

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 657 Enforcement of School Zone Speed Limits

**SPONSOR(S):** Infrastructure Strategies Committee, Transportation & Modals Subcommittee, Koster and others

**TIED BILLS:**           **IDEN./SIM. BILLS:** CS/CS/SB 588

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Modals Subcommittee	18 Y, 0 N, As CS	Johnson	Hinshelwood
2) Justice Appropriations Subcommittee	11 Y, 1 N	Saag	Keith
3) Infrastructure Strategies Committee	20 Y, 0 N, As CS	Johnson	Harrington

### SUMMARY ANALYSIS

Florida law preempts to the state the regulation of the use of cameras to enforce traffic laws. The only such traffic cameras currently authorized in statute are commonly known as red light cameras.

The bill authorizes counties and municipalities to use speed detection systems, which are similar to red light cameras, to enforce school zone speed limits for violations in excess of 10 miles per hour over the applicable speed limit when children are going to or from school and during the entirety of the school day. The bill:

- Defines the term “speed detection system.”
- Authorizes counties and municipalities to use speed detection systems to enforce speed violations in excess of 10 miles per hour over the speed limit in force within the school zone.
- Requires signage warning motorists that speed detection systems are in use.
- Requires a public awareness campaign prior to commencing enforcement of school zone speed limits with speed detection systems.
- Creates a School Crossing Guard Recruitment and Retention Program using proceeds from penalties resulting from enforcement of school zone speed limits through a speed detection system.
- Requires speed detection systems to be installed according to specifications established by the Department of Transportation.
- Provides requirements for issuing a notice of violation when a speed detection system catches a violator.
- Provides for a \$100 penalty for each violation using a speed detection system and provides for the distribution of the proceeds to state and local governments.
- Provides defenses for persons who receive a notice of violation.
- Provides that enforcement using a speed detection system supplements enforcement by a law enforcement officer.
- Provides procedures for hearings regarding these violations.
- Provides for the privacy of the data obtained from speed detection systems.
- Requires reporting by counties and municipalities that implement speed detection system programs in school zones, and a summary report by the Department of Highway Safety and Motor Vehicles (DHSMV).
- Exempts speed detection systems from DHSMV’s requirements for radar or LiDAR units, while requiring a speed detection system to perform self-tests as to its detection accuracy.
- Prohibits points from being imposed for a violation of unlawful speed enforced by a speed detection system and prohibits such violations from being used for purposes of setting motor vehicle insurance rates.

The bill may have an indeterminate fiscal impact on the state, local governments, and the private sector. See Fiscal Analysis & Economic Impact Statement.

The bill has an effective date of July 1, 2023.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Current Situation**

##### Regulation of Use of Cameras to Enforce Traffic Laws

Florida law preempts to the state the regulation of the use of cameras for enforcing Florida's Uniform Traffic Control Law.<sup>1</sup> The only cameras currently authorized to enforce traffic laws are traffic infraction detectors,<sup>2</sup> commonly known as red light cameras.<sup>3</sup>

##### Traffic Infraction Enforcement Officers

Section 316.640(5)(a), F.S., authorizes any sheriff's department or municipal police department to employ, as a traffic infraction enforcement officer, any individual who successfully completes instruction in traffic enforcement procedures and court presentation through the Selective Traffic Enforcement Program as approved by the Division of Criminal Justice Standards and Training of the Department of Law Enforcement, or through a similar program, but who does not necessarily otherwise meet the uniform minimum standards established by the Criminal Justice Standards and Training Commission for law enforcement officers or auxiliary law enforcement officers.

Any traffic infraction enforcement officer who observes the commission of a traffic infraction or, in the case of a parking infraction, who observes an illegally parked vehicle may issue a traffic citation for the infraction when, based upon personal investigation, he or she has reasonable and probable grounds to believe that an offense has been committed which constitutes a noncriminal traffic infraction. In addition, any such traffic infraction enforcement officer may issue a traffic citation under s. 316.0083, F.S., authorizing camera enforcement of red light running. For purposes of enforcing s. 316.0083, F.S., any sheriff's department or municipal police department may designate employees as traffic infraction enforcement officers. The traffic infraction enforcement officers must be physically located in the county of the respective sheriff's or police department.

##### Establishment of School Zones

Florida law requires the Department of Transportation (DOT) to adopt a uniform system of traffic control devices and pedestrian control devices for use on streets and highways surrounding all public and private schools.<sup>4</sup>

DOT must maintain a school zone located on a state-maintained road. However, nothing prohibits DOT from entering into agreements with counties or municipalities where the county or municipality maintains specified school zones on state-maintained roads. The county has the responsibility to maintain a school zone located outside of any municipality and on a county road. A municipality has the responsibility to maintain a school zone located in a municipality.<sup>5</sup> School zones must be periodically inspected to determine whether or not the school zones are being properly maintained.<sup>6</sup>

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<sup>1</sup> S. 316.0076, F.S.

