

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1133 Violations Against Vulnerable Road Users

SPONSOR(S): Criminal Justice Subcommittee, Redondo, and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 1528

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	18 Y, 0 N, As CS	Butcher	Hall
2) Transportation & Modals Subcommittee	14 Y, 0 N	Hinshelwood	Hinshelwood
3) Judiciary Committee			

SUMMARY ANALYSIS

Section 318.14(5), F.S., provides noncriminal penalties for a person who commits a traffic infraction that causes serious bodily injury or death to another person. If the person causes serious bodily injury, he or she must pay a \$500 fine in addition to any other penalties and have his or her driver license suspended for three months. If the person causes death, he or she must pay a \$1,000 fine in addition to any other penalties and have his or her driver license suspended for six months.

Section 316.027(1), F.S., defines a “vulnerable road user” as a:

- Pedestrian, including a person actually engaged in work upon a highway, or in work upon utility facilities along a highway, or engaged in the provision of emergency services within the right-of-way;
- Person operating a bicycle, an electric bicycle, a motorcycle, a scooter, or a moped lawfully on the roadway;
- Person riding an animal; or
- Person lawfully operating on a public right-of-way, crosswalk, or shoulder of the roadway any: farm tractor or similar vehicle designed primarily for farm use; skateboard, roller skates, or in-line skates; horse-drawn carriage; electric personal assistive mobility device; or wheelchair.

CS/HB 1133 creates s. 318.195, F.S., the “Vulnerable Road User Act,” to create the following new penalties:

- A person who commits a moving violation that causes *serious bodily injury* to a vulnerable road user must pay a fine of not less than \$1,500, have his or her driver license suspended for 90 days, and complete a driver improvement course relating to the rights of vulnerable road users.
- A person who commits a moving violation that causes the *death* of a vulnerable road user must pay a fine of not less than \$5,000, have his or her driver license suspended for one year, and complete a driver improvement course relating to the rights of vulnerable road users.

The bill will have an indeterminate positive fiscal impact on state revenues and an indeterminate fiscal impact on the private sector.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Noncriminal Traffic Infractions Involving Death or Personal Injury

Generally, a person who fails to obey traffic laws by engaging in conduct such as speeding, running a red light or stop sign, or texting while driving, commits a moving violation punishable by a fine under chapter 318, F.S.¹ Moving violations are generally *noncriminal* traffic infractions that add specified points to a person's driving record.²

Under s. 318.19, F.S., a person must appear before a designated official for a mandatory hearing if he or she commits a traffic infraction resulting in a crash that causes serious bodily injury³ or death to another person. At the hearing, if the designated official determines that the person committed an infraction that caused serious bodily injury to another person, the designated official must impose a civil penalty of \$500, in addition to any other penalties, and the person's driver license must be suspended for three months. If a designated official determines that the person committed an infraction that caused the death of another person, the designated official must impose a civil penalty of \$1,000, in addition to any other penalties, and the person's driver license must be suspended for six months.⁴

Crashes Involving Death or Personal Injury

Although moving violations are generally noncriminal infractions, a person who violates specified requirements under s. 316.027, F.S., may commit a criminal offense.

Section 316.027, F.S., requires a driver involved in a crash occurring on public or private property to immediately stop his or her vehicle at the scene of a crash, or as close thereto as possible, and remain at the scene of the crash until he or she has fulfilled the requirements to stop, give his or her information, and render aid as required by s. 316.062, F.S. If a person fails to comply with such requirements he or she commits a:

- Third degree felony, if the crash resulted in injury, other than serious bodily injury.⁵
- Second degree felony, if the crash resulted in serious bodily injury.⁶
- First degree felony, if the crash resulted in the death of a person.⁷ A person who willfully violates the above requirements must be sentenced to a mandatory minimum term of imprisonment of four years. Additionally, a person who willfully commits such a violation while driving under the influence as set forth in s. 316.193(1), F.S., must be sentenced to a mandatory minimum term of imprisonment of four years.^{8,9}

¹ FLHSMV (revised July 1, 2023), https://www.flhsmv.gov/pdf/courts/utc/appendix_c.pdf (last visited Jan. 29, 2024).

² FLHSMV, *Points & Point Suspensions*, <https://www.flhsmv.gov/driver-licenses-id-cards/driver-license-suspensions-revocations/points-point-suspensions/> (last visited Jan. 29, 2024).

³ Under s. 316.027(1), F.S., the term "serious bodily injury" means an injury to any person, including the driver, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

⁴ S. 318.14(5), F.S.

⁵ S. 316.027(2)(a), F.S. A third degree felony is punishable by up to 5 years in prison and a \$5,000 fine. Ss. 775.082, 775.083, or 775.084, F.S.

⁶ S. 316.027(2)(b), F.S. A second degree felony is punishable by up to 15 years in prison and a \$10,000 fine. Ss. 775.082, 775.083, or 775.084, F.S.

⁷ S. 316.027(2)(c), F.S. A first degree felony is punishable by up to 30 years in prison and a \$10,000 fine. Ss. 775.082, 775.083, or 775.084, F.S.

⁸ A person who is arrested for a violation of this paragraph and who has previously been convicted of a violation of s. 316.027, F.S., s. 316.061, F.S. (crashes involving damage to vehicle or property), s. 316.191, F.S. (racing on highways, street takeovers, and stunt driving), s. 316.193, F.S. (driving under the influence), or a felony violation of s. 322.34, F.S. (driving while license suspended, revoked, canceled, or disqualified) must be held in custody until brought before the court for admittance to bail in accordance with chapter 903.

