

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 605 Bicycle and Pedestrian Safety

**SPONSOR(S):** Commerce Committee; Tourism, Infrastructure & Energy Subcommittee; Hunschofsky and others

**TIED BILLS:**           **IDEN./SIM. BILLS:** CS/SB 950

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee	14 Y, 0 N, As CS	Johnson	Keating
2) Infrastructure & Tourism Appropriations Subcommittee	11 Y, 0 N	Hicks	Davis
3) Commerce Committee	22 Y, 0 N, As CS	Johnson	Hamon

### SUMMARY ANALYSIS

The bill addresses issues relating to bicycle and pedestrian safety. In summary, the bill:

- Defines the terms “bicycle lane” and “separated bicycle lane.”
- Provides requirements for a vehicle overtaking a bicycle, other nonmotorized vehicle, or an electric bicycle occupying the same travel lane.
- Requires the Department of Highway Safety and Motor Vehicles (DHSMV) to annually provide an awareness and safety campaign regarding vehicles overtaking a bicycle, other nonmotorized vehicle, or an electric bicycle.
- Provides that no-passing zones do not apply to drivers who safely and briefly drive to the left of center of the roadway to overtake a bicycle, other nonmotorized vehicle or an electric bicycle..
- Requires a vehicle making a right turn while overtaking and passing a bicycle proceeding in the same direction, to do so only if the bicycle is at least 20 feet from the intersection, provided that the driver can safely turn.
- Provides guidelines for riding a bicycle in a substandard-width lane and authorizes riders to ride two abreast if certain conditions exit.
- Authorizes bicyclists riding in groups, after coming to a full stop, to go through an intersection in a group of 10 or fewer, and requires drivers to let one group travel through the intersection before moving forward.
- Requires at least 25 questions in the test bank for the driver license test to address bicycle and pedestrian safety.

The bill will have an indeterminate but likely insignificant fiscal impact to state government revenues and expenditures. The bill does not appear to impact local government revenues or expenditures. See Fiscal Analysis section for details.

The bill has an effective date of July 1, 2021.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Definitions

##### Current Situation

Florida law defines the term “bicycle” as every vehicle<sup>1</sup> propelled solely by human power, having two tandem wheels, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels. The term does not include a scooter or similar device.<sup>2</sup>

Florida law defines the term “electric bicycle” as a bicycle or tricycle equipped with fully operable pedals, a seat or saddle for the use of the rider, and an electric motor of less than 750 watts which meets the requirements of one of the following three classifications:

- “Class 1 electric bicycle” means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the electric bicycle reaches the speed of 20 miles per hour.
- “Class 2 electric bicycle” means an electric bicycle equipped with a motor that may be used exclusively to propel the electric bicycle and that ceases to provide assistance when the electric bicycle reaches the speed of 20 miles per hour.
- “Class 3 electric bicycle” means an electric bicycle equipped with a motor that provides assistance only when the rider is pedaling and that ceases to provide assistance when the electric bicycle reaches the speed of 28 miles per hour.<sup>3</sup>

An electric bicycle is subject to the same rules and regulations applicable to a bicycle.<sup>4</sup>

Florida law does not define the terms “bicycle lane” or “separated bicycle lane.”

##### Effect of the Bill

The bill defines the term “bicycle lane” as any portion of a roadway or highway which is designated by pavement markings and signs for preferential or exclusive use by bicycles.

The bill defines the term “separated bicycle lane” as a bicycle lane that is separated from motor vehicle traffic by a physical barrier.

#### Overtaking or Passing a Vehicle

##### Current Situation

Under Florida law, the driver of a vehicle overtaking another vehicle proceeding in the same direction must give an appropriate signal,<sup>5</sup> must pass to the left of the vehicle at a safe distance, and may not again drive to the right side of the roadway until he or she is safely clear of the overtaken vehicle. A driver overtaking a bicycle or other nonmotorized vehicle,<sup>6</sup> or an electric bicycle, must pass the bicycle, other nonmotorized vehicle, or electric bicycle at a safe distance of not less than three feet between the vehicle and the bicycle, other nonmotorized vehicle, or electric bicycle.<sup>7</sup> A violation is a noncriminal

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<sup>1</sup> S. 316.003(103), F.S., defines the term “vehicle” as every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except personal delivery devices, mobile carriers, and devices used exclusively upon stationary rails or tracks.

<sup>2</sup> S. 316.003(4), F.S.

<sup>3</sup> S. 316.003(22), F.S.

<sup>4</sup> S. 316.20655(1), F.S.

<sup>5</sup> Signals are provided for in s. 316.156, F.S.

<sup>6</sup> The term “other nonmotorized vehicle” is not defined in ch. 316, F.S.

<sup>7</sup> S. 316.083(1), F.S.

traffic infraction, punishable as a moving violation as provided in chapter 318, F.S.<sup>8</sup> The statutory base fine is \$60,<sup>9</sup> but with additional fees and surcharges, the total fine is up to \$158.<sup>10</sup>

### Effect of the Bill

The bill provides that the driver of a vehicle overtaking a bicycle, other nonmotorized vehicle, or electric bicycle occupying the same travel lane must pass the bicycle, other nonmotorized vehicle, or electric bicycle at a safe distance of not less than three feet. If such movement cannot be safely accomplished, the driver must remain at a safe distance behind the bicycle, other nonmotorized vehicle, or electric bicycle until the driver can safely pass at a distance of not less than three feet and must safely clear the overtaken bicycle, other nonmotorized vehicle, or electric bicycle.

