

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 Policy and Steering Committee on Ways and Means

BILL: CS/CS/SB 1114

INTRODUCER: Policy and Steering Committee on Ways and Means, Criminal Justice Committee and Senator Richter

SUBJECT: Highway Safety Violations

DATE: April 23, 2009 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Meyer	TR	Fav/1 amendment
2.	Dugger	Cannon	CJ	Fav/CS
3.	Carey	Kelly	WPSC	Fav/CS
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

Currently, a \$65 fine is assessed for violations of certain traffic infractions. The funds generated from these fines are deposited into the Administrative Trust Fund administered by the Department of Health. This trust fund provides funding for verified trauma centers in Florida.

The bill assesses an additional \$65 civil penalty for failure to stop for a school bus, reckless driving, and racing on highways. The \$65 is deposited into the Administrative Trust Fund. The bill directs funds collected from the \$65 fine imposed by the bill to be distributed as follows:

- 30 percent to Level II trauma centers operated by a public hospital governed by an elected board of directors;
- 35 percent to verified trauma centers based on trauma caseload volume for the most recent calendar year available; and
- 35 percent to verified trauma centers based on severity of trauma patients for the most recent calendar year available.

In addition, the bill requires a person who is convicted of a first violation of failure to stop at a traffic signal when so required, failure to stop for a school bus, reckless driving, and racing on the highways to attend a driver improvement course.

The bill provides language to clarify that a court, after considering residency and employment obligations, may order a defendant to pay a fine of \$10 for each hour of public service or community work required, only if the court determines that either would create an undue hardship for the defendant in the completing the required service.

The Revenue Impact Conference met on April 21, 2009 and based on the number of violations for these offenses, an estimated \$1.1 million in revenue may be collected and deposited into the Department of Health Administrative Trust Fund. The Conference also estimated new revenues of \$400,000 to the Department of Highway and Safety and Motor Vehicles Highway Safety Operating Trust related to additional drivers attending driver improvement courses.

This bill substantially amends sections 316.193, 318.18, 318.21, 322.0261 and 395.4036 of the Florida Statutes.

II. Present Situation:

Failure to Stop for a School Bus

Section 316.172(1)(a), F.S., provides a person commits a moving violation if a person driving a vehicle fails to stop when approaching any school bus while the bus is displaying a stop signal. A violation of this offense is punishable as provided in ch. 318, F.S. Currently, s. 318.18(5)(a), F.S., assesses a minimum \$100 civil penalty for a driver who has been found guilty by the court for failing to stop for a school bus.¹ The Department of Highway Safety and Motor Vehicles (DHSMV) must suspend the driver's license of any person who commits a second or subsequent violation of this section within a five year period for not less than 90 days and not more than six months.

Section 316.172(1)(b), F.S., provides a person commits a moving violation if the person passes a school bus on the side children enter and exit while the bus is displaying a stop signal. A violation of this offense is punishable as provided in ch. 318, F.S., and requires a mandatory hearing. Section 318.18(5)(b), F.S., assesses a minimum \$200 civil penalty for a violation of s. 316.172(1)(b), F.S. In addition, the DHSMV must suspend the driver's license of any person who commits a violation of this section for not less than 180 days and not more than one year for a second or subsequent offense within a five year period.

Racing on Highways

Section 316.191, F.S., provides a person may not:

¹ A person who violates s. 316.172(a) or (b), F.S., is currently required to pay fines and costs additional to the fines created by the bill. The fines are listed in s. 318.18, F.S., and include court costs and surcharges deposited in various trust fund accounts.

- Drive any motor vehicle, including any motorcycle, in any race,² speed competition or contest, drag race³ or acceleration contest, test of physical endurance, or exhibition of speed or acceleration or for the purpose of making a speed record on any highway, roadway, or parking lot;
- In any manner participate in, coordinate, facilitate, or collect moneys at any location for any such race, competition, contest, test, or exhibition;
- Knowingly ride as a passenger in any such race, competition, contest, test, or exhibition; or
- Purposefully cause the movement of traffic to slow or stop for any such race, competition, contest, test, or exhibition.

The offense is a first degree misdemeanor.⁴ The section also requires the imposition of a fine of not less than \$500 and not more than \$1,000, and the convicted violator's driver's license is revoked for 1 year, though a "hardship" hearing may be requested pursuant to s. 322.271, F.S.

If the violator committed the unlawful racing violation within five years after the date of a prior unlawful racing violation that resulted in a conviction, the violator commits a first degree misdemeanor and must pay a fine of not less than \$500 and not more than \$1,000, and the convicted violator's driver's license is revoked for two years, though a "hardship" hearing may be requested pursuant to s. 322.271, F.S.

