

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1435 Code and Traffic Enforcement

**SPONSOR(S):** Judiciary Committee, Leek

**TIED BILLS:** IDEN./SIM. BILLS: CS/SB 1954

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice & Public Safety Subcommittee	16 Y, 1 N	Padgett	Hall
2) Tourism, Infrastructure & Energy Subcommittee	14 Y, 3 N	Neuffer	Keating
3) Judiciary Committee	10 Y, 6 N, As CS	Padgett	Kramer

### SUMMARY ANALYSIS

The ease of communicating over social media allows virtually anyone to organize spontaneous “pop-up” events that can attract large crowds, overwhelm local resources, and endanger the safety of the general public. During the summer of 2021, several pop-up events brought huge crowds to Daytona Beach, leading to packed roads, fights, unruly behavior, property damage, excessive noise, and complaints from tourists and residents. Although such behavior is prohibited under current law, law enforcement agencies and local government officials indicate that existing statutes are not a strong enough deterrent to curb such lawless behavior when an area is flooded with crowds, often with little or no notice to the local government.

CS/HB 1435 creates s. 316.1891, F.S., to assist local governments in responding to such pop-up events. The bill authorizes the sheriff or chief administrative officer of a county or municipality to designate an area as a special event zone in response to a special event, defined as an unpermitted activity or event organized or promoted via a social media platform which is attended by 50 or more persons and substantially increases or disrupts the normal flow of traffic on a roadway, street, or highway. The bill:

- Provides notice requirements for a special event zone and requires a specified warning sign be posted at each point of ingress and egress at least 24 hours prior to enforcement;
- Doubles the statutory fine for any noncriminal traffic infraction that occurs within a special event zone;
- Allows a law enforcement officer to impound a vehicle for up to 72 hours for any criminal traffic violation or noncriminal traffic infraction that occurs in a special event zone, but requires the vehicle to be released immediately upon payment of any impoundment costs or fees;
- Authorizes a law enforcement officer to enforce occupancy limits in a special event zone; and
- Provides for the recovery of costs associated with designating and enforcing a special event zone from the organizer or promoter of the special event.

The bill also amends s. 316.3045, F.S., which prohibits excessive noise emanating from a motor vehicle, by removing the portion of statute which the Florida Supreme Court deemed invalid in 2012. Additionally, the bill updates the types of soundmaking devices that are subject to such noise limitations and authorizes a local authority to impose more stringent regulations than those currently provided in statute.

The bill may have an indeterminate positive fiscal impact on state and local governments from the increased fines for noncriminal traffic infractions that occur in a special event zone. Additionally, the bill may have an indeterminate positive fiscal impact on local governments by authorizing a local government to recover the costs of designating and enforcing a special event zone from the promoter or organizer of a special event.

The bill provides an effective date of July 1, 2022.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### Special Event Zones

The ease of communicating over social media allows virtually anyone to organize spontaneous “pop-up” events that can attract large crowds, overwhelm local resources, and endanger the safety of the general public. During the 2021 Memorial Day weekend, an unpermitted pop-up event that was promoted on social media brought huge crowds to Daytona Beach.<sup>1</sup> The influx of people and resulting traffic congestion required law enforcement officers to close roads and bridges and limit beach access.<sup>2</sup> A month later, in June 2021, another unpermitted pop-up event brought approximately 35,000 people to Daytona Beach; leading to packed roads, fights, unruly behavior, property damage, excessive noise, and complaints from tourists and residents.<sup>3</sup> Although such behavior is prohibited under current law, law enforcement agencies and local government officials indicate that existing statutes are not a strong enough deterrent to curb such lawless behavior when an area is flooded with crowds, often with little or no notice to the local government.

##### Excessive Noise

Section 316.3045, F.S., provides that it is a noncriminal traffic infraction<sup>4</sup> for any person operating or occupying a motor vehicle on a street or highway to operate or amplify the sound produced by a radio, tape player, or other mechanical soundmaking device or instrument from within the motor vehicle so that the sound is:

- Plainly audible at a distance of 25 feet or more from the motor vehicle; or
- Louder than necessary for the convenient hearing by persons inside the vehicle in areas adjoining churches, schools, or hospitals.

The provisions of s. 316.3045, F.S., do not apply to any law enforcement or emergency vehicles equipped with any communication device necessary for the performance of their duties, or to motor vehicles used for business or political purposes, which in the normal course of conducting such business use soundmaking devices.

