

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 682

SPONSOR: Transportation Committee and Senator Argenziano

SUBJECT: Red Light Mandatory Hearing

DATE: March 23, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Meyer	TR	Fav/CS
2.	_____	_____	JU	_____
3.	_____	_____	FT	_____
4.	_____	_____	ATD	_____
5.	_____	_____	AP	_____
6.	_____	_____	_____	_____

I. Summary:

The CS amends s. 318.19, F.S., to require a mandatory hearing when a person commits an infraction resulting in a crash causing any bodily injury or death or runs a red light resulting in a crash. Under current law, mandatory hearings occur only if a traffic infraction results in a crash causing death or serious bodily injury, and the designated hearing official is permitted to impose enhanced penalties. Under the CS:

- ◆ If the infraction results in a crash causing death, or any bodily injury, and at the hearing the person is found to have committed the infraction, the designated official must impose an enhanced civil penalty in addition to any other penalties.
- ◆ If a person runs a red light and a crash occurs, then 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 is 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.

The CS will raise an estimated \$19.2 million in FY 2004-05, \$32.4 million in FY 2005-06, and \$48.8 million in FY 2006-07, of which \$3.3 million will be deposited into the Trauma Services Trust fund in the first year from mandatory penalties for required hearings, \$16.4 million in the second year, and \$32.9 million in the third year. One million dollars will be distributed to

ABATE of Florida, Inc., annually for motorcycle safety awareness, education, and research programs related to accident prevention. It is estimated that \$16.9 million will be generated annually as a result of increasing the civil penalty for a red light violation from \$60 to \$125, and deposited into the Trauma Services Trust Fund. Revenues generated by this CS deposited into the Trauma Services Trust Fund will be used to provide support and incentives for the establishment of additional states-sponsored trauma centers.

The CS is also expected to increase the workload for designated hearing officials, and to require law enforcement officers to spend more time attending hearings.

This CS substantially amends ss. 316.075, 318.14, 318.18, 318.19, 318.21, 322.0261 and 322.27; and creates s. 395.4036 of the Florida Statutes.

II. Present Situation:

Mandatory Hearings

Section 318.19, F.S., 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. See s. 318.14(5), F.S.

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. See ss. 318.14(5) and 318.19, F.S.

“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. See s. 316.1933(1), F.S. 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

Section 316.075(1)(c)1, F.S., 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.

Driver Improvement Course

Section 322.0261, F.S., provides DHSMV to require operators convicted of, or who pled nolo contendere to, a traffic offense involving: (1) a crash in which a death or bodily injury requires transport to a medical facility; or (2) a second crash by the same operator within the previous 2-year period which involves property damage in an apparent amount of at least \$500, to attend a departmentally approved driver improvement course in order to maintain driving privileges. If the operator fails to complete the course within 90 days of receiving notice from DHSMV, the operator’s driver’s license must be cancelled until the course is successfully completed.

Points

Section 322.27, F.S., establishes a system of points that are assessed against a driver’s license when a person is convicted of violating certain motor vehicle laws. The point system is used for the evaluation and determination of the continuing qualification of any person to operate a motor vehicle. The DHSMV is authorized to suspend the license of any person upon a showing of its records or other good and sufficient evidence the licensee has been convicted of violation of motor vehicle laws amounting to 12 or more points as determined by the point system. The suspension will be for a period of not more than one year. The statute provides the following provisions:

- When a licensee accumulates 12 points within a 12-month period, the period of suspension will be for not more than 30 days.

- When a licensee accumulates 18 points within an 18-month period, the suspension will be for a period of not more than 3 months.
- When a licensee accumulates 24 points within a 36-month period, the suspension will be for a period of not more than 1 year.
- The point system has, as its basic element, a graduated scale of points assigning relative values to convictions of the following violations:
 1. Reckless driving—4 points.
 2. Leaving the scene of a crash resulting in property damage of more than \$50—6 points.
 3. Unlawful speed resulting in a crash—6 points.
 4. Passing a stopped school bus—4 points.
 5. Unlawful speed:
 - a. Not in excess of 15 miles per hour of lawful or posted speed—3 points.
 - b. In excess of 15 miles per hour of lawful or posted speed—4 points.
 6. All other moving violations (including parking on a highway outside the limits of a municipality)—3 points.
 7. Any moving violation, excluding unlawful speed, resulting in a crash—4 points.
 8. Dumping litter in an amount exceeding 15 pounds, which involves the use of a motor vehicle—3 points.
 9. Driving during restricted hours—3 points.
 10. Violation of curfew—3 points.
 11. Open container as an operator—3 points.
 12. Child restraint violation—3 points.

III. Effect of Proposed Changes:

The CS amends s. 318.19, F.S., to require a mandatory hearing when a person commits an infraction resulting in a crash causing any bodily injury or death or runs a red light resulting in a crash.