Reckless Driving

Section 316.192, F.S., provides a person commits the offense of reckless driving if a person drives any vehicle in willful or wanton disregard for the safety of persons or property. A first conviction for the offense of reckless driving is punishable by up to 90 days in county jail and a fine of not less than \$25 and not more than \$500; plus an additional \$5 fine which is deposited in the Emergency Medical Services Trust Fund. A second or subsequent conviction for the offense of reckless driving is punishable by up to 6 months in jail and a fine of between \$50 and \$1,000.

If a person commits the offense of reckless driving and damages the property or person of another, the person commits a first degree misdemeanor. If a person commits the offense of reckless driving and causes serious bodily injury to another, the person commits a third degree felony, punishable by up to five years imprisonment and a maximum \$5,000 fine (ss. 775.082, 775.083, 775.084, F.S.). If the court has reasonable cause to believe alcohol or controlled substances were a factor contributing to a violation of this section, the court is required to order the defendant to complete a DUI substance abuse course.

Driving Under the Influence; Penalties

² "Racing" means the use of one or more vehicles in an attempt to outgain or outdistance another motor vehicle, to prevent another motor vehicle from passing, to arrive at a given destination ahead of another motor vehicle or motor vehicles, or to test the physical stamina or endurance of drivers over long-distance driving routes. See s. 316.192(1)(c), F.S.

³ "Drag race" means the operation of two or more motor vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one or more motor vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of such motor vehicle or motor vehicles within a certain distance or time limit. See s. 316.192(1)(b), F.S.

⁴ Sections 775.082 and 775.083, F.S., respectively, provide a first degree misdemeanor is punishable by a jail term of up to one year, and a fine not exceeding \$500 may be imposed.

Section 316.193.F.S., provides that for a first conviction of driving under the influence, that the court place the defendant on probation for a period not to exceed 1 year, and as a condition of the probation, order the defendant to participate in public service or a community work project for a minimum of 50 hours. The court may order a fine of \$10 for each hour of public service or community work required after consideration of the residence or location of the defendant at the time such service is required.

Driver Improvement Courses

Section 322.0261, F.S., requires the DHSMV to require operators convicted of, or who pled nolo contendere to, a second violation of s. 316.074(1), F.S., or s. 316.075(1)(c)1., F.S., (failing to stop at a traffic signal when so required) which violation occurred within 12 months after the first violation 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 the DHSMV, the operators driver's license must be canceled until the course is successfully completed. 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.

Distribution of Funds to Trauma Centers

Currently, there are 20 verified trauma centers⁵ in Florida as follows: seven Level I trauma centers, six Level II trauma centers, five Level II and Pediatric trauma centers, and two Pediatric only trauma centers. In addition, Florida has one provisional trauma center. Florida's trauma system provides a continuum of care that includes professionals from injury prevention, pre-hospital, emergency medical services, acute-care hospitals, trauma centers, rehabilitation facilities, trauma agencies, quality improvement, research, and disaster and public health preparedness.

The verified trauma centers are partially funded through the Administrative Trust Fund of the Department of Health (DOH).⁶ A portion of the fines from certain traffic infractions is deposited in the DOH Administrative Trust Fund. These offenses include: failure to obey a traffic control device, exceeding the speed limit by more than 30 miles per hour, exceeding the speed limit in an enhanced penalty zone, and a traffic infraction that is the result of a crash that causes the death or serious bodily injury to a person.⁷ Currently, as provided in s. 318.18(15), F.S., the Department of Revenue (DOR) deposits \$65 of any red light running fine, assessed by law enforcement officers, into the DOH Administrative Trust fund for distribution to trauma centers. DOH distributes these funds on a quarterly basis to the verified trauma centers based on a distribution methodology as provided in s. 395.4036, F.S. Specifically, s. 395.4036, F.S., provides for the distribution of funds collected under s. 318.18(15), F.S., as follows:

- 20 percent to verified trauma centers that have a local funding contribution,

⁵ The Department of Health selects a hospital as a verified trauma center through an application and review process. The DOH uses standards developed by the American College of Surgeons and Children's Medical Services as selection criteria for trauma centers. Section 395.401(2), F.S. Section 395.4025, F.S. <http://doh.state.fl.us/demo/Trauma/center/htm>. (Last visited March 31, 2009.)

⁶ Section 395.4036(1), F.S.

⁷ Section 318.19(1), 318.19(2), F.S.

- 40 percent to verified trauma centers based on trauma caseload volume for the previous year, and
- 40 percent to verified trauma centers based on the severity⁸ of trauma patients for the previous year.⁹

III. Effect of Proposed Changes:

Section 1 amends s. 318.18, F.S., to assess an additional \$65 civil penalty for:

- a violation of s. 316.172(1)(a) and s. 316.172(1)(b), F.S., failure to stop for or pass a school bus which displays a stop signal;
- a violation of s. 316.191, F.S., racing on highways; and
- a violation of s. 316.192, F.S., reckless driving.

The additional \$65 fine is to be remitted to the DOR for deposit into the Administrative Trust Fund of the Department of Health to fund trauma centers.

