

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 741 Enforcement of School Bus Passing Infractions

SPONSOR(S): Transportation & Modals Subcommittee, Michael

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Modals Subcommittee	16 Y, 0 N, As CS	Johnson	Hinshelwood
2) PreK-12 Appropriations Subcommittee	14 Y, 1 N	Bailey	Potvin
3) Infrastructure Strategies Committee			

SUMMARY ANALYSIS

Under Florida law, the authorization for the use of cameras to enforce traffic laws is preempted to the state. The only such traffic cameras currently authorized in statute are commonly known as red light cameras.

The bill authorizes the use of school bus infraction detection system, similar to a red-light camera system, to be used to enforce traffic violations for passing a stopped school bus loading or unloading passengers. The bill:

- Defines the term “school bus infraction detection system”.
- Authorizes school districts to contract with a private vendor or manufacturer to enforce passing a stopped school bus using a school bus infraction detection system.
- Requires the school district to enter into an interlocal agreement with one or more law enforcement agencies regarding enforcement using school bus infraction detection systems.
- Provides requirements for issuing a notice of violation or uniform traffic citation when a school bus infraction detection system catches a violator.
- Provides for a \$225 penalty for each violation using a school bus infraction detection system and provides for the distribution of proceeds to school districts.
- Provides defenses for persons who receive a notice of violation or uniform traffic citation.
- Provides that images from school bus infraction detection systems may only be used to enforce school bus violation and may not be used for other surveillance purposes.
- Provides for privacy of the data obtained from school bus infraction detection systems.
- Requires reporting by school districts that implement a program for school bus infraction detection systems on school buses, and a summary report by the Department of Highway Safety and Motor Vehicles.
- Prohibits points from being imposed for a violation of unlawful speed enforced by a school bus infraction detection system and prohibits such violations from being used for purposes of setting motor vehicle insurance rates.
- Conforms the powers of school boards to allow for the use

The bill does not have a fiscal impact to state government. The bill has an indeterminate fiscal impact on local governments and the private sector.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

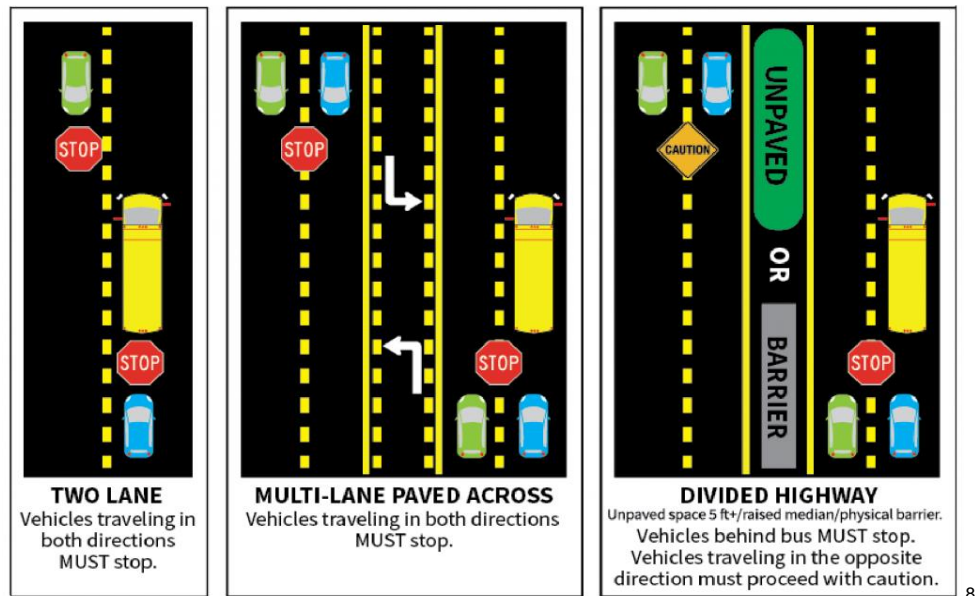
Use of Cameras for Traffic Enforcement

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

School Bus Traffic Laws

Under s. 316.172, F.S., a school bus must stop as far to the right of the street as possible and display warning lights and stop signals before discharging or loading passengers.⁴ When possible, school buses should not stop where visibility is obscured for a distance of 200 feet from the bus.⁵

