

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 497 CS Highway Safety
SPONSOR(S): Cannon and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1264

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Transportation Committee</u>	<u>14 Y, 0 N, w/CS</u>	<u>Thompson</u>	<u>Miller</u>
2) <u>Judiciary Committee</u>	<u></u>	<u>Hogge</u>	<u>Hogge</u>
3) <u>Finance & Tax Committee</u>	<u></u>	<u></u>	<u></u>
4) <u>State Infrastructure Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

Presently, the civil penalty for failure of an operator to obey an official traffic control device or obey a red light is \$60 and, under certain circumstances, the operator is required to complete a driver improvement course. The bill makes the following changes:

- Increases the civil penalty for failure of an operator to obey an official traffic control device or obey a red light from \$60 to \$125, and assesses 4 points against an operator's license for failure to obey a traffic control signal device.
- Requires an operator to complete a driver improvement course for a second violation occurring within 12 months of the first violation.
- Distributes moneys collected from the increased civil penalty to trauma centers based on trauma caseload and severity of trauma patients.
- Subjects trauma centers provided funding under the bill to audit and attestation requirements regarding use of the funds.

Assuming the payment of all civil penalties, it is estimated that increasing the civil penalty from \$60 to \$125 will generate \$18,887,960 in additional revenues for deposit into the Department of Health (DOH) Administrative Trust Fund for funding of trauma centers.

The bill takes effect October 1, 2005.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government—The bill requires mandatory driver improvement courses where none is required presently. The bill also increases civil and license penalties for certain civil traffic infractions. The bill creates auditing and attestation responsibilities for certain trauma centers and for the DOH.

B. EFFECT OF PROPOSED CHANGES:

Chapter 316, F.S., provides for Florida's Uniform Traffic Control laws. Section 316.074(1), F.S., provides that the "driver of any vehicle shall obey instructions of any official traffic control device" except at the direction of a law enforcement officer (authorized emergency vehicles are also excepted). "(O)fficial traffic control devices" is defined in s. 316.003(23), F.S., as follows:

(23) OFFICIAL TRAFFIC CONTROL DEVICES.—All signs, signals, markings, and devices, not inconsistent with this chapter, placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic.

Section 316.075(1)(c)1., F.S., provides that vehicles must stop for steady red lights until the signal turns green. However, this paragraph does provide for authorized right turns on a red signal and for left turns from a one-way street to another one-way street that moves to the left.

A violation resulting from the operation of a vehicle of either s. 316.074(1), F.S., or s. 316.075(1)(c)1. F.S., is a noncriminal traffic infraction, punishable as a moving violation pursuant to ch. 318, F.S.¹ The penalty for such a violation is a \$60 civil penalty.²

Penalties and Distributions

The bill would increase the civil penalty for failure to obey any official traffic control device or obey a red light from \$60 to \$125, of which \$60 would be distributed as currently provided in s. 318.21 F.S. and the remaining \$65 would be remitted to the Department of Revenue for deposit into the DOH Administrative Trust Fund.

Required Driver Improvement Course

The bill would require the Department of Highway Safety and Motor Vehicles (DHSMV) to identify any operator convicted of, or who pleaded nolo contendere to, a second violation of s. 316.074 (1), and 316.075(1)(c)1, F.S., within 12 months of the first violation, and require that operator to attend a department-approved driver improvement course. If the operator fails to complete the course within 90 days after receiving notice from the DHSMV, then the DHSMV must cancel the operator's driver license until the operator successfully completes the course.

[Currently the DHSMV screens crash reports to identify crashes involving the following:

- *A crash involving death or a bodily injury requiring transport to a medical facility; or*
- *A second crash by the same operator within the previous 2-year period involving property damage in an apparent amount of at least \$500.*

¹ See ss. 316.074(6) and 316.075(4), F.S., respectively.

² See s. 318.18(3)(a), F.S.

- *With respect to an operator convicted of, or who pleaded nolo contendere to, a traffic offense giving rise to a crash, the department requires that the operator, in addition to other applicable penalties, attend a driver improvement course approved by the DHSMV in order to maintain driving privileges. If the operator fails to complete the course within 90 days of receiving notice from the DHSMV, then operator's driver's license is canceled by the DHSMV until the operator successfully completes the course.*
- *In determining whether to approve a driver improvement course, the DHSMV considers course content designed to promote safety, driver awareness, crash avoidance techniques, and other factors or criteria to improve driver performance from a safety viewpoint.*

The DHSMV does not require a driver to attend a department-approved driver improvement course in order to maintain driving privileges if the driver has been convicted of, or who pleaded nolo contendere to, a second violation of a traffic control device.]

Point System

The bill would assign 4 points for a violation of a traffic control signal device pursuant to s. 316.074 (1) and 316.075 (1) (c)1, F.S.

