

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

Reduce Government?

Under the bill, a citation for certain traffic infractions will result in a mandatory hearing where no such hearing is required under current law. In addition, the bill imposes increased mandatory fines and license suspensions for certain traffic infractions.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Mandatory Hearings

Florida law requires a mandatory hearing following a citation for certain civil traffic infractions. These infractions are:

- Any infraction resulting in a crash that causes the death of another;
- Any infraction resulting in a crash that causes “serious bodily injury” to another;
- Passing a school bus on the door side while the bus displays a stop signal; and
- Certain infractions concerning loads on vehicles.

Any person who commits one of these infractions may not dispose of the matter by submitting payment of the fine by mail or by making the driver improvement course election. Instead, the person committing the infraction must appear before the designated official at a scheduled hearing.

Persons who have elected to appear at a hearing, or who are required to do so, are considered as having waived the right to the regular civil penalty provisions for traffic infractions. Instead, upon a finding that the person committed the charged traffic infraction, the official conducting the hearing may impose a civil penalty up to \$500. If the infraction involves unlawful speed in a school or construction zone, or involves death, the official may impose a civil penalty up to \$1,000. These civil penalty amounts are authorized, but they are not mandatory. The official conducting the hearing has discretion in choosing how much of a penalty, if any, to impose against a person found to have committed the infraction.

Under these provisions, a person committing an infraction resulting in the death of another person is required to appear before a designated official and may be subject to a \$1,000 fine. A person committing an infraction that results in the “serious bodily injury” of another is also required to appear before a designated official, but may be subject to a \$500 fine. The increased penalty is not mandatory. A person committing an infraction resulting in an injury to a person that is not considered “serious bodily injury”, is not subject to a mandatory hearing, and is not subject to enhanced penalties.

“Serious bodily injury” is defined as an injury 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. The precise point at which bodily injury becomes serious is unclear as the foregoing definition is open to interpretation. According to the Department of Highway Safety and Motor Vehicles (DHSMV), a law enforcement officer issuing a citation makes the determination (subject to judicial review) whether a bodily injury is serious and, therefore, whether a mandatory hearing is required.

Furthermore, DHSMV is authorized to suspend a driver’s license in the event that a person violates any traffic law that results in a crash causing death or personal injury to another or property damage in excess of \$500. According to DHSMV, upon a review of its records, the department suspends the driver’s license of any person meeting these criteria who are subject to a mandatory hearing. A suspension is lifted if at the hearing the designated official finds the accused not guilty of the offense or infraction.

Red Light Running

The law prohibits traffic from entering an intersection when facing a steady red traffic signal (red light running). Violation of this prohibition is a moving traffic infraction punishable by a \$60 civil fine. If a red light runner causes a crash or an injury, that person may be subject to a license suspension or an enhanced penalty, under the circumstances described above. However, if the violation results in a crash that does not cause death or serious bodily injury, the driver is not subject to enhanced penalties. Even in cases involving death or serious bodily injury, imposition of the authorized enhanced penalty is a matter of the designated official’s discretion.

Under current law, it is possible that a red light runner could cause a crash seriously injuring someone and suffer no more than a \$60 fine and a brief suspension of driving privileges.

Points

Points are assessed against a person’s driver’s license upon violation of certain traffic laws so that DHSMV may determine the continuing qualification of any person to operate a motor vehicle. DHSMV may suspend the license of any person who accumulates 12 or more points against a license in a 12-month period. The point assignments are as follows:

- Reckless driving, willful and wanton – 4 points.
- Leaving the scene of a crash resulting in property damage – 6 points.
- Unlawful speed resulting in a crash – 6 points.
- Passing a stopped school bus – 4 points.
- Excessive speed, 15 mph over or less – 3 points.
- Excessive speed, more than 15 mph over – 4 points.
- All other moving violations – 3 points.
- Any moving violation resulting in a crash except excessive speed – 4 points.
- Littering – 3 points.

Effect of Proposed Changes

HB 65 requires a mandatory hearing when a person commits an infraction resulting in a crash causing any bodily injury or death.

- If the infraction results in a crash causing death, and at the hearing the person is found to have committed the infraction, the designated official must impose a civil penalty of \$1,000 in addition to any other penalties, and suspend the person’s driver’s license for 6 months.

- If the infraction results in a crash causing serious bodily injury, and at the hearing the person is found to have committed the infraction, the designated official must impose a civil penalty of \$500 in addition to any other penalties, and suspend the person's driver's license for 3 months.
- If the infraction results in a crash causing any bodily injury other than that defined as serious, and at the hearing the person is found to have committed the infraction, the designated official must impose a civil penalty of \$200 in addition to any other penalties, and suspend the person's driver's license for 30 days.
- If a person runs a red light, and a crash occurs a mandatory hearing is required, and the designated official presiding over the hearing is authorized to impose a civil penalty of up to \$500, and 4 points is assessed against his or her license.
- If a person runs a red light and no crash occurs, the person is subject to a \$125 fine, and 4 points assessed against his or her driver's license.
- If a person commits the offense of running a red light a second time within 12 months after the first violation, he or she must attend a driver improvement course to maintain driving privileges.

All money collected from imposition of mandatory civil penalties provided in this bill and penalties for violating traffic control signal devices are deposited into the state's General Revenue Fund.