When approaching a stopped school bus displaying a stop signal, a driver must bring his or her vehicle to a full stop until the bus's signal is withdrawn.⁶ However, a driver is not required to stop if his or her vehicle is traveling in the opposite direction of a stopped school bus on a divided highway with an unpaved space of at least five feet, a raised median, or a physical barrier.⁷



¹ S. 316.0076, F.S. Ch. 316, F.S., is the Florida Uniform Traffic Control Law.

² S. 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.

³ S. 316.0083, F.S.

⁴ S. 316.172(3), F.S.

⁵ *Id.*

⁶ S. 316.172(1)(a), F.S.

⁷ S. 316.172(2), F.S.

⁸ Department of Highway Safety and Motor Vehicles, *Child Safety: School Bus Safety*, <https://www.flhsmv.gov/safety-center/child-safety/school-bus-safety/> (last visited Mar. 17, 2023).

A person cited for failing to stop for a school bus displaying a stop signal pursuant to s. 316.172(1)(a), F.S., commits a moving violation and is subject to a \$200 civil penalty.⁹ A person cited for a moving violation may either pay the civil penalty or request a hearing to contest the citation.¹⁰ Additionally, person convicted, pleads nolo contendere, or the court withholds adjudication for such violation must attend a driver improvement course.¹¹

A driver who passes a school bus on the side that children enter and exit while the school bus displays a stop signal pursuant to s. 316.172(1)(b), F.S., also commits a moving violation; however, he or she is subject to a \$400 civil penalty¹² and must attend a mandatory hearing,¹³ and attend a driver improvement course.¹⁴

A driver who illegally passes a stopped school bus and:

- Does not cause serious bodily injury or death to another, will receive four points on his or her driver license record.¹⁵
- Causes serious bodily injury or death to another, will receive six points on his or her driver license record and must:¹⁶
 - Serve 120 community service hours in a trauma center or hospital that regularly receives victims of vehicle accidents;
 - Participate in a victim's impact panel session; if such panel does not exist, the driver must attend a driver improvement course approved by the Department of Highway Safety and Motor Vehicles (DHSMV) relating to the rights of vulnerable road users relative to vehicles on the roadway;¹⁷ and
 - Pay a \$1,500 fine and have his or her driver license suspended for at least 1 year.¹⁸

When a driver accumulates a certain number of points on his or her driving record within a certain time period, his or her license is suspended, as follows:

- 12 points in 12 months – 30-day suspension.
- 18 points in 18 months – 3-month suspension.
- 24 points in 36 months – 12-month suspension.¹⁹

School Bus Stop Arm Traffic Citations

The Department of Education (DOE) created a statewide survey for bus drivers to complete regarding the illegal passing of their school buses. The survey results from 2022 show that on a single day, 7,867 illegal passes were made based on the observations of 6,416 school bus drivers who completed the survey. Of these illegal passes, 299 were made on the right side of the bus where children generally enter and exit the vehicle, 7,104 were made on the left side.²⁰

The National Highway Traffic Safety Administration (NHTSA) indicates that from 2010 to 2019, 240 school-age children died in school-transportation-related crashes.²¹ Half (50 percent) were struck by

⁹ In addition to this penalty, for a second or subsequent offense within a period of 5 years, DHSMV must suspend the driver license of the person for not less than 180 days and not more than 1 year. S. 318.18(5)(a), F.S.

¹⁰ S. 318.14, F.S.

¹¹ Ss. 322.0261 (4)(a) and (c), F.S.

¹² In addition to this penalty, for a second or subsequent offense within a period of 5 years, DHSMV must suspend the driver license of the person for not less than 360 days and not more than 2 years. S. 318.18(5)(b), F.S.

¹³ Ss. 316.172(1)(b) and 318.19(3), F.S.

¹⁴ Ss. 322.0261 (4)(a) and (c), F.S.