<sup>2</sup> Section 316.003(98), F.S., defines the term "traffic infraction detector" to mean a vehicle sensor installed to work in conjunction with a traffic control signal and a camera or cameras synchronized to automatically record two or more sequenced photographic or electronic images or streaming video of only the rear of a motor vehicle at the time the vehicle fails to stop behind the stop bar or clearly marked stop line when facing a traffic control signal steady red light. Any notification under s. 316.0083(1)(b), F.S., or traffic citation issued by the use of a traffic infraction detector must include a photograph or other recorded image showing both the license tag of the offending vehicle and the traffic control device being violated.

<sup>3</sup> S. 326.0083, F.S.

<sup>4</sup> S. 316.1895(1)(a), F.S.

<sup>5</sup> S. 316.1895(3)(a)-(c), F.S.

<sup>6</sup> S. 316.1895(4), F.S.

A school zone speed limit may not be less than 15 miles per hour except by local regulation. A school zone speed limit may not be more than 20 miles per hour in an urbanized area.<sup>7</sup> Such speed limit may be in force only during those times 30 minutes before, during, and 30 minutes after the periods of time when pupils are arriving at a regularly scheduled breakfast program or a regularly scheduled school session and leaving a regularly scheduled school session.<sup>8</sup>

Permanent signs designating school zones and school zone speed limits must be uniform in size and color, and have the times during which the restrictive speed limit is enforced clearly designated on the signs. Flashing beacons may be used as an alternative to posting the times during which the restrictive school speed limit is enforced. Beginning July 1, 2008, for any newly established school zone or any school zone in which the signing has been replaced, a sign stating "Speeding Fines Doubled" must be installed within the school zone. DOT must establish adequate standards for the signs and flashing beacons.<sup>9</sup>

A person may not drive a vehicle on a roadway designated as a school zone at a speed greater than that posted in the school zone. Violations of the speed limits in a school zone must be cited as a moving violation, punishable as provided in ch. 318, F.S., relating to the disposition of traffic infractions.<sup>10</sup>

### Unlawful Speed

Under s. 316.183, F.S., a person may not drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event, speed must be controlled as may be necessary to avoid colliding with any person, vehicle, or other conveyance or object on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.<sup>11</sup> The statute provides maximum and minimum authorized speeds for various types of roads.<sup>12</sup> An unlawful speed violation under this statute is a noncriminal traffic infraction, punishable as a moving violation as provided in ch. 318, F.S.<sup>13</sup>

### Penalties for Unlawful Speed

Section 318.18(3)(b), F.S., provides the following penalties for moving violations involving unlawful speed:

<b>For speed exceeding the limit by:</b>	<b>Fine:</b>
1-5 mph	Warning
6-9 mph	\$25
10-15 mph	\$100
15-19 mph	\$150
20-29 mph	\$175
30 mph or above	\$250

However, a person cited for exceeding the speed limit by up to 5 mph in a legally posted school zone is fined \$50. A person exceeding the speed limit in a school zone or designated school crossing must pay a fine double the amount listed above.<sup>14</sup>

### Driver License Points

<sup>7</sup> Section 334.03(35), F.S., defines the term "urbanized area" to mean a geographic region comprising as a minimum the area inside an urban place of 50,000 or more persons, as designated by the United States Bureau of the Census, expanded to include adjacent developed areas as provided for by Federal Highway Administration regulations. Urban areas with a population of fewer than 50,000 persons which are located within the expanded boundary of an urbanized area are not separately recognized.

<sup>8</sup> S. 316.1895(5), F.S.

<sup>9</sup> S. 316.1895(6), F.S.

<sup>10</sup> S. 316.1895(10), F.S.

<sup>11</sup> S. 316.183(1), F.S.

<sup>12</sup> S. 316.183(2), F.S.

<sup>13</sup> S. 316.183(7), F.S.

<sup>14</sup> S. 318.18(3)(c), F.S.

Section 322.27(3), F.S., establishes a point system for evaluation of convictions of violations of motor vehicle laws or ordinances for the determination of the continuing qualification of any person to operate a motor vehicle. The Department of Highway Safety and Motor Vehicles (DHSMV) may suspend the license of any person upon showing of its records or other good and sufficient evidence that the licensee has been convicted of violation of motor vehicle laws or ordinances amounting to 12 or more points as determined by the point system.

The points given for unlawful speed are:

- Not in excess of 15 miles per hour of lawful or posted speed - 3 points.
- In excess of 15 miles per hour of lawful or posted speed - 4 points.<sup>15</sup>

Florida law prohibits points being assessed for red light violations when enforced by a traffic infraction enforcement officer, and such violation may not be used to set motor vehicle insurance rates.<sup>16</sup>

### Radar Speed-Measuring Devices

Under Florida law, evidence of the speed of a vehicle measured by any radar speed-measuring device is inadmissible in any proceeding with respect to an alleged violation laws regulating the lawful speed of vehicles, unless such evidence of speed is obtained by an officer who:

- Has satisfactorily completed the radar training course established by the Criminal Justice Standards and Training Commission.
- Has made an independent visual determination that the vehicle is operating in excess of the applicable speed limit.
- Has written a citation based on evidence obtained from radar when conditions permit the clear assignment of speed to a single vehicle.
- Is using radar which has no automatic speed locks and no audio alarms, unless disconnected or deactivated.
- Is operating radar with audio Doppler engaged.
- Is using a radar unit which meets the minimum design criteria for such units established by DHSMV.<sup>17</sup>