⁹ Under s. 316.027(2)(e), F.S., a driver who violates paragraphs (a), (b), or (c) shall have his or her driver license revoked for at least 3 years as provided in s. 322.28(4), F.S.

Vulnerable Road Users

Section 316.027(1), F.S., defines a “vulnerable road user” as a:

- Pedestrian, including a person actually engaged in work upon a highway, or in work upon utility facilities along a highway, or engaged in the provision of emergency services within the right-of-way;
- Person operating a bicycle, an electric bicycle, a motorcycle, a scooter, or a moped lawfully on the roadway;
- Person riding an animal; or
- Person lawfully operating on a public right-of-way, crosswalk, or shoulder of the roadway any of the following: a farm tractor or similar vehicle designed primarily for farm use; a skateboard, roller skates, or in-line skates; a horse-drawn carriage; an electric personal assistive mobility device; or a wheelchair.

Section 316.027, F.S., applies special penalties when a person commits a moving violation that results in injury, serious bodily injury, or death to a vulnerable road user and fails to stop, give his or her information, and render aid as required by s. 316.062, F.S. Such penalties apply as follows:

- Under s. 316.027(2)(f), F.S., for purposes of sentencing under ch. 921, F.S., and determining incentive gain-time eligibility under ch. 944, F.S., an offense listed in s. 316.027(2), F.S., where the victim is a vulnerable road user, is ranked one level above the ranking specified in s. 921.0022 or s. 921.0023, F.S., for the offense committed.
- Before a person whose driving privilege was suspended under s. 316.027(2)(a)-(c), F.S., may be reinstated, he or she must present to the Department of Highway Safety and Motor Vehicles (DHSMV) proof of completion of a victim’s impact panel session in a judicial circuit if such a panel exists, or if such a panel does not exist, a DHSMV-approved driver improvement course relating to the rights of vulnerable road users relative to vehicles on the roadway as provided in s. 322.0261(2), F.S.^{10,11}
- When a person violates s. 316.172(1)(a) or (b), F.S. (school bus passing infractions), and causes serious bodily injury to or the death of another person, he or she must, among other requirements, participate in a victim’s impact panel session in a judicial circuit if such a panel exists, or if such a panel does not exist, attend a DHSMV-approved driver improvement course relating to the rights of vulnerable road users relative to vehicles on the roadway as provided in s. 322.0261(2), F.S.¹² This requirement applies regardless of whether the victim is a vulnerable road user.

Under current law, a person who commits a moving violation that causes serious bodily injury or death to another person, including to a vulnerable road user, but who otherwise complies with the requirements of stopping, giving his or her information, and rendering aid under s. 316.062, F.S., is not required to take a DHSMV-approved driver improvement course relating to the rights of vulnerable road users relative to vehicles on the roadway.

Effect of Proposed Changes

CS/HB 1133 creates s. 318.195, F.S., the “Vulnerable Road User Act,” to create the following new penalties:

¹⁰ S. 316.027(2)(e)1., F.S. Under s. 316.027(2)(e)2., F.S., DHSMV may reinstate an offender’s driving privilege after he or she satisfies the 3-year revocation period as provided in s. 322.28(4) and successfully completes either a victim’s impact panel session or a DHSMV-approved driver improvement course relating to the rights of vulnerable road users relative to vehicles on the roadway as provided in s. 322.0261(2), F.S.

¹¹ Under s. 322.0261(2), F.S., with respect to an operator convicted of, or who pleaded nolo contendere to, a traffic offense giving rise to a specified crash, DHSMV shall require that the operator, in addition to other applicable penalties, attend a DHSMV-approved driver improvement course in order to maintain his or her driving privileges. DHSMV shall include in the course curriculum instruction specifically addressing the rights of vulnerable road users as defined in s. 316.027, F.S., relative to vehicles on the roadway. If the operator fails to complete the course within 90 days after receiving notice from DHSMV, the operator’s driver license shall be canceled by DHSMV until the course is successfully completed.

¹² S. 316.027(4)(b)2., F.S.

- A person who commits a moving violation that causes *serious bodily injury* to a vulnerable road user must pay a fine of not less than \$1,500, have his or her driver license suspended for 90 days, and attend a DHSMV-approved driver improvement course relating to the rights of vulnerable road users.
- A person who commits a moving violation that causes the *death* of a vulnerable road user must pay a fine of not less than \$5,000, have his or her driver license suspended for one year, and attend a DHSMV-approved driver improvement course relating to the rights of vulnerable road users.

The bill specifies that this newly created statute does not prohibit a person from being charged with, convicted of, or punished for any other violation of law.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Creates s. 318.195, F.S., relating to enhanced penalties for moving violations causing injury or death to vulnerable road users.

Section 2: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill will have an indeterminate positive impact on state revenues by increasing the fine for a person who commits a moving violation that results in serious bodily injury or death to a vulnerable road user.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. The bill will increase costs to a person who commits the specified moving violations involving a vulnerable road user.

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 expenditures 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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 25, 2024, the Criminal Justice Subcommittee adopted a strikeall amendment and reported the bill favorably as a committee substitute. The amendment:

- Removed criminal penalties for a moving violation that caused serious bodily injury or death to a vulnerable road user.
- Changed the penalty for a person who committed a moving violation that caused serious bodily injury to a vulnerable road user to include a 90-day driver license revocation.
- Changed a cross-reference for the definition of “serious bodily injury.”

This analysis is drafted to the committee substitute as passed by the Criminal Justice Subcommittee.