¹⁵ S. 322.27(3)(d)4.a., F.S.

¹⁶ S. 322.27(3)(d)4.b., F.S.

¹⁷ S. 316.027(4)(b), F.S.

¹⁸ S. 318.18(5)(d), F.S.

¹⁹ S. 322.27(3), F.S.

²⁰ Florida Department of Education, *School Transportation, Illegal Passing of School Buses – Survey Results for 2022*, <https://www.fldoe.org/core/fileparse.php/7585/urlt/2022illegalpassing.pdf> (last visited Mar. 20, 2023).

²¹ National Highway Traffic Safety Administration, *2010-2019 Data: School Transportation-Related Crashes* May 2021, <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813105.pdf> (last visited Mar. 20, 2023).

school buses or vehicles functioning as school buses, while the other half (50 percent) were struck by other vehicles involved in the crashes.²²

To increase student transportation safety, at least 24 states have school bus stop-arm camera laws.²³ These systems are typically equipped with multiple sensors and cameras affixed to a school bus. The sensor triggers a tag on the recording each time it senses a vehicle passing the stopped bus illegally.²⁴ When a vehicle illegally passes a stopped school bus, the sensor triggers two cameras to capture a high-definition digital video recording (DVR) from both directions. The cameras capture both oncoming traffic and vehicles passing the stopped bus on the driver side. The DVR recording is flagged as a violation and tags information for enforcement, including, but not limited to, the time, date, and location of the violation and images or film of the subject vehicle and license plate. The violation recordings captured are reviewed and processed by a third-party private manufacturer or vendor.²⁵

Florida does not currently authorize the use of traffic infraction technology or school bus side stop signal arm enforcement systems to detect violations of school bus stop signals.

School District Transportation Duties

Florida law requires district school superintendents to ascertain which students should be transported to school or to school activities; determine the most effective arrangement of transportation routes to accommodate these students; recommend such routing to the district school board; recommend plans and procedures for providing facilities for the economical and safe transportation of students; recommend such rules as may be necessary. Superintendents are also responsible for seeing that all rules relating to the transportation of students approved by the district school board, as well as rules of the State Board of Education, are properly carried into effect.²⁶

After considering recommendations of the district school superintendent, the district school board must make provision for the transportation of students to the public schools or school activities they are required or expected to attend; authorize transportation routes arranged efficiently and economically; provide the necessary transportation facilities; and, when authorized under rules of the State Board of Education and if more economical to do so, provide limited subsistence in lieu thereof. The district school board is also responsible for adopting the necessary rules to ensure safety, economy, and efficiency in the operation of all buses.²⁷

Effect of the Bill

Definitions

The bill defines the term “school bus infraction detection system” to mean a camera system affixed to a school bus with two or more camera sensors or computers that produce a recorded video and two or more film or digital photographic still images for the purpose of documenting a motor vehicle being used or operated in a manner that allegedly violates s. 316.172(1)(a) or (b), F.S.

School Bus Infraction Detection Systems

The bill creates s. 1006.21(3)(h), F.S., providing that a district school board, after considering recommendations of the district school superintendent may install and operate, or enter into an agreement with a private vendor or manufacturer to provide, a school bus infraction detection system.

²² *Id.* at 2.

²³ National Conference of State Legislatures, *State School Bus Stop-Arm Camera Laws* (Feb. 15, 2023),

<https://www.ncsl.org/research/transportation/state-school-bus-stop-arm-camera-laws.aspx> (last visited Mar. 20, 2023).

²⁴ Seon Automated Stop-Arm Camera Solution, <https://www.seon.com/school-bus-safety/school-bus-camera-systems/stop-arm-system> (last visited Mar. 20, 2023).

²⁵ *Id.*

²⁶ S. 1006.21(1), F.S.

²⁷ S. 1006.21(2), F.S.

The bill creates s. 316.173, F.S., authorizing school districts, at their discretion, to install and operate a school bus infraction detection system on a school bus for the purpose of enforcing s. 316.172(1)(a) and (b), F.S., as provided in and consistent with s. 316.173, F.S.