Whenever any peace officer engaged in the enforcement of the motor vehicle laws uses any device to determine the speed of a motor vehicle on a public road, the device must be approved by DHSMV and must have been tested to determine that it is operating accurately. Tests for this purpose must be made at least once each six months.<sup>18</sup> Any police officer, upon receiving information relayed to him or her from a fellow officer stationed on the ground or in the air operating such a device that a driver of a vehicle has violated the speed laws, may arrest the driver for violation of said laws where reasonable and proper identification of the vehicle and the speed of same has been communicated to the arresting officer.<sup>19</sup>

### School Crossing Guards

Florida law requires DOT to adopt uniform guidelines for the training of school crossing guards. Each local governmental entity administering a school crossing guard program must provide a training program for school crossing guards according to the uniform guidelines. Successful completion of the training program is required of each school guard, except:

- A person who received equivalent training during employment as a law enforcement officer.
- A person who receives less than \$5,000 in annual compensation in a county with a population of less than 75,000.
- A student who serves in a school patrol.

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<sup>15</sup> S. 322.27(3)(d)5., F.S.

<sup>16</sup> S. 322.27(3)(d)6., F.S.

<sup>17</sup> S. 316.1906(2), F.S.

<sup>18</sup> S. 316.1905(1), F.S.

<sup>19</sup> S. 316.1905(2), F.S.

School crossing guard training programs may be made available to nonpublic schools upon contract.<sup>20</sup>

In Florida, school crossing guards are typically recruited, trained, and employed by a municipal police department or a county sheriff's department.<sup>21</sup>

## **Effect of the Bill**

The bill authorizes speed detection systems, which are similar to traffic infraction detectors, to be used to enforce speed limits in school zones for violations in excess of 10 miles per hour over the applicable speed limit when children are going to or from school and during the entirety of the school day.

## Definitions

The bill revises the existing definition of the term “local hearing officer”<sup>22</sup> which is used in relation to traffic infraction detectors to incorporate their use related to hearings on violations issued by speed detection systems in school zones.

The bill defines the term “speed detection system” to mean a portable or fixed automated system used to detect a motor vehicle’s speed using radar or LiDAR and to capture a photograph or video of the rear of a motor vehicle that exceeds the speed limit in force at the time of the violation.

## Powers of Local Authorities

The bill creates s. 316.008(9), F.S., authorizing a county or municipality to enforce the applicable speed limit on a roadway properly maintained as a school zone, through the use of a speed detection system for the detection of speed and capturing of photographs or videos for violations in excess of 10 miles per hour over the speed limit in force at the time of the violation:

- Within 30 minutes before through 30 minutes after the start of a regularly scheduled breakfast program;
- Within 30 minutes before through 30 minutes after the start of a regularly scheduled school session;
- During the entirety of a regularly scheduled school session; and
- Within 30 minutes before through 30 minutes after the end of regularly scheduled school session.

A school zone’s compliance with s. 316.1895, F.S., relating to school speed zones, creates a rebuttable presumption that the school zone has been properly maintained.

A county or municipality may place or install, or contract with a vendor to place or install, a speed detection device within a roadway maintained as a school zone to enforce s. 316.1895(10), F.S., or s. 316.183, F.S., relating to unlawful speed, as specified above, on that roadway.

## Speed Detection System Placement and Installation

The bill creates s. 316.0776(3), F.S., authorizing a speed detection system to be placed or installed in a school zone on a state road when permitted by DOT and in accordance with DOT-developed placement and installation specifications. The speed detection system may be placed or installed in a school zone on a street or highway under the jurisdiction of a county or a municipality in accordance

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<sup>20</sup> S. 316.72, F.S.

<sup>21</sup> Department of Transportation, *Florida School Crossing Guard Training Program*, <https://www.fdot.gov/Safety/programs/schoolcrossingguard.shtm> (last visited Mar. 22, 2023).

<sup>22</sup> Section 316.003(38), F.S., defines the term “local hearing officer” to mean the person, designated by a department, county, or municipality that elects to authorize traffic infraction enforcement officers to issue traffic citations under s. 316.0083(1) (a), F.S., who is authorized to conduct hearings related to a notice of violation issued pursuant to s. 316.0083, F.S. The charter county, non charter county, or municipality may use its currently appointed code enforcement board or special magistrate to serve as the local hearing officer. DHSMV may enter into an interlocal agreement to use the local hearing officer of a county or municipality.

with DOT-established placement and installation specifications. DOT must establish such placement and installation specifications by August 1, 2023.

If a county or municipality places or installs a speed detection system within a school zone, the county or municipality must notify the public that a speed detection system may be in use by posting signage indicating photographic or video enforcement of the school zone speed limits. Such signage must clearly designate the time period during which the school zone speed limits are enforced using a speed detection system and must meet the placement and installation specifications established by DOT. For a speed detection system enforcing violations of s. 316.1895, F.S., or s. 316.183 F.S., on a roadway maintained as a school zone, this signage requirement governs the signage notifying the public of the use of a speed detection system.