- ◆ 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.
- ◆ 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.
- ◆ 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.
- ◆ 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.

Moneys collected from imposition of mandatory civil penalties provided in this CS and penalties for violating traffic control signal devices that are in addition to current penalty amounts are deposited into the Trauma Services Trust Fund, however, the first \$1 million collected annually from the mandatory civil penalties is distributed to ABATE of Florida, Inc., to support motorcycle safety awareness, education, and research programs. ABATE of Florida, Inc., is made subject to audit by DHSMV and the Auditor General.

Moneys deposited into the Trauma Services Trust Fund will be distributed in the following manner by the Florida Department of Health (DOH), at its discretion:

- Each existing trauma center and each new center shall receive a one-time fixed payment toward offsetting startup costs.
- Equal payments will be made to all current verified trauma centers toward helping each center meet minimum trauma preparedness standards;
- Proportionate distribution of funds to trauma centers to pay for uncompensated trauma care; and
- Any funds remaining are deposited into the Nursing Student Loan Forgiveness Trust Fund to be used equally for the DOH's Nursing Student Loan Forgiveness Program and the Nursing Scholarship Program.

If they are not subject to Florida's Single Audit Act, trauma centers receiving these moneys must maintain financial records and submit an annual attestation to DOH, under penalties of perjury, that the funds are used in accordance with law. Trauma centers that are subject to the Single Audit Act must submit an annual audit report to the Auditor General.

The following discussion represents a section-by-section analysis of the CS:

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 to ABATE of Florida, Inc., and to the Trauma Series Trust Fund.

Section 3 amends s. 318.18, F.S., to increase the penalty for a red light violation from \$60 to \$125, and to provide for distribution of the additional amount into the Trauma Services Trust 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.

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 creates s. 395.4036, F.S., to provide for the distribution by DOH of moneys deposited into the Trauma Services Trust Fund pursuant to ss. 318.18(3) and 318.14(5), F.S., and to provide for audits and attestations of trauma centers receiving the distributions.

Section 9 provides the act shall take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

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.

From the moneys collected from fines imposed as a result of mandatory hearings, \$1 million annually will be distributed to ABATE of Florida, Inc., for motorcycle safety awareness, education, and research programs relating to accident prevention.

C. Government Sector Impact:

All fiscal estimates have been provided by DHSMV.

	<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>			
Trauma Services Trust Fund	\$16,926,000	\$16,926,000	\$16,926,000
Mandatory penalties for required hearings: Sections 1, 2, 4 and 5.			
Trauma Services Trust Fund	<u>\$ 3,285,160</u>	<u>\$16,425,800</u>	<u>\$32,851,600</u>
TOTAL IMPACT:	\$20,211,160	\$33,351,800	\$49,777,600
TOTAL Local Impact: Disbursement to ABATE of Florida, Inc.	<u>\$ 1,000,000</u>	<u>\$ 1,000,000</u>	<u>\$ 1,000,000</u>
TOTAL Trauma Services Trust Fund:	\$19,211,160	\$32,351,800	\$48,777,600

Methodology

Estimated Trauma Services Trust Fund increases for red light violations assumes 260,400 offenses occurring resulting in payment of a \$125 fine, \$65 of which is deposited into the Trust Fund. In addition, the 2002 Florida Traffic Crash Statistics Report reflected 133,508 crashes occurring with minor injuries, 9,484 serious injury crashes, and 2,816 crashes which resulted in death. Revenue estimates for the mandatory hearings portion of the CS are based on these statistics and estimates which have been multiplied by the corresponding mandatory penalty imposed by the CS. Revenue estimates have been adjusted to account for behavioral changes and potential instances of non-payment by violators subject to the provisions in the CS.

Local Government Impacts

The workload and revenue impact to the courts from requiring a mandatory court appearance for persons violating s. 316.075(1)(c)1, F.S., which results in a crash is

unknown. (There were, however, 133,508 citations issued in 2002 for running a red light resulting in bodily injury other than death or serious bodily injury.) In addition, the CS may have a positive fiscal impact on local governments to the extent some funds may be directed to trauma centers which receive local government funding.

State Impacts

It is estimated that implementation of this CS will generate \$19.2 million in FY 2004-05, \$32.4 million in FY 2005-06, and \$48.8 million in FY 2006-07, of which \$3.3 million will be deposited into the Trauma Services Trust fund in the first year from mandatory penalties for required hearings, \$16.4 million in the second year, and \$32.9 million in the third year. One million dollars will be distributed to ABATE of Florida, Inc., annually. It is estimated that \$16.9 million will be generated annually as a result of increasing the civil penalty for a red light violation from \$60 to \$125.

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

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
