

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 Transportation

BILL: CS/B 1954

INTRODUCER: Transportation Committee and Senator Wright

SUBJECT: Code and Traffic Enforcement

DATE: February 2, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Vickers	TR	Fav/CS
2.			CA	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1954 authorizes the sheriff or chief administrative officer of a county or municipality to designate an area as a special event zone in response to an unpermitted special event organized or promoted via a social media platform which is attended by 200 or more persons and substantially increases or disrupts the normal flow of traffic. The bill:

- 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 noncriminal traffic infraction or criminal traffic violation that occurs in a special event zone.
- Requires the sheriff or chief administrative officer to notify the State Fire Marshal or designee to enforce occupancy limits in a special event zone.
- 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 revises provisions relating to the operation of radios or other soundmaking devices in vehicles and authorizes a local authority to impose more stringent regulations than those 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 and the impoundment of vehicles for a noncriminal traffic infraction or a criminal traffic violation that occurs in a special event zone. The bill may have an indeterminate positive fiscal impact on local governments by authorizing

the sheriff or chief administrative officer of a county or municipality to recover the costs of designating and enforcing a special event zone from the promoter or organizer of a special event. See Section V. Fiscal Impact Statement.

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

II. 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.¹ The influx of people and resulting traffic congestion required law enforcement officers to close roads and bridges and limit beach access.² 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.³ 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.

Vehicle Impoundment

There are numerous reasons why law enforcement officers impound vehicles, including when a person commits a criminal act or is suspected of committing a felony, such as: vehicular homicide;⁴ racing on highways;⁵ driving under the influence;⁶ illegal parking;⁷ and driving with a suspended, revoked, canceled, or disqualified license.⁸ However, a vehicle may also be impounded at the direction of the court, and for a canceled license plate or fuel-use tax decal⁹.

Building Occupancy Limits

The Florida Building Code provides standards for issuance of mandatory certificates of occupancy, minimum types of inspections, and procedures for plans review and inspections. Local governments may adopt amendments to the administrative provisions of the Florida Building Code, subject to limitations. Local amendments must be more stringent than the

¹ 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 January 28, 2022).

² *Ibid.*

³ 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 January 28, 2022).

⁴ Section 323.001, F.S.

⁵ Section 316.191, F.S.

⁶ Section 316.193, F.S.

⁷ Section 316.1951, F.S.

⁸ Section 322.34, F.S.

⁹ Section 320.18, F.S.

minimum standards described law and must be transmitted to the Florida Building Commission within 30 days after enactment. The local government must make such amendments available to the general public in a usable format. The State Fire Marshal is responsible for establishing the standards and procedures required for governmental entities to apply the Florida Fire Prevention Code and the Life Safety Code contained in the Florida Building Code.¹⁰ However, the provisions of the Life Safety Code, as contained in the Florida Fire Prevention Code, do not apply to one-family and two-family dwellings.¹¹

Florida Fire Prevention and Life Safety Code

The Florida Fire Prevention Code is adopted by the State Fire Marshal at three year intervals. It is a set of fire code provisions enforced by the local fire official within each county, municipality, and special fire district in the state.¹²

Section 633.212, F.S., provides legislative intent that the Florida Fire Prevention Code be interpreted by fire officials and local enforcement agencies in a manner that reasonably and cost effectively protects the public safety, health, and welfare; ensures uniform interpretations throughout this state; and provides just and expeditious processes for resolving disputes regarding such interpretations. Further, it is the intent of the Legislature that the Division of State Fire Marshal establish a Fire Code Interpretation Committee composed of seven members and seven alternates, equally representing each area of the state, to which a person can pose questions regarding the interpretation of the Fire Code provisions.¹³

The Life Safety Code is adopted and incorporated into the Florida Fire Prevention Code. It is the most widely referenced National Fire Protection Association (NFPA) source for occupant safety strategies based on construction, protection, and occupancy features in all stages of a building life cycle. Relevant to life safety in both new and existing structures, the NFPA covers everything from means of egress and features of fire protection to hazardous materials emergencies, injuries from falls, and emergency communications. The code applies to nearly all types of occupancies and structures, including residential, business, mercantile, health care, daycare, and assembly occupancies.¹⁴

Section 633.118, F.S., provides that the chiefs of county, municipal, and special-district fire service providers; other fire service provider personnel designated by their respective chiefs; and personnel designated by local governments having no organized fire service providers are authorized to enforce laws and rules prescribed by the State Fire Marshal within their respective jurisdictions. Such personnel acting under this authority are agents of their respective jurisdictions, not agents of the State Fire Marshal.

¹⁰ Section 553.73(4)(a), F.S.

¹¹ Section 633.208, F.S.

¹² Section 633.202, F.S.

¹³ Section 633.212(1), F.S.

¹⁴ National Fire Protection Association, *NFPA 101, Life Safety Code*, <https://catalog.nfpa.org/NFPA-101-Life-Safety-Code-P1220.aspx> (last visited on January 31, 2022).

Excessive Noise

Section 316.3045, F.S., provides that it is a noncriminal traffic infraction¹⁵ 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.¹⁶ 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.¹⁷ Thus, the Court invalidated the statute in its entirety.¹⁸

III. Effect of Proposed Changes:

Special Event Zones

SB 1954 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.

A “special event” is defined as an unpermitted temporary activity or event organized or promoted via a social media platform¹⁹ which is attended by 200 or more persons and substantially increases or disrupts the normal flow of traffic along a roadway, street, or highway.

¹⁵ 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.

¹⁶ *State v. Catalano, et al.*, 104 So. 3d 1069 (Fla. 2012).