In 2012, the Florida Supreme Court struck down s. 316.3045, F.S., holding that the statute was unconstitutionally overbroad because the exemption for vehicles used for business or political purposes created an impermissible content-based restriction on speech that was not narrowly tailored and protected commercial speech to a greater degree than noncommercial speech.<sup>5</sup> The Court held the unconstitutional portion of the statute exempting vehicles used for business or political purposes could not be severed from the remainder of the statute without expanding the scope of the statute beyond what the Legislature intended.<sup>6</sup> Thus, the Court invalidated the statute in its entirety.<sup>7</sup>

#### Effect of Proposed Changes

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<sup>1</sup> Hadas Brown, *Crowds, concerning pictures prompt bridge traffic closures in Daytona Beach*, WESH (May 30, 2021), <https://www.wesh.com/article/crowds-concerning-pictures-prompt-bridge-traffic-closures-in-daytona-beach/36576831#> (last visited Feb. 23, 2022).

<sup>2</sup> *Id.*

<sup>3</sup> Mike Springer and Sarah Wilson, *Complaints call for Daytona Truck Meet not to return next year*, WFTV (June 14, 2021), <https://www.wftv.com/news/local/volusia-county/complaints-call-daytona-truck-meet-not-return-next-year/E2F5MBY6WVGDJF4NBI6QEYH45A/> (last visited Feb. 23, 2022).

<sup>4</sup> A noncriminal traffic infraction in s. 316.3045, F.S., is punishable as a nonmoving violation under ch. 318, F.S. A nonmoving violation is punishable by a fine of \$30. S. 318.18(2), F.S.

<sup>5</sup> *State v. Catalano, et al.*, 104 So. 3d 1069 (Fla. 2012).

<sup>6</sup> *Id.* at 1081.

<sup>7</sup> *Id.*

## Special Event Zones

CS/HB 1435 creates s. 316.1891, F.S., which authorizes the sheriff or chief administrative officer of a county or municipality to designate an area as a special event zone in response to a special event that takes place or is reasonably anticipated to take place on a roadway, street, or highway over which the sheriff or chief administrative officer has jurisdiction. If a special event takes place or is reasonably anticipated to take place in multiple jurisdictions, the sheriff or chief administrative officer of each jurisdiction may coordinate to designate a special event zone covering multiple jurisdictions.

The bill defines a “special event” as an unpermitted temporary activity or event organized or promoted via a social media platform<sup>8</sup> which is attended by 50 or more persons and substantially increases or disrupts the normal flow of traffic along a roadway, street, or highway.

The bill defines a “special event zone” as a contiguous area on or along a roadway, street, or highway which is designated by warning signs, and includes a parking structure, a parking lot, or any other property, whether public or private, immediately adjacent to or along the designated area.

The bill requires a sheriff or chief administrative officer to enforce a special event zone in a manner that causes the least inconvenience to the public and that is consistent with preserving the public health, safety, and welfare. The bill provides a special event zone must:

- Be designated by the posting of a clearly legible warning sign at each point of ingress or egress stating, “Special Event Zone—All Fines Doubled. Vehicles Subject to Impoundment for Traffic Infractions and Violations.” The warning sign must be large enough to be clearly visible to occupants of passing vehicular traffic, must have letters at least three inches in height, and must be posted at least 24 hours prior to enforcement of the special event zone.
- Remain in effect as long as is reasonably necessary to ensure the public health, safety, and welfare, but may not remain in effect after the special event has dissipated.

The bill provides for enhanced penalties for criminal traffic violations<sup>9</sup> and noncriminal traffic infractions<sup>10</sup> that occur within the boundaries of a special event zone. A law enforcement officer may impound the vehicle of any person who commits a criminal traffic violation or noncriminal traffic infraction in a special event zone for up to 72 hours. However, the vehicle must be released immediately upon the payment of any impoundment costs and fees, regardless of whether such payment is made before expiration of the 72-hour period. Unless the criminal charge or noncriminal infraction is dismissed, all costs and fees associated with such impoundment must be paid by the owner of the vehicle or, if the vehicle is leased or rented, by the person leasing or renting the vehicle. In addition, a person who commits a noncriminal traffic infraction in a special event zone is required to pay a fine double the amount provided in statute.