The bill provides for school districts to either contract with a private vendor or manufacturer to install a school bus infraction detection system on any school bus within its fleet, whether owned, contracted, or leased, and for services including, but not limited to, the installation, operation, and maintenance of the system. The school district's decision to install school bus infraction systems must be based solely on the need to increase public safety. An individual may not receive a commission from any revenue collected from violations detected through the use of a school bus infraction detection system. A private vendor or manufacturer may not receive a fee or remuneration based upon the number of violations detected through the use of a school bus infraction detection system.

The school district must ensure that each school bus infraction detection system meets specifications established by the State Board of Education (SBE) and must be tested at regular intervals according to specifications prescribed by SBE rule. The SBE must establish such specifications by rule on or before December 31, 2023. The bill provides an exemption for equipment acquired via an agreement entered into by a school district on or before July 1, 2024.

The bill requires that a school district that elects to install a school bus infraction detection system must enter into an interlocal agreement with one or more law enforcement agencies authorized to enforce violations of s. 316.172(1)(a) and (b), F.S., within the school district which jointly establishes the responsibilities of enforcement and the reimbursement of costs associated with school bus infraction detection systems.

The bill requires a school district to post high-visibility reflective signage on the rear of each school bus in which a school bus infraction detection system is installed and operational which indicates the use of such a system.

The bill provides that if a school district has never conducted a school bus infraction detection system program begins such a program, the school district must make a public announcement and conduct a public awareness campaign at least 30 days before commencing enforcement. The school district must notify the public of the specific date on which the program will commence and until such program begins may only issue a warning for a violation of s. 316.172(1)(a) or (b), F.S.

The bill establishes the processes and procedures if an alleged violation as specified in s. 316.172(1)(a) or (b), F.S., is recorded by a school bus infraction detection system. Such processes and procedures pertain to the private vendor or manufacturer of the school bus infraction detection system; applicable law enforcement agency; and the registered owner or co-owner of the motor vehicle, person identified 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 identified person. Such processes and procedures include:

- The civil penalties assessed for a violation of s. 316.172(1)(a) or (b), F.S., enforced by a school bus infraction detection system are remitted to the school district in which the violation occurred. Such civil penalties must be used for the installation or maintenance of school bus infraction detection systems on school buses, for any other technology that increases the safety of the transportation of students, or for the administration and costs associated with the enforcement of violations.
- Delivery of the uniform traffic citation constitutes notification for a violation of s. 316.172(1)(a) or (b), F.S.
- 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. 316.172(1)(a) or (b), F.S., unless specified circumstances apply.

The bill provides that the video and images recorded by a school bus infraction detection system which are attached to or referenced in a uniform traffic citation are evidence of a violation of s. 316.172(1)(a) or (b), F.S., and are admissible in any proceeding to enforce the provisions of the bill.

The bill provides that notwithstanding any other law, equipment deployed as part of a school bus infraction detection system must be incapable of automated or user-controlled remote surveillance by means of recorded video or still images. Any recorded video or still image obtained through the use of a school bus infraction detection system must be destroyed within 90 days after the final disposition of the recorded event. The vendor of the school bus infraction detection system must provide the school district with written notice by December 31 of each year that such records have been destroyed in accordance.

The bill requires to the extent practicable, a school bus infraction detection system must use necessary technology to ensure that personal identifying information contained in the video or still images recorded by the system which is not relevant to the alleged violation is sufficiently obscured so as not to reveal such personal identifying information.

The bill requires that by October 1, 2024, and annually thereafter, a school district operating a school bus infraction detection system, in consultation with the law enforcement agency or agencies included in the interlocal agreement, provide a report to the DHSMV that details the results of the school bus infraction detection systems in the school district in the preceding school year.

The bill provides that by December 31, 2024, and annually thereafter, the 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 and operation of school bus infraction detection systems along with DHSMV's recommendations and any necessary legislation. The summary report must include a review of the information submitted to DHSMV by the school districts and must describe the enhancement of traffic safety and enforcement programs.