If a county or municipality begins a school zone speed detection system program in a county or municipality that has never conducted such a program, the respective county or municipality must make a public announcement and conduct a public awareness campaign of the proposed use of speed detection systems at least 30 days before commencing enforcement under the speed detection system program and notify the public of the specific date on which the program will commence. During the 30-day public awareness campaign, only a warning may be issued to the registered owner of a motor vehicle for a violation of s. 316.1895, F.S., or s. 316.183, F.S., enforced by a speed detection system, and liability may not be imposed for the civil penalty under s. 318.18(3)(d), F.S. (created in the bill), which is \$100.

#### School Crossing Guard Recruitment and Retention Program

The bill creates s. 316.1894, F.S., which creates the School Crossing Guard Recruitment and Retention Program and requires each law enforcement agency having jurisdiction over a county or municipality conducting a school zone speed detection system program to use funds generated from the school zone speed detection system program to administer the School Crossing Guard Recruitment and Retention Program. Such program may provide recruitment and retention stipends to crossing guards at K-12 public schools, including charter schools, or stipends to third parties for the recruitment of new crossing guards. The School Crossing Guard Recruitment and Retention Program is designed and managed at the discretion of the law enforcement agency.

#### Speed Detection Systems in School Zones

The bill creates s. 316.1896, F.S., authorizing the use of speed detection systems on roadways maintained as school zones. The bill allows a county or municipality to authorize a traffic infraction enforcement officer to issue uniform traffic citations for a violation of the speed limit on a roadway maintained as a school zone pursuant to ss. 316.1895 and 316.183, F.S., as follows:

- For a violation of s. 316.1895, F.S., in excess of 10 miles per hour over the school zone speed limit within 30 minutes before through 30 minutes after a regularly scheduled breakfast program.
- For a violation of s. 316.1895, F.S., in excess of 10 miles per hour over the school zone speed limit within 30 minutes before through 30 minutes after the start of a regularly scheduled school session.
- For a violation of s. 316.183, F.S., in excess of 10 miles per hour over the posted speed limit during the entirety of a regularly scheduled school session.
- For a violation of s. 316.1895, F.S., in excess of 10 miles per hour over the school zone speed limit which occurs within 30 minutes before through 30 minutes after the end of a regularly scheduled school session.

Such violation must be evidenced by a speed detection system. This does not prohibit a review of information from a speed detection system by an authorized employee or agent of a county or municipality before issuance of the uniform traffic citation by the traffic infraction enforcement officer. This also does not prohibit a county or municipality from issuing notices of violation to the registered owner of the motor vehicle in violation of s. 316.1895, F.S. or s. 316.183, F.S.

Within 30 days after a violation, the bill requires a notice of violation to be sent to the registered owner of the motor vehicle involved in the violation specifying the remedies available under s. 318.14, F.S., relating to procedures for noncriminal traffic infractions, and that the violator must pay the \$100 penalty under s. 318.18(3)(d), F.S., (created in the bill) to the county or municipality, or furnish an affidavit, within 30 days after the date of the notice of violation in order to avoid court fees, costs, and the issuance of a uniform traffic citation. The notice of violation must:

- Be sent by first-class mail.
- Include a photograph or other recorded image showing the license plate of the motor vehicle; the date, time, and location of the violation; the maximum speed at which the motor vehicle was traveling within the school zone; and the speed limit within the school zone at the time of the violation.
- Include a notice that the owner has the right to review, in person or remotely, the photograph or video captured by the speed detection system and the evidence of the speed of the motor vehicle detected by the speed detection system which constitute a rebuttable presumption that the motor vehicle was used in violation of s. 316.1895, F.S or s. 316.183, F.S.
- State the time when, and the place or website at which, the photograph or video captured and evidence of speed detected may be examined and observed.

Notwithstanding any other law, a person<sup>23</sup> who receives a notice of violation may request a hearing within 30 days after the notice of violation or pay the penalty pursuant to the notice of violation, but a payment or fee may not be required before the hearing requested by the person. The notice of violation must be accompanied by, or direct the person to a website that provides, information on the person's right to request a hearing and on all costs related to the hearing and a form used for requesting a hearing.

If the registered owner or co-owner of the motor vehicle; the person designated as having care, custody, or control of the motor vehicle at the time of the violation; or an authorized representative of the owner, co-owner, or designated person initiates a proceeding to challenge the violation, such person waives any challenge or dispute as to the delivery of the notice of violation.

Penalties assessed and collected by the county or municipality authorized to collect these funds, less the amount retained by the county or municipality and the amount remitted to the county school district, must be paid to the Department of Revenue (DOR) weekly. Such payment must be made by means of electronic funds transfer. In addition to the payment, a detailed summary of the penalties remitted must be reported to DOR. Penalties assessed and collected by the county or municipality<sup>24</sup> are remitted as follows:

- Twenty dollars is remitted to DOR for deposit into the General Revenue Fund.
- Sixty dollars is retained by the county or municipality to be used to administer speed detection systems in school zones and other public safety initiatives.
- Three dollars is remitted to DOR for deposit into the Department of Law Enforcement Criminal Justice Standards and Training Trust Fund.
- Twelve dollars is remitted to the county school district in which the violation occurred and must be used for school security initiatives, for student transportation, or to improve the safety of student walking conditions. These funds must be shared with charter schools in the district based on each charter school's proportionate share of the district's total unweighted full-time equivalent student enrollment and must be used for school security initiatives or to improve the safety of student walking conditions.
- Five dollars is retained by the county or municipality for the School Crossing Guard Recruitment and Retention Program created in the bill.