The bill provides that a sheriff or chief administrative officer of a county or municipality with the authority to temporarily authorize a law enforcement officer to enforce occupancy limits on public or private property within a special event zone.<sup>11</sup>

The bill authorizes the sheriff or chief administrative officer of a county or municipality that declares a special event zone to recover from a promoter or organizer of a special event all relevant costs or fees

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<sup>8</sup> A “social media platform” means any information service, system, Internet search engine, or access software provider that:

- Provides or enables computer access by multiple users to a computer server, including an Internet platform or a social media site;
- Operates as a sole proprietorship, partnership, limited liability company, corporation, association, or other legal entity;
- Does business in the state; and
- Satisfies at least one of the following thresholds:
  - Has annual gross revenues in excess of \$100 million, as adjusted in January of each odd-numbered year to reflect any increase in the Consumer Price Index.
  - Has at least 100 million monthly individual platform participants globally.

The term does not include any information service, system, Internet search engine, or access software provider operated by a company that owns and operates a theme park or entertainment complex as defined in s. 509.013, F.S. S. 501.2041(1)(g), F.S.

<sup>9</sup> Examples of criminal traffic violations include reckless driving, racing, and driving under the influence.

<sup>10</sup> Examples of noncriminal traffic infractions include speeding, careless driving, and failure to stop at a traffic signal.

<sup>11</sup> Under current law, occupancy limits are prescribed by the State Fire Marshal and enforced by local fire service providers or, if a local government has no organized fire service provider, an official designated by the local government. S. 633.118, F.S.

associated with designating and enforcing a special event zone. Such costs and fees include, but are not limited to, those incurred for providing supplemental law enforcement personnel, firefighters, emergency medical technicians or paramedics, and sanitation services. Under the bill, a “promoter or organizer” means a person or entity who arranges, organizes, or sponsors a special event.

### Excessive Noise

The bill amends s. 316.3045, F.S., to make the excessive noise statute constitutional and update the language to improve enforcement. Specifically, the bill:

- Expands the types of soundmaking devices in a motor vehicle from which excessive noise is prohibited by including a compact disc player, portable music or video player, cellular telephone, tablet computer, laptop computer, stereo, television, musical instrument, or electronic soundmaking device.
- Provides a person violates the excessive noise prohibition by amplifying a sound that is louder than necessary for convenient hearing by a person inside a vehicle in an area adjoining private residences.
- Removes the noise exemption for vehicles used for business or political purposes, which cures the constitutional issue cited by the Florida Supreme Court.
- Provides that a local authority may impose more stringent regulations on sound produced by a radio or other mechanical or electronic soundmaking device that emanates from a motor vehicle.

The bill provides an effective date of July 1, 2022.

#### B. SECTION DIRECTORY:

**Section 1:** Creates s. 316.1891, F.S., relating to designation of special event zones; definitions; enhanced penalties; vehicle impoundment.

**Section 2:** Amends s. 316.3045, F.S., relating to operation of radios or other mechanical soundmaking devices or instruments in vehicles; exemptions.

**Section 3:** Provides an effective date of July 1, 2022.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

None.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

None.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

**D. FISCAL COMMENTS:**

The bill may have an indeterminate positive fiscal impact on state and local governments from the increased fines for noncriminal traffic infractions that occur in a special event zone. Additionally, the bill may have an indeterminate positive fiscal impact on local governments by authorizing a local government to recover the costs of designating and enforcing a special event zone from the promoter or organizer of a special event.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The Department of Highway Safety and Motor Vehicles has sufficient rulemaking authority to implement the provisions of the bill.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On February 23, 2022, the Judiciary Committee adopted two amendments and reported the bill favorably as a committee substitute. The amendments:

- Required the warning sign at each point of ingress and egress of a special event zone to:
  - Read, "Special Event Zone-All Fines Doubled. Vehicles Subject to Impoundment for Traffic Infractions and Violations."
  - Be large enough to be clearly visible to occupants of passing vehicular traffic on roadways, with letters at least three inches in height.
  - Be posted at least 24 hours before enforcement of the special event zone may commence.
- Required a vehicle that has been impounded to be released immediately upon payment of any impoundment costs and fees, regardless of whether the payment is made before the expiration of the 72-hour impoundment period.

This analysis is drafted to the committee substitute as passed by the Judiciary Committee.