The provisions relating to overtaking bicycles, other nonmotorized vehicles, electric bicycles, do not apply when the bicycle, other nonmotorized vehicle, or electric bicycle occupies a separated bicycle lane. A violation is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318, F.S. The statutory base fine is \$60,<sup>11</sup> but with additional fees and surcharges, the total fine is up to \$158.<sup>12</sup>

## **Pedestrian and Bicycle Safety Efforts**

### Current Situation

The Department of Highway Safety and Motor Vehicles (DSHSMV) works to promote traffic safety and educate citizens on traffic laws and regulations that protect the safety of pedestrians and bicyclists. In addition to partnering with the Department of Transportation (DOT), Florida's Pedestrian and Bicycle Safety Coalition, and Alert Today Florida on education and outreach efforts, DSHSMV incorporates safety messages into its driver education materials and its communications and outreach efforts.<sup>13</sup>

Each May, DSHSMV leads the Share the Road campaign, which works to educate individuals on bicycle and pedestrian safety and educates motorists on the importance of sharing the road with all road users. The 2019 Share the Road campaign utilized billboards, online ads, and internet radio advertisements.<sup>14</sup>

Current law provides for the examination of applicants for various classes of driver licenses. For an applicant for a noncommercial driver license, the examination must include a test of the applicant's ability to read and understand highway signs regulating, warning, and directing traffic and his or her knowledge of the state's traffic laws, including laws related to driving under the influence of alcohol or controlled substances.<sup>15</sup> However, there is no requirement that the driver license test contain questions regarding bicycle and pedestrian safety.

Currently, the driver license exam consists of up to 50 questions. There are 309 questions in DSHSMV's test bank, with 18 questions specific to pedestrian and bicyclist safety. Whether or not an applicant will see a bicycle or pedestrian question on the test depends on the number of questions within that category, the number of questions pulled from a category, and how many questions a customer sees while taking the test.<sup>16,17</sup>

### Effect of the Bill

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<sup>8</sup> S. 316.083(3), F.S. Chapter 318, F.S., relates to the disposition of traffic infractions.

<sup>9</sup> S. 318.18(3)(a), F.S.

<sup>10</sup> Florida Clerk of Courts, *2020 Distribution Schedule*, p. 23, available at: [https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/advisories/advisories\\_2021/21bull005\\_Attach\\_2\\_2020\\_Dist.pdf](https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/advisories/advisories_2021/21bull005_Attach_2_2020_Dist.pdf) (last visited Feb. 8, 2021).

<sup>11</sup> S. 318.18(3)(a), F.S.

<sup>12</sup> Florida Clerk of Courts, *2020 Distribution Schedule*, p. 23.

<sup>13</sup> Department of Highway Safety and Motor Vehicles, Agency Analysis of 2020 House Bill 950, p. 3. (Mar. 9, 2021).

<sup>14</sup> *Id.*

<sup>15</sup> S. 322.12(3), F.S.

<sup>16</sup> The test has a quick pass/quick fail delivery; a customer passes after answering 40 questions correctly and fails after answering 11 questions incorrectly.

<sup>17</sup> Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 House Bill 950, p. 4. (Mar. 9, 2021).

The bill requires DHSMV to provide an annual awareness and safety campaign informing the motoring public about the safety precautions that must be taken when overtaking a bicycle, other nonmotorized vehicle, or electric bicycle.

The bill requires 25 questions in DHSMV's test bank for a noncommercial driver license applicant to address bicycle and pedestrian safety.

## **No Passing Zones**

### Current Situation

Section 316.0875, F.S., authorizes DOT and local authorities<sup>18</sup> to determine those portions of any highway under their respective jurisdiction where overtaking and passing or driving to the left of the center of the roadway would be especially hazardous and may, by appropriate signs or markings on the roadway, indicate the beginning and end of such zones. When such signs or markings are in place and clearly visible to an ordinarily observant person, every driver of a vehicle must obey those directions.<sup>19</sup>

Where signs or markings define a no-passing zone, a driver may not drive on the left side of the roadway with the no-passing zone or on the left side of any pavement striping designed to mark such no-passing zone throughout its length.<sup>20</sup>

Section 316.0875, F.S., does not apply when an obstruction exists making it necessary to drive to the left of the center of the highway, nor to the driver of a vehicle turning left into or from an alley, private road, or driveway.<sup>21</sup>

### Effect of the Bill

The bill provides that s. 316.0875, F.S., does not apply to the driver of a vehicle overtaking or passing a bicycle, other nonmotorized vehicle, or electric bicycle, occupying the same travel lane.

## **Required Method for Turning at Intersections**

### Current Situation

Current law provides that the driver of a vehicle intending to make a right turn must make both the approach for the right turn and the right turn as close as practicable to the right-hand curb or edge of the roadway.<sup>22</sup>

A violation of s. 316.151, F.S., is a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318, F.S.<sup>23</sup> The statutory base fine is \$60,<sup>24</sup> but with additional fees and surcharges, the total fine is up to \$158.<sup>25</sup>

### Effect of the Bill

The bill requires that