Penalties/Driver License Points

The bill provides that the civil penalties assessed for a violation of s. 316.172(1)(a) or (b), F.S., enforced by a school bus infraction detection system are remitted to the school district in which the violation occurred. Such civil penalties must be used for the installation or maintenance of school bus infraction detection systems on school buses, for any other technology that increases the safety of the transportation of students, or for the administration and costs associated with the enforcement of violations.

Below is a comparison of penalties under current law versus penalties provided in the bill. The penalties under current law would still be imposed if a school bus passing infraction is observed by law enforcement and not by a school bus infraction detection system.

	Current Law (caught by law enforcement)	Bill (caught by bus camera)
s. 316.172(1)(a), F.S., offense (passing on driver's side of bus)	\$200 penalty + \$65 penalty that goes to Department of Health TOTAL = \$265	\$200 penalty + \$25 penalty that goes to safe schools allocation through Department of Education TOTAL = \$225
s. 316.172(1)(b), F.S., offense (passing on entrance/exit side of bus)	\$400 penalty + \$65 penalty that goes to Department of Health TOTAL = \$465	\$200 penalty + \$25 penalty that goes to safe schools allocation through Department of Education TOTAL = \$225

The bill prohibits points from being imposed for a violation of passing a stopped school bus when enforced by a school bus infraction detection system. In addition, a violation of s. 36.172(1)(a) or (b),

F.S., when enforced by a school bus infraction detection system may not be used for purposes of setting motor vehicle insurance rates.

B. SECTION DIRECTORY:

- Section 1** Amends s. 316.003, F.S., providing definitions.
- Section 2** Creates s. 316.173, F.S., relating to school bus infraction detection systems.
- Section 3** Amends s. 318.14, F.S., relating to noncriminal traffic infractions; exception, procedures.
- Section 4** Amends s. 318.18, F.S., relating to the amount of penalties.
- Section 5** Amends s. 322.27, F.S., relating to authority of Department of Highway Safety and Motor Vehicles to suspend or revoke driver license or identification card.
- Section 6** Amends s. 1006.21, F.S., relating to duties of district school superintendent and district school board regarding transportation.
- Section 7** 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 8** Amends s. 655.960, F.S., relating to definitions.
- Section 9** Provides an effective date of July 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. School districts may experience an increase in revenue from the collection of penalties.

2. Expenditures:

Indeterminate. The collection of penalties is intended to cover the cost to administer the school bus infraction detection system.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. Manufacturers and vendors of school bus infraction enforcement systems may see an increase in revenues associated with this program.

Drivers may be cited more frequently for bus passing infractions and individuals who submit false affidavits defending the imposition of a traffic infraction may be subject to jail time and fines if found guilty of a second-degree misdemeanor.

D. FISCAL COMMENTS:

None.

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 expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires school bus infraction detection systems to meet requirements set by State Board of Education rule. The bill also authorizes the State Board of Education to establish rules regarding student privacy regarding school bus infraction detection systems.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 22, 2022, the Transportation & Modals Subcommittee considered a proposed committee substitute with one amendment and reported the bill favorably as a committee substitute. The committee substitute differs from HB 741 in the following ways:

- Defines the term “school bus infraction detection system.”
- Prohibits an individual from receiving a commission from any revenue collected from a school bus infraction detection system.
- Prevents a private vendor or manufacturer from receiving a fee or remuneration based upon the number of violations detected.
- Requires specified signs on a school bus with a school bus infraction detection system.
- Requires public notice prior to a school board starting a school bus infraction detection system program.
- Provides for the mailing of the notice of violation and a uniform traffic citation.
- Establishes exceptions to the registered owner of the motor vehicle being responsible for the violation and provides how to substantiate such exceptions.
- Revises reporting requirements to have school district reports submitted to DHSMV instead of DOE, and to have DHSMV submit a summary report to the Governor and the Legislature.
- Reduces the penalty associated with passing a stopped school bus when enforced by a school bus infraction detection system.
- Makes other technical and conforming changes.

This analysis has been updated to reflect the committee substitute.