[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 system is a graduated scale of points assigning relative values to convictions of the following violations:

- *Reckless driving, willful and wanton – 4 points.*
- *Leaving the scene of a crash resulting in property damage of more than \$50--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 covered above, excluding unlawful speed, resulting in a crash--4 points.*
- *Any conviction of the Florida Litter Law --3 points.]*

Trauma Centers

The bill provides funding in support of trauma services throughout the state. The DOH would deposit the additional funds generated by the bill into the DOH Administrative Trust Fund to be used as follows:

- Twenty percent of the total funds collected would be distributed to verified trauma centers located in a region that has a local funding contribution as of December 31. Distribution of funds under this paragraph would be based on trauma caseload volume.
- Forty percent of the total funds collected would be distributed to verified trauma centers based on trauma caseload volume of the previous calendar year. The determination of caseload volume would be based on the DOH Trauma Registry data.
- Forty percent of the total funds would be distributed to verified trauma centers based on severity of trauma patients. The determination of severity would be based on the DOH Injury Severity Scores.

Any trauma center not subject to audit would be required to annually attest, under penalties of perjury, that the proceeds were used in compliance with law. The annual attestation must be made in a form and format determined by the DOH. Trauma centers that are subject to audit would be required to submit an audit report in accordance with rules adopted by the Auditor General. The annual attestation would be submitted to the DOH for review within nine months after the end of the organization's fiscal year. The DOH, working with the Agency for Health Care Administration, must maximize resources for trauma services wherever possible.

[Currently, the Trauma Services Trust Fund in the State Treasury is used exclusively for the development and support of a system of state-sponsored trauma centers. Trauma centers do not receive funding from moneys collected for traffic control device violations. Trust fund revenue is used for the purpose of funding trauma patient care in a provisional state-sponsored trauma center, or a state-sponsored trauma center; for funding the associated trauma claims processing costs, including the costs for the design, development, implementation, and operation of a payment system; and for administrative costs.]

C. SECTION DIRECTORY:

Section 1. Names the Act the "Angelica and Victoria Velez Memorial Traffic Safety Act."

Section 2. Amends s. 318.18, F.S., to revise penalty for moving violation of traffic control devices.

Section 3. Amends s. 318.21, F.S., to provide for distribution of penalties collected under s. 318.18 (14), F.S.

Section 4. Amends s. 322.0261, F.S., requiring driver improvement course for a second moving violation of traffic control device within a specified time period.

Section 5. Amends s. 322.27, F.S., assigning point value for conviction of moving violation of traffic control device.

Section 6. Creates s. 395.4036, F.S., to provide for distribution of funds to trauma centers and for audits and attestations.

Section 7. Provides an effective date of October 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

According to the Department of Highway Safety and Motor Vehicles (DHSMV), the estimated revenue amount for year one would be \$18,887,960 to the DOH Administrative Trust Fund. This assumes 290,584 red light violations (this estimate is based on the number of violations that occurred last year) multiplied by the \$65 additional civil penalty. This impact is estimated by combining traffic control violations cited pursuant to s. 316.074(1), and 316.075 (1) (c)1, F.S. Each would be subject to the additional \$65 civil penalty.

2. Expenditures:

This bill would require 120 hours, at \$135 per hour, of contracted programming to modify the Driver License Information Systems. According to the DHSMV, the total expenditures from the Highway Safety and Motor Vehicles General Highway Fund will be \$16,200.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill may have a positive fiscal impact on local governments to the extent that some funds may be directed to trauma centers which currently receive local government funding.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The civil penalty for failure of an operator to obey an official traffic control device or obey a red light would be increased from \$60 to \$125.

D. FISCAL COMMENTS:

Based on the 2003 Annual Uniform Traffic Citation Statistics and the Driver License Warehouse (both in-house DHSMV databases), there were 290,584 violations of s. 316.074(1), and 316.075(1)(c)1, F.S., that resulted in a guilty or paid civil penalty, or adjudication was withheld by the clerk of the court or judge. Based on this population, increasing the civil penalty for failure of an operator to obey an official traffic control device or obey a red light from \$60 to \$125 may generate an additional \$18,887,960 annually for the DOH Administrative Trust Fund assuming a 100% compliance factor.

The number of persons who have committed a second violation of s. 316.075(1)(c)1, F.S., within 12 months of the first violation is unknown.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On February 22, 2005 the Committee on Transportation adopted 3 amendments to HB 497. The Committee Substitute differs from the original bill in that the Committee Substitute:

- Corrects a statutory cross reference relating to traffic control devices;
- Changes the bill's effective date from "upon becoming law" to October 1, 2005; and
- Reorganizes the placement of trauma center attestation submission language in the bill.