C. SECTION DIRECTORY:

Section 1. Amends s. 316.075, F.S., to provide that a red light violation resulting in a crash subjects the violator to a mandatory hearing.

Section 2. Amends s. 318.14, F.S., to provide mandatory penalties for traffic infractions resulting in crashes that cause bodily injury or death, and to provide for distribution into the General Revenue Fund.

Section 3. Amends s. 318.18, F.S., to provide that a red light violation results in a \$125 fine, and provides for distribution of the fine into the General Revenue Fund.

Section 4. Amends s. 318.19, F.S., to require a mandatory hearing for an infraction resulting in a crash that causes any bodily injury or death, or for a red light violation.

Section 5. Amends s. 318.21, F.S., to provide for distribution of mandatory civil penalties for traffic infractions resulting in crashes that cause bodily injury or death, and for distribution of fines for red light violations, to the General Revenue Fund.

Section 6. Amends s. 322.0261, F.S., to require driver improvement school attendance for persons violating the red light law twice within a 12-month period. Failure to complete the requirement results in cancellation of driving privileges.

Section 7. Amends s. 322.27, F.S., to provide that violation of a traffic control device is assigned 4 points in the driver's licensing point system.

Section 8. Provides that the act shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>
1. Revenues:			
<i>Increase in the penalty for red light violations from \$60 to \$125: Sections 3 and 5.</i>			
General Revenue Fund	\$33,414,640	\$33,414,640	\$33,414,640
State Trust Funds	<u>(\$4,448,388)</u>	<u>(\$4,448,388)</u>	<u>(\$4,448,388)</u>
Net Increase to State	\$28,966,252	\$28,966,252	\$28,966,252

Mandatory penalties for required hearings: Sections 1, 2, 4 and 5.

General Revenue Fund	<u>\$28,598,400</u>	<u>\$28,598,400</u>	<u>\$28,598,400</u>
TOTAL INCREASE TO GR:	\$62,013,040	\$62,013,040	\$62,013,040
TOTAL INCREASE TO STATE:	\$57,564,652	\$57,564,652	\$57,564,652

Note: See FISCAL COMMENTS section, below for additional details.

2. Expenditures:
None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
See FISCAL COMMENTS section, below.
2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Mandatory civil fines will be imposed, in addition to other penalties, on any person found to have committed a traffic infraction resulting in bodily injury or death.

The fine for running a red light would be increased from \$60 to \$125. Persons running a red light would have four points assessed on their driving record.

Persons found guilty of a second violation of running a red light within twelve months would be required to attend a driver improvement school to retain driving privileges.

D. FISCAL COMMENTS:

All fiscal estimates have been provided by DHSMV.

Methodology

Estimated General Revenue increases for red light violations assumes 295,574 offenses occurring resulting in payment of the \$125 fine. The estimated increase in General Revenue above is a net increase after subtracting approximately \$3.5 million that is currently distributed to the General Revenue Fund from red light violations. State trust funds and local government will be negatively impacted by increasing this fee from \$60 to \$125 and redirecting all revenues to the General Revenue Fund.

The 2002 Florida Traffic Crash Statistics Report reflected 142,992 crashes occurring with some level of injury. Since the severity of these crashes is unknown, the minimum \$200 mandatory penalty for minor crashes is applied and multiplied by the number of crashes with injury, yielding approximately \$28.6 million per year in assessments. The actual amount generated may be higher depending on the number of crashes involving serious bodily injuries or death.

Local Government Impacts

The workload and revenue impact to the courts from requiring a mandatory court appearance for persons violating s. 318.19(1)(c)1, F.S., which results in a crash is unknown. In addition, redirecting fines for running red lights will decrease local government revenue by approximately \$9.6 million. This assumes both the county and clerk of the court portion of the current civil fine distribution being redirected to the General Revenue Fund. (See comments under III. C., below)

State Impacts

It is estimated that implementation of this bill will increase General Revenue receipts by \$62 million, while decreasing state trust fund revenues by \$4.4 million. Of the \$62 million increase to General Revenue, it is estimated that \$33.4 million will be generated as a result of increasing the civil penalty for a red light violation from \$60 to \$125, and \$28.5 million will be generated from establishing mandatory fines for certain traffic offenses requiring a mandatory hearing. Increasing the civil penalty for red light violations and redirecting the proceeds to General Revenue will reduce state trust fund and local government receipts by (\$4.4) million and (\$9.6) million, respectively. (See comments under III. C., below)

Implementation of this bill will also require programming modifications to the Florida Driver Information System which will be absorbed within existing resources of the Department.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Because HB 65 would reduce local government receipts by as much as \$9.6 million it would appear to be an unfunded mandate prohibited by Section 18 of Article VII of the Florida Constitution.

However, the bill modifies penalties associated with non-criminal traffic infractions, and therefore appears to be exempt from the prohibitions of Article VII, Section 18 (a)-(c).

2. Other:

None.

B. RULE-MAKING AUTHORITY:

HB 65 does not require any grant or exercise of rule-making authority to implement its provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The sponsor of HB 65 has indicated that amendments to the bill will be offered which restore the funding to state trust funds and to local governments currently generated by penalties for red light violations.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES