

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: CS/SB 968

INTRODUCER: Criminal Justice Committee and Senator Garcia

SUBJECT: Noncriminal Traffic Infractions Involving Injury or Death

DATE: April 6, 2009 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	Fav/CS
2.			JU	
3.			JA	
4.			RC	
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

The bill requires a person who commits a noncriminal traffic infraction that results in the death or serious bodily injury of another person to complete a minimum of 15 community service hours in a trauma center or hospital (currently there is no minimum threshold, only a maximum of 120 hours to complete), as well as an eight hour driver improvement course. This is in addition to any other civil, criminal, or administrative penalty imposed under these circumstances.

The bill also provides that the victim or the victim’s next of kin involved in a noncriminal traffic infraction resulting in death or serious bodily injury is entitled to be informed, to be present, and to be heard at all crucial stages of the judicial hearing.

Finally, the bill requires the state attorney, where applicable, to consult with the victim or the victim’s next of kin about the disposition of the case.

This bill amends sections 316.027, 318.14, and 318.19 of the Florida Statutes.

II. Present Situation:

Moving Violations, Generally

Under ch. 316, F.S., and ch. 318, F.S., all moving violations are considered non-criminal infractions and are generally punishable by a fine as provided by s. 318.18, F.S. Moving violations include such offenses as speeding, failure to stop at a stop sign or traffic control device, and improper lane change.¹ This section provides a baseline fine of \$60 for all moving violations,² although county-by-county fees and surcharges raise the total amount paid. The section also provides tiered fines from \$25 to \$250 for moving violations involving excessive speed.³

Moving violations also typically result in points assessed against an operator's driver's license pursuant to s. 322.27(3)(d), F.S.

Penalties for Causing Death or Injury

Non-Criminal Violations

A mandatory hearing before the court is required for any infraction or criminal violation of ch. 316, F.S., that causes serious bodily injury or death.⁴ At that hearing, a court can impose a civil penalty not exceeding \$500, unless it is for unlawful speeding in a school or construction zone, in which case, the civil penalty may not exceed \$1,000.⁵ Any person committing a traffic infraction causing death may be directed by a judge to perform 120 community service hours in a trauma center, pursuant to s. 316.027(4), F.S.⁶

For any traffic infraction or criminal offense causing death, injury, or property damage, the Department of Highway Safety and Motor Vehicles (DHSMV) may require re-examination of the offender's ability to drive. The DHSMV may subsequently suspend the offender's license.⁷ The DHSMV may suspend an offender's license if the person refuses to submit to a re-examination. Refusal to submit to retesting is grounds to suspend the offender's license.⁸ The court may suspend the driver's license for any criminal violation.⁹

¹ See generally Ch. 316, F.S.

² s. 318.18(3)(a), F.S.

³ s. 318.18(3)(b), F.S.

⁴ s. 318.19(1)-(2), F.S.

⁵ s. 318.14(5), F.S.

⁶ The permissive 120 hours of community service are referenced twice in Chapter 318:

318.14(1), F.S.: "If another person dies as a result of the noncriminal infraction, the person cited may be required to perform 120 community service hours under s. [316.027\(4\)](#), in addition to any other penalties."

318.18(8)(c), F.S.: "If the noncriminal infraction has caused or resulted in the death of another, the person who committed the infraction may perform 120 community service hours under s. [316.027\(4\)](#), in addition to any other penalties."

⁷ s. 322.221(2)(a), F.S.

⁸ s. 322.221(3), F.S.

⁹ s. 316.655(2), F.S.

Criminal Violations

For any criminal traffic offense causing death or an injury sufficient to require medical transport, the department shall mandate a driver-improvement course (in addition to any other applicable penalties). Failure to attend a driver improvement course results in cancellation of the offender's license until the course is completed.¹⁰ If the criminal offense is murder, manslaughter, or a second DUI manslaughter conviction, the DHSMV shall revoke the offender's license.¹¹ License suspension for a manslaughter conviction may not be lifted unless the offender has completed a driver improvement or substance abuse program.¹²

A person who commits the offense of reckless driving causing injury or death commits a third-degree felony, punishable by imprisonment up to five years and/or a fine up to \$5,000.¹³ If the court reasonably believes alcohol was involved, the court shall order the offender to attend a substance abuse program.¹⁴

An impaired driver who causes an accident involving serious injury commits a third-degree felony, and one involving death commits a second-degree felony, punishable by imprisonment up to 15 years and/or a fine up to \$10,000.¹⁵

A person driving with a suspended, revoked, canceled, or disqualified license who negligently causes an accident involving death or serious bodily injury is guilty of a third-degree felony.¹⁶

III. Effect of Proposed Changes:

The bill requires a person who commits a noncriminal traffic infraction that results in the death or serious bodily injury of another person to complete a minimum of 15 community service hours in a trauma center or hospital (currently there is no minimum threshold, only a maximum of 120 hours to complete), as well as an eight hour driver improvement course. This is in addition to any other civil, criminal, or administrative penalty imposed under these circumstances.

The bill also provides that the victim or the victim's next of kin involved in a noncriminal traffic infraction resulting in death or serious bodily injury is entitled to be informed, to be present, and to be heard at all crucial stages of the judicial hearing.

Finally, the bill requires the state attorney, where applicable, to consult with the victim or victim's next of kin about the disposition of the case.

¹⁰ s. 322.0261(2), F.S.

¹¹ s. 322.26, F.S.(1)(a)-(b), F.S.

¹² s. 322.291(1)(a)3., F.S.

¹³ s. 316.192(3)(c)2., F.S.

¹⁴ s. 316.192(5), F.S.

¹⁵ s. 316.193(3)(c)2., F.S.

¹⁶ s. 322.34(6)(a)-(b), F.S. In a related offense, if a person knowingly loans a vehicle to a person whose license is suspended, and the borrower causes death or injury, the owner's license is suspended for one year (s. 322.36, F.S.).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on April 6, 2009:

- Removes all criminal penalties;
- Applies to all persons, not just motorcyclists;
- Requires instead that a violator completes a minimum of 15 community service hours and an eight hour driver improvement course; and
- Provides that the victim or the victim's next of kin is required to be informed, to be present, to be heard, and to be consulted on the disposition of all court actions regarding any traffic infraction resulting in a death or serious bodily injury.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