A uniform traffic citation must be issued by mailing the uniform traffic citation by certified mail to the address of the registered owner of the motor vehicle involved in the violation if payment has not been

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<sup>23</sup> For purposes of s. 316.1896, F.S., the term "person" includes a natural person, the registered owner or co-owner of a motor vehicle, or the person identified in an affidavit as having actual care, custody, or control of the motor vehicle at the time of the violation.

<sup>24</sup> This is as established in s. 318.18(3)(d), F.S., created in the bill.

made within 30 days after notification, if the registered owner has not requested a hearing, and if the registered owner has not submitted a specified affidavit.

Delivery of the uniform traffic citation constitutes notification of a violation. If the registered owner or co-owner of the motor vehicle; the person designated as having care, custody, or control of the motor vehicle at the time of the violation; or a duly authorized representative of the owner, co-owner, or designated person initiates a proceeding to challenge the citation, such person waives any challenge or dispute as to the delivery of the uniform traffic citation.

In the case of joint ownership of a motor vehicle, the uniform traffic citation must be mailed to the first name appearing on the motor vehicle registration, unless the first name appearing on the registration is a business organization, in which case the second name appearing on the registration may be used.

The uniform traffic citation mailed to the registered owner of the motor vehicle must be accompanied by the same information that was included with the initial notice of violation.

The registered owner of the motor vehicle involved in the violation is responsible and liable for paying the uniform traffic citation issued for a violation of s. 316.1895, F.S., or s. 316.183, F.S., unless the owner can establish that:

- The motor vehicle was, at the time of the violation, in the care, custody, or control of another person.
- A uniform traffic citation was issued by law enforcement to the driver of the motor vehicle for the alleged violation of s. 316.1895, F.S. or s. 316.183, F.S.
- The motor vehicle's owner was deceased on or before the date of the alleged violation, as established by an affidavit submitted by the representative of the motor vehicle owner's estate or other designated person or family member.

To establish the above facts, the registered owner of the motor vehicle must, within 30 days after the date of issuance of the notice of violation or the uniform traffic citation, furnish to the appropriate governmental entity an affidavit setting forth information supporting an exception:

- An affidavit stating that the motor vehicle was, at the time of the violation, in the care, custody, or control of another person must include the name, address, date of birth, and, if known, the driver license number of the person who leased, rented, or otherwise had care, custody, or control of the motor vehicle at the time of the alleged violation. If the motor vehicle was stolen at the time of the alleged violation, the affidavit must include the police report indicating that the motor vehicle was stolen.
- If a uniform traffic citation for a violation of s. 316.1895, F.S., or s. 316.183, F.S. was issued at the location of the violation by a law enforcement officer, the affidavit must include the serial number of the uniform traffic citation.
- If the motor vehicle's owner to whom a traffic citation has been issued is deceased, the affidavit must include a certified copy of the owner's death certificate showing that the date of death occurred on or before the date of the alleged violation and one of the following:
  - A bill of sale or other document showing that the deceased owner's motor vehicle was sold or transferred after his or her death but on or before the date of the alleged violation.
  - Documented proof that the registered license plate belonging to the deceased owner's motor vehicle was returned to the DHSMV or any branch office or authorized agent of the DHSMV after his or her death but on or before the date of the alleged violation.
  - A copy of the police report showing that the deceased owner's registered license plate or motor vehicle was stolen after his or her death but on or before the date of the alleged violation.

Upon receipt of the required affidavit and documentation specified above related to the issuance of a uniform traffic citation or a deceased owner, or 30 days after the date of issuance of a notice of violation sent to a person identified as having care, custody, or control of the motor vehicle at the time of the violation, the county or municipality must dismiss the notice or citation and provide proof of such dismissal to the person who submitted the affidavit. If, within 30 days after the date a notice of violation



was sent to a person, the county or municipality receives an affidavit from the person sent a notice of violation affirming that the person did not have care, custody, or control of the motor vehicle at the time of the violation, the county or municipality must notify the registered owner that the notice or citation will not be dismissed due to failure to establish that another person had care, custody, or control of the motor vehicle at the time of the violation.

Upon receipt of an affidavit identifying another person having care, custody, or control of the vehicle, the person identified may be issued a notice of violation for a violation of s. 316.1895, F.S., or s. 316.183, F.S. The affidavit is admissible in a proceeding for the purpose of providing proof that the person identified in the affidavit was in actual care, custody, or control of the motor vehicle. The owner of a leased motor vehicle for which a uniform traffic citation is issued for a violation of s. 316.1895, F.S., is not responsible for paying the uniform traffic citation and is not required to submit an affidavit if the motor vehicle involved in the violation is registered in the name of the lessee of such motor vehicle.

If a county or municipality receives an affidavit identifying another person having care, custody, or control of the vehicle, the required notice of violation must be sent to the person identified in the affidavit within 30 days after receipt of the affidavit. The person identified in the affidavit and sent a notice of violation may also affirm that he or she did not have care, custody, or control of the motor vehicle at the time of the violation by furnishing to the appropriate governmental entity within 30 days after the date of the notice of violation an affidavit stating such.

