, persons riding a bicycle must ride single file to maintain a minimum of 3 feet of space for vehicles to pass persons operating a bicycle. In addition, the bill prohibit persons riding bicycles

⁶⁵ Section 318.18(3)(a), F.S.

⁶⁶ Florida Clerk of Courts, *2020 Distribution Schedule*, p. 23.

⁶⁷ *Supra*, FN 38.

in a roadway or in a bike lane from riding more than two abreast except on a bicycle path. Where bicycle lanes exist, persons riding bicycles may ride two abreast if both are able to remain within the bicycle lane. If the bicycle lane is too narrow to allow two persons riding bicycles to ride two abreast, the persons must ride single-file and within the bicycle lane. On roads that contain a substandard width lane, persons riding a bicycle may temporarily ride two abreast only to avoid hazards in the roadway or to overtake another person riding a bicycle.

The bill authorize 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.

A violation of this provision would be a noncriminal traffic infraction, punishable as a pedestrian violation. The base fine is \$15,⁶⁸ with additional court costs and fees that vary by jurisdiction.⁶⁹

The bill provides technical and conforming changes in ss. 212.05, 316.306, and 655.960, F.S.

The bill has an effective date of July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁶⁸ Section 318.318(1), F.S.

⁶⁹ Florida Clerk of Courts, *2020 Distribution Schedule*, p. 21.

B. Private Sector Impact:

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; however, the fiscal impact is indeterminate.

C. Government Sector Impact:

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.

Each May, the DHSMV conducts a “Share the Road” safety campaign focusing on motorcycle, bicycle, and commercial vehicle safety. If the awareness provisions of the bill can be added to that existing awareness campaign, the DHSMV can absorb the costs within existing resources. However, if the DHSMV is required to do a new, standalone awareness campaign the DHSMV states that additional resources of \$50,000 to \$60,000 would be required to conduct an effective public awareness campaign.⁷⁰

The DHSMV may incur expenditures associated with ensuring at least 25 test questions in the DHSMV test bank address bicycle and pedestrian safety. This cost can be absorbed within existing resources.⁷¹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.003, 316.083, 316.0875, 316.151, 316.2065, 322.12, 212.05, 316.306, and 655.960.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

CS by Transportation on March 30, 2021:

- Clarifies that when overtaking a bicycle, other motorized vehicle, electric bicycle, or pedestrian on the road, a vehicle must pass at a safe distance of not less than 3 feet from the bicycle, other motorized vehicle, electric bicycle, or pedestrian.

⁷⁰ *Supra*, FN 67 at p. 5.

⁷¹ *Id.*

- Requires persons riding bicycles to ride single-file in substandard width lanes.
- Authorizes persons riding bicycles to ride two abreast in a bicycle lane, if both are able to remain within the bicycle lane.
- Requires persons riding bicycles to ride single-file in a bicycle lane if the bicycle lane is not wide enough to ride two abreast.
- Authorizes persons riding bicycles to temporarily ride two abreast to avoid hazards or to overtake another bicyclist.
- Removes the requirement that 20 percent of the questions on the driver license test be related to bicycle and pedestrian safety, and replaces it with a requirement that a minimum of 25 questions in the test bank be related to bicycle and pedestrian safety.

B. Amendments:

None.