¹⁷ *Ibid* at 1081.

¹⁸ *Ibid*.

¹⁹ A “social media platform” means any information service, system, Internet search engine, or access software provider that:

A “special event zone” is defined 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 on roadways, with letters at least three inches in height, and must be posted at least 24 hours before enforcement may commence. The sheriff or chief administrative officer shall maintain a log of the date and time that, and the location where, each warning sign is posted.
- 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 or is attended by fewer than 100 people.

The bill provides that a person who commits a noncriminal traffic infraction²⁰ in a special event zone is required to pay a fine double the amount provided in statute.

The bill also provides for enhanced penalties for noncriminal traffic infractions²¹ and criminal traffic violations²² that occur within the boundaries of a special event zone. A law enforcement officer may impound the vehicle of any person who commits any noncriminal traffic infraction²³ or criminal traffic violation in a special event zone and the impoundment must not exceed 72 hours, and the motor vehicle must be released immediately upon the payment of any costs and fees for its impoundment, regardless of whether the payment is made before the 72-hour period. Unless the noncriminal infraction or criminal charge is dismissed, all costs and fees associated

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- 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 ss. 509.013 and 501.2041(1)(g), F.S.

²⁰ Examples of noncriminal traffic infractions include failing to signal (such as use of a blinker), broken or nonfunctioning taillamp, illegal window tint, modified exhaust system which emits noise above the level as originally manufactured, speeding, and failure to stop at a traffic signal.

²¹ *Ibid.*

²² Examples of criminal traffic violations include reckless driving, racing, and driving under the influence.

²³ “The bill does not limit the type of noncriminal traffic violation a vehicle could be impounded for. For example, the bill would allow a vehicle to be impounded if the driver failed to use a blinker in a special event zone.” Department of Highway Safety and Motor Vehicles, *2022 Legislative Bill Analysis for SB 1954*, (January 28, 2022), p. 5 (on file in the Senate Committee on Transportation).

with such impoundment must be paid by the owner of a vehicle or, if a vehicle is leased or rented, by the person leasing or renting the vehicle.

The bill requires the sheriff or chief administrative officer of a county or municipality who designates a special event zone in response to a special event to notify the State Fire Marshal or person designated pursuant to s. 633.118, F.S., who must assist with the enforcement of occupancy limits on private or public property in a special event zone.

The bill provides the sheriff or chief administrative officer of a county or municipality that declares a special event zone may recover from a promoter or organizer of a special event all relevant costs or fees 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 address the excessive noise statute constitutionality and update the language for 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 or instrument, which sound emanates from the motor vehicle.
- 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 may cure 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.

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.

B. Private Sector Impact:

The bill may have an indeterminate negative fiscal impact on citizens impacted by the doubling of fines for noncriminal traffic infractions that occur in a special event zone.

The bill may have an indeterminate negative fiscal impact on citizens impacted by the impoundment of a vehicle, or vehicles, in addition to any other penalty authorized by law, if the person commits a noncriminal traffic infraction or a criminal traffic violation in a special event zone.

The bill may have an indeterminate negative fiscal impact on the promoter or organizer of a special event since the bill authorizes the sheriff or chief administrative officer of a county or municipality to recover the costs of designating and enforcing a special event zone from the promoter or organizer of a special event, even if the event is cancelled in advance, and the sheriff or chief administrative officer of a county or municipality still decided to designate an area as a special event zone.

C. Government Sector Impact:

The bill may have an indeterminate positive fiscal impact on state and local governments from the increased fines for noncriminal traffic infractions and the impoundment of vehicles for a noncriminal traffic infraction or a criminal traffic violation that occur in a special event zone.

The bill may have an indeterminate positive fiscal impact on local governments by authorizing the sheriff or chief administrative officer of a county or municipality to recover the costs of designating and enforcing a special event zone from the promoter or organizer of a special event, even if the event is cancelled in advance.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill does not provide requirements governing the size of a designated special event zone. This may result in widely differing interpretations by a sheriff or chief administrative officer of a county or municipality on the appropriate size for a special event zone.

The bill provides the sheriff or chief administrative officer of a county or municipality who designates a special event zone may recover from a promoter or organizer of a special event all relevant costs and fees associated with designating and enforcing the special event zone, including, but not limited to, costs and fees for the provision of supplemental law enforcement, firefighter, emergency medical technician or paramedic, and sanitation services, potentially even if a promoter or organizer of a special event cancelled the special event (days, weeks, or months) in advance. In addition, the bill does not specify a mechanism for recovering the costs and fees.

VIII. Statutes Affected:

This bill substantially amends section 316.3045 of the Florida Statutes.
This bill creates section 316.11891 of the Florida Statutes.

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 February 2, 2022:**

The CS:

- Revises the definition for a special event to increase the number of people in attendance from 50 to 200;
- Provides the warning sign must be large enough to be clearly visible to occupants of passing vehicle traffic on roadways, with letters at least three inches in height, and must be posted at least 24 hours before the enforcement of a special event zone may commence;
- Requires the sheriff or chief administrator to maintain a log of sign postings;
- Provides that a special event zone will not remain in effect if attendance falls below 100 people;
- Provides that an impounded vehicle must be released immediately upon the payment of any costs and fees for its impoundment, regardless of whether the payment is made before the 72-hour impoundment period has expired; and
- Requires the sheriff or chief administrative officer of a county or municipality who designates a special event zone in response to a special event must notify the State Fire Marshal to assist with the enforcement of occupancy limits on private or public property in a special event zone.

B. Amendments:

None.