

**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 Transportation Committee

**BILL:** CS/SB 1918

**INTRODUCER:** Transportation Committee and Senator Aronberg

**SUBJECT:** Traffic Offenses

**DATE:** April 19, 2010                      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McManus	Meyer	TR	Fav/CS
2.			CJ	
3.			JA	
4.				
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 provides penalties for moving violations which result in serious bodily injury or death of a motorcyclist, bicyclist, pedestrian, or person of other means of conveyance.

A person who commits a noncriminal traffic infraction which causes or results in serious bodily injury of a motorcyclist, bicyclist, pedestrian, or person of other means of conveyance shall serve 30 days house arrest, be fined \$500, and have his or her driver's license suspended for 30 days.

A person who commits a noncriminal traffic infraction which causes or results in the death of a motorcyclist, bicyclist, pedestrian, or person of other means of conveyance shall serve a minimum of 90 days in jail, pay a fine of \$1,000, and have his or her license suspended for a minimum of one year.

This bill creates s. 318.195 of the Florida Statutes.

**II. Present Situation:**

**Moving Violations, Generally**

Under chapters 316 and 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.<sup>1</sup> This section provides a baseline fine of \$60 for all moving violations,<sup>2</sup> 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.<sup>3</sup>

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 chapter 316, F.S., which caused serious bodily injury or death.<sup>4</sup> 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.<sup>5</sup>

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. DHSMV may subsequently suspend the offender's license.<sup>6</sup> 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.<sup>7</sup> The court may suspend the driver's license for any criminal violation.<sup>8</sup>

### *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.<sup>9</sup> If the criminal offense is murder, manslaughter, or a second DUI manslaughter conviction, the DHSMV shall revoke the offender's license.<sup>10</sup> License

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<sup>1</sup> See generally ch. 316, F.S.

<sup>2</sup> s. 318.18(3)(a), F.S.

<sup>3</sup> s. 318.18(3)(b), F.S.

<sup>4</sup> s. 318.19(1)-(2), F.S.

<sup>5</sup> The permissive 120 hours of community service are referenced twice in chapter 318, F.S.:

**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."

<sup>6</sup> s. 322.221(2)(a), F.S.

<sup>7</sup> s. 322.221(3), F.S.

<sup>8</sup> s. 316.655(2), F.S.

<sup>9</sup> s. 322.0261(2), F.S.

<sup>10</sup> s. 322.26, F.S.(1)(a)-(b), F.S.

suspension for a manslaughter conviction may not be lifted unless the offender has completed a driver improvement or substance abuse program.<sup>11</sup>

A person who commits the offense of reckless driving causing injury or death commits a third-degree felony, punishable separately from fines related to reckless driving.<sup>12</sup> If the court reasonably believes alcohol was involved, the court shall order the offender to attend a substance abuse program.<sup>13</sup>

An impaired driver who causes an accident involving injury or death commits a third-degree felony, punishable separately from the potential fine and/or incarceration related to the DUI.<sup>14</sup>

A person driving without a valid license who negligently causes an accident involving death or serious bodily injury is guilty of a third-degree felony.<sup>15</sup>

### **III. Effect of Proposed Changes:**

The bill creates s. 318.195, F.S., providing for enhanced penalties for certain moving violations.

A person who commits a noncriminal traffic infraction which causes or results in serious bodily injury of a motorcyclist, bicyclist, pedestrian, or person of other means of conveyance shall serve 30 days house arrest, be fined \$500, and have his or her driver's license suspended for 30 days.

A person who commits a noncriminal traffic infraction which causes or results in the death of a motorcyclist, bicyclist, pedestrian, or person of other means of conveyance shall serve a minimum of 90 days in jail, pay a fine of \$1,000, and have his or her license suspended for a minimum of one year.

The bill states s. 318.195, F.S., does not prohibit a person from being charged with, convicted of, or punished for any other violation of the law.

The bill shall take effect July 1, 2010.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

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<sup>11</sup> s. 322.291(1)(a)3., F.S.

<sup>12</sup> s. 316.192(3)(c)2., F.S.

<sup>13</sup> s. 316.192(5), F.S.

<sup>14</sup> s. 316.193(3)(c)2., F.S.

<sup>15</sup> 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.).

C. Trust Funds Restrictions:

None.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Drivers who commit a moving violation resulting in the serious bodily injury or death of a motorcyclist, bicyclist, pedestrian, or person of other means of conveyance will be subject to the sanctions outlined in s. 318.195, F.S.

C. Government Sector Impact:

The bill may generate an indeterminate amount of revenue from fines for the behaviors criminalized by the bill.

The bill may have an impact on local jail populations.

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 Transportation on April 19, 2010:**

Amendment 113444 amends penalties to apply to drivers who injure motorcyclists, bicyclists, pedestrians, or persons of other means of conveyance.

B. Amendments:

None.