The submission of a false affidavit is a misdemeanor of the second degree, punishable with up to 60 days in jail or a \$500 fine.<sup>25</sup>

The photograph or video captured by a speed detection system and the evidence of the speed of the motor vehicle detected by a speed detection system which are attached to or referenced in the traffic citation are evidence of a violation of s. 316.1895, F.S., or s. 316.183, F.S., and are admissible in any proceeding to enforce the violation. The photograph or video and the evidence of speed detected raise a rebuttable presumption that the motor vehicle named in the report or shown in the photograph or video was used in violation of s. 316.1895, F.S. or s. 316.183, F.S.

This bill supplements the enforcement of s. 316.1895, F.S., and 316.183, F.S., by a law enforcement officer and does not prohibit a law enforcement officer from issuing a uniform traffic citation for a violation of s. 316.1895, F.S., or s. 316.183, F.S.

A hearing related to the violation must be conducted under the procedures established in s. 316.0083(5), F.S.,<sup>26</sup> and as follows:

- DHSMV must publish and make available electronically to each county and municipality a model request for hearing form to assist each county or municipality administering s. 316.1896, F.S.
- A county or municipality electing to authorize traffic infraction enforcement officers to issue uniform traffic citations must designate by resolution existing staff to serve as the clerk to the local hearing officer.
- A person, referred to as the "petitioner," who elects to request a hearing must be scheduled for a hearing by the clerk to the local hearing officer. The clerk must furnish the petitioner with notice to be sent by first-class mail. Upon receipt of the notice, the petitioner may reschedule the hearing up to two times by submitting a written request to reschedule to the clerk at least 5 calendar days before the day of the scheduled hearing. The petitioner may cancel his or her appearance before the local hearing officer by paying the assessed penalty, plus the administrative costs of \$50<sup>27</sup> before the start of the hearing.
- All testimony at the hearing must be under oath and recorded. The local hearing officer must take testimony from a traffic infraction enforcement officer and the petitioner and may take testimony from others. The local hearing officer must review the photograph or video captured by the speed detection system and the evidence of the speed of the motor vehicle detected by

<sup>25</sup> This is as provided in s. 775.082, F.S., or s. 775.083, F.S.

<sup>26</sup> Section 316.0083(5), F.S., establishes procedures for hearings regarding red light camera violations.

<sup>27</sup> This administrative cost is established in s. 316.0083(5)(c), F.S., relating to red light camera violations.

the speed detection system. Formal rules of evidence do not apply, but due process must be observed and govern the proceedings.

- At the conclusion of the hearing, the local hearing officer must determine whether a violation occurred and must uphold or dismiss the violation. The local hearing officer must issue a final administrative order including the determination and, if the notice of violation is upheld, require the petitioner to pay the \$100 penalty previously assessed, and may also require the petitioner to pay county or municipal costs not to exceed \$250.<sup>28</sup> The final administrative order must be mailed to the petitioner by first-class mail.
- An aggrieved party may appeal a final administrative order consistent with the process provided in s. 162.11, F.S., relating to appeals of an order of the code enforcement board.

The bill provides that, notwithstanding any other law, speed detection systems in school zones may not be capable of automated or user-controlled remote surveillance. Recorded video or photographs collected may only be used to document violations of ss. 316.1895 and 316.183, F.S., and for purposes of determining civil or criminal liability.

Any recorded video or photograph obtained through the use of a speed detection system must be destroyed within 90 days after the final disposition of the recorded event. The vendor of the speed detection system must provide the county or municipality with written notice by December 31 of each year that such records have been destroyed. Registered motor vehicle owner information obtained as a result of the operation of a speed detection system in a school zone is not the property of the manufacturer or vendor of the speed detection system and may be used only for the purposes specified.

The bill requires each county or municipality that operates a speed detection system in a school zone to submit a report by October 1, 2023, and quarterly thereafter, to DHSMV which details the results of the speed detection system in the school zone and the procedures for enforcement in the preceding quarter. The information from counties and municipalities must be submitted in a form and manner determined by DHSMV, which DHSMV must make available to the counties and municipalities by August 1, 2023, and must include at least the following:

- Information related to the location of each speed detection system, including the geocoordinates of the school zone; the directional approach of the speed detection system; the school name; the school level; the times the speed detection system was active; the restricted school zone speed limit enforced pursuant to s. 316.1895(5), F.S.; the posted speed limit enforced at times other than those authorized by s. 316.1895(5), F.S.; the date the systems were activated to enforce violations of ss. 316.1895 and 316.183, F.S.; and, if applicable, the date the systems were deactivated.
- The number of notices of violations issued, the number that were contested, the number that were upheld, the number that were dismissed, the number that were issued as uniform traffic infractions, and the number that were paid.
- Any other statistical data and information required by DHSMV to complete the report required below.

Each county or municipality that operates a speed detection system is responsible for and must maintain its respective data for reporting purposes for at least 2 years after such data is reported to DHSMV.