Section 2 amends s. 318.21, F.S., to provide for the distribution of the proceeds collected from the assessment of the additional \$65 penalties by county courts.

Section 3 amends s. 322.0261, F.S., to require the DHSMV to identify any operator who was convicted of or who plead nolo contendere to a first violation of failure to stop at a traffic signal when so required, failure to stop for or pass a stopped school bus displaying a stop signal, racing on the highways, or reckless driving and require that operator, in addition to other applicable penalties, to attend a DHSMV-approved driver improvement course in order to maintain driving privileges. If the operator fails to complete the course within 90 days after receiving notice from the DHSMV, the operator's driver license is canceled by the DHSMV until the course is successfully completed.

Section 4 amends s. 395.4036, F.S., to direct funds collected by the \$65 civil penalty imposed by the bill to be distributed as follows:

- 30 percent to Level II trauma centers operated by a public hospital governed by an elected board of directors as of December 31, 2008;
- 35 percent to verified trauma centers based on trauma caseload volume for the most recent calendar year available. The determination of caseload volume for distribution of these funds must be based on the DOH's Florida Trauma Registry data; and
- 35 percent to verified trauma centers based on severity of trauma patients for the most recent calendar year available. The determination of severity for distribution of these funds must be based on the DOH's International Classification Injury Severity Scores or another statistically valid and scientifically accepted method of stratifying a trauma patient's severity of injury, risk of mortality, and resource consumption as adopted by the DOH by rule,

⁸ The determination of the severity of trauma patients is based on DOH rules for classifying a trauma patient's severity of injury.

⁹ The DOH Administrative Trust Fund assists in maximizing federal funds available to trauma centers.

weighted based on the costs associated with and incurred by the trauma center in treating trauma patients. The weighting of scores shall be established by the DOH by rule.

Section 5 amends s. 316.193, F.S., to clarify that a court, consider both residency and employment obligations for a defendant who is required to participate in public service or a community work project for a first conviction of driving under the influence, and specifies that a fine of \$10 may be imposed for each hour of the service only if an undue hardship for the defendant is determined.

Section 6 provides the act shall take effect October 1, 2009.

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:

Verified trauma centers in Florida may benefit from funds generated by the increase in fines.

Persons convicted of failure to stop for a school bus, reckless driving, and racing on highways will be subject to increased \$65 fines.

The increased number of offenses that require mandatory driver improvement school could result in greater attendance in driver improvements schools and benefit operators of the driver improvement schools.

C. Government Sector Impact:

Local Government Impact:

County courts will be required to impose an additional civil penalty of \$65 for violations of ss. 316.172(1)(a) or (b), 316.191, and 316.192, F.S. The county clerks will need to revise the county's collection and remittance procedures to ensure the additional civil

penalty is collected for these violations and remitted to the DOR for deposit in the DOH Administrative Trust Fund.

DHSMV Impact:

According to DHSMV, in 2007, there were 342 drivers having two convictions within a 12-month period for racing on a highway, passing a school bus on the side children exit or enter when a school bus displays a stop signal, and reckless driving.

Section 318.1451(4), F.S., directs an assessment fee of \$2.50 for each driver completing a driver improvement course in accordance with s. 322.0261, F.S. The revenue impact conference estimates that this bill would increase the Highway Safety Operating Trust Fund by an estimated 400,000 .

In addition, this bill will require programming modifications to the Driver License Software Information Systems of which the cost will be absorbed within existing resources.

DOH Impact:

According to DHSMV, in 2007, there were 659 violations for racing on highways, 3,585 violations for passing a school bus on the side children exit or enter when the school bus displays a stop signal, and 18,283 violations for reckless driving. The Revenue Impact Conference met on April 21, 2009 and based on the number of violations for these offenses, an estimated \$1.1 million in revenue may be collected and deposited into the Department of Health Administrative Trust Fund annually.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The new revenues provided for in the bill, combined with current revenues generated from red light running fines assessed by law enforcement officers and other court and traffic related revenues, are not expected to exceed the \$7.5 million in budget authority in the DOH Administrative Trust Fund.

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 Policy and Steering Committee on Ways and Means on April 23, 2009:

- Clarifies that a court, after considering both the residency and employment obligations of a defendant required to participate in public service or a community project as a condition of probation required in 316.193, F.S., may impose a fine of

\$10 for each hour of the required service only if an undue hardship is determined to exist.

- Changes the effective date of the bill to October 1, 2009.

CS by Criminal Justice on April 15, 2009:

- Deletes the provision requiring a hearing officer to find an alleged offender committed a violation of s. 316.172(1)(a) and s. 316.172(1)(b), F.S., (failure to stop for or pass a school bus which displays a stop signal) in order to be assessed the additional \$65 civil penalty.
- Requires a person who is convicted of a first violation of failing to stop at a traffic signal when so required, failure to stop for a school bus, reckless driving, and racing on highways to attend a driver improvement course.

B. Amendments:

None.