On or before December 31, 2024, and annually thereafter, DHSMV must submit a summary report to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding the use of speed detection systems along with DHSMV's recommendations and any recommended legislation. The summary report must include a review of the information submitted to DHSMV by the counties and municipalities and must describe the enhancement of traffic safety and enforcement programs.

#### Definition of Traffic Infraction Enforcement Officer

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<sup>28</sup> The maximum cost is established in s. 316.0083(5)(e), F.S., relating to red light camera violations.

The bill creates s. 316.1906(1)(d)4., F.S., including a definition of “traffic infraction enforcement officer” into the statutory definition of the “officer.”<sup>29</sup> The bill defines the term “traffic infraction enforcement officer” to mean someone who is employed or appointed, with or without compensation, and satisfies the requirements of s. 316.640(5), F.S., and is vested with authority to enforce violations of ss. 316.1895 and 316.183, F.S., pursuant to s. 316.1896, F.S.

### Speed Detection Systems

The bill creates s. 316.1906(3), F.S., exempting speed detection systems from DHSMV’s requirements for radar or LiDAR units. A speed detection system must have the ability to perform self-tests as to its detection accuracy. The system must perform a self-test at least once every 30 days. The law enforcement agency, or an agent acting on behalf of the law enforcement agency, operating a speed detection system must maintain a log of the results of the system’s self-tests. The law enforcement agency, or an agent acting on behalf of the law enforcement agency, operating a speed detection system must also perform an independent calibration test on the speed detection system at least once every 12 months. The self-test logs, as well as the results of the annual calibration test, are admissible in any court proceeding for a uniform traffic citation issued for a violation of s. 316.1895, F.S., or s. 316.183, F.S., enforced pursuant to s. 316.1896, F.S. However, evidence of the speed of a motor vehicle detected by a compliant speed detection system and the determination by a traffic enforcement officer that a motor vehicle is operating in excess of the applicable speed limit is admissible in any proceeding with respect to an alleged violation of law regulating the speed of motor vehicles.

### Penalties

The bill provides that a person cited for a violation of s. 316.1985(10), F.S., or s. 316.183, F.S., for exceeding the speed limit in force at the time of the violation on a roadway maintained as a school zone, when enforced by a traffic infraction enforcement officer pursuant to s. 316.1896, F.S., must pay a fine of \$100. Fines collected under this provision are distributed as follows:

- Twenty dollars is remitted to DOR for deposit into the General Revenue Fund.
- Seventy-seven dollars is distributed to the county for any violations occurring in any unincorporated areas of the county or to the municipality for any violations occurring in the incorporated boundaries of the municipality in which the infraction occurred, to be used as provided in s. 316.1896(5), F.S.<sup>30</sup>
- Three dollars is remitted to DOR for deposit into the Law Enforcement Criminal Justice Standards and Training Trust fund to be used as provided in s. 943.25, F.S., relating to the source and use of funds in criminal justice trust funds.

If a person who is mailed a notice of violation or a uniform traffic citation for a violation of s. 316.1895(10), F.S., or s. 316.183, F.S., as enforced by a traffic infraction enforcement officer under s. 316.1896, F.S., presents documentation from the appropriate governmental entity that the notice of violation or uniform traffic citation was in error, the clerk of court or clerk of the local hearing officer may dismiss the case. The clerk of court or clerk of the local hearing officer may not charge for this service.

### Driver License Points

The bill prohibits points from being imposed on a driver license for a violation of unlawful speed in a school zone when enforced by a traffic infraction enforcement officer through use of a speed detection system as described above. In addition, a violation of unlawful speed in a school zone when enforced by a traffic infraction enforcement officer through use of a speed detection system may not be used for purposes of setting motor vehicle insurance rates.

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<sup>29</sup> The term “officer” in s. 316.1906(1)(d), F.S., defines the terms “law enforcement officer”, “part-time law enforcement officer”, and “auxiliary law enforcement officer.”

<sup>30</sup> Section 316.1896(5), F.S., provides that of the \$77, \$60 is retained by the county or municipality to administer the program and other public safety initiatives, \$12 is remitted to the school district for school security and safety initiatives, and \$5 is retained by the county or municipality for the School Crossing Guard Recruitment and Retention Program.

## Conforming Changes

The bill amends s. 316.640, F.S., relating to the enforcement of traffic laws authorizing traffic infraction enforcement officers to issue a traffic citation to enforce school zone speed limits.

The bill amends s. 316.650, F.S., relating to traffic citations requiring the traffic infraction enforcement officer to provide traffic citation data to the court within 5 business days, instead of 5 days, after the date of issuance of the citation to the violator.

The bill amends s. 318.14, FS., relating to noncriminal traffic infractions to provide an exception to a statutory requirement that certain traffic violations be signed.

The bill amends ss. 316.306, 318.21, and 655.960, F.S., conforming cross-references.

## Effective Date

The bill provides an effective date of July 1, 2023.

## B. SECTION DIRECTORY:

- Section 1** Amends s. 316.003, F.S., providing definitions.
- Section 2** Amends s. 316.008, F.S., providing powers of local authorities.
- Section 3** Amends s. 316.0776, F.S., relating to the placement and installation of traffic infraction detectors and speed detection systems.
- Section 4** Creates s. 316.1894, F.S., relating to the School Crossing Guard Recruitment and Retention Program.
- Section 5** Creates s. 316.1896, F.S., relating to roadways maintained as school zones; speed detection system enforcement; penalties; appeal procedure; privacy; reports.
- Section 6** Amends s. 316.1906, F.S., relating to radar speed-measuring devices; speed detection systems; evidence, admissibility.
- Section 7** Amends s. 318.18, F.S., providing the amount of penalties.
- Section 8** Amends s. 322.27, F.S., relating to the authority for DHSMV to suspend or revoke a driver license or identification card.
- Section 9** Amends s. 316.306, F.S., relating to school and work zones; prohibition on the use of a wireless communications device in a handheld manner.
- Section 10** Amends s. 316.640, F.S., relating to enforcement.
- Section 11** Amends s. 316.650, F.S., relating to traffic citations.
- Section 12** Amends s. 318.14, F.S., relating to noncriminal traffic infractions; exception; procedures.
- Section 13** Amends s. 318.21, F.S., relating to the disposition of civil penalties by county courts.
- Section 14** Amends s. 655.960, F.S., providing definitions.
- Section 15** Provides an effective date of July 1, 2023.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill may have indeterminate, but positive, impact on state revenues. Of the \$100 fine imposed per violation, \$20 is allocated to the General Revenue Fund, and \$3 is remitted to the Department of Law Enforcement Criminal Justice Standards and Training Trust Fund. To the extent that the bill authorizes new revenues for the named funds, it may have a positive impact. The significance of the impact depends on how often fines are imposed or paid and is indeterminate.

#### 2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

The bill may have an indeterminate, but positive, impact on local government revenues. Of the \$100 fine imposed per violation, \$60 is retained by the county or municipality to administer the program and for other public safety initiatives; \$12 is remitted to the county school district for school security initiatives, for student transportation, or to improve the safety of student walking conditions; and \$5 is retained by the county or municipality for the School Crossing Guard Recruitment and Retention Program created in the bill. To the extent that local governments may receive additional revenues from the collection of the fine authorized in the bill, it may have a positive impact. The significance of the impact depends on how often fines are imposed or paid and is indeterminate.

#### 2. Expenditures:

The bill may have an indeterminate impact on local government expenditures. The bill does not require local governments to create school zone speed detection programs, but a county or municipality may incur costs if it chooses to do so. However, \$60 from every notice of violation issued is retained by the county or municipality in order to administer the program. To the extent that local governments may choose to establish the speed detection programs authorized by the bill, and the revenues received from fines authorized by the bill may offset implementation costs, the impact of the bill is indeterminate.

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

The bill may have a positive impact on the revenues of vendors who sell or lease speed detection systems to the extent that local governments may contract with them to implement a school zone speed detection program.

A portion of the funds generated from authorized fines is provided for school crossing guard recruitment and retention programs, which may include stipends to third parties for the recruitment of new crossing guards. The bill may have a positive impact on any such third party's revenue if a local government chooses to spend the funds in that manner.

### D. FISCAL COMMENTS:

According to DOR, the bill will likely impact its remittance system and may require the creation of a new system.<sup>31</sup> DOR indicated that they may be able to utilize the existing red light camera system to implement the bill within existing resources.

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<sup>31</sup> Department of Revenue, *Agency Analysis of 2023 Committee Substitute for House Bill 657*, p.6. (Mar. 30, 2023).

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenue in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

None

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

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 15, 2023, the Transportation & Modals Subcommittee considered a proposed committee substitute and reported the bill favorably as a committee substitute. The committee substitute differs from HB 657 in that it:

- Amends the signage provisions such that the signage relating to a speed detection system must clearly designate the period that the school zone speed limit is enforced using the speed detection system, and the signage must meet the placement and installation specifications established by DOT.
- Holds the vehicle's registered owner liable to pay the traffic violation if the registered owner submits an affidavit identifying the driver to be another person but such person in turn submits an affidavit attesting that they were not in fact the driver who violated the school zone speed limit.
- Allows a petitioner requesting a hearing on a violation to reschedule the hearing up to two times, instead of just once.
- Adds provisions regarding the privacy of images from speed detection systems.
- Requires that annual reports be submitted to DHSMV by counties and municipalities operating speed detection system programs.
- Requires DHSMV to submit an annual report to the Governor and Legislature.
- Makes technical and conforming changes.

On April 10, 2023, the Infrastructure Strategies Committee considered a proposed committee substitute and reported the bill favorably as a committee substitute. The committee substitute differs from CS/HB 657 in that it:

- Clarifies the times during which the cameras can enforce applicable speed limits.
- Clarifies the statutory basis for speeding violations.
- Amends reporting requirements and adds a records retention requirement for counties and municipalities that operate speed detection systems in school zones.
- Clarifies processes relating to a "notice of violation" and a "uniform traffic citation."
- Clarifies the distribution of fines collected from a uniform traffic citation.
- Authorizes the clerk of court or clerk to the local hearing officer to dismiss a notice of violation or uniform traffic citation if certain conditions are met.
- Makes other technical and conforming changes.

This analysis has been updated to reflect the committee substitute as approved by the Infrastructure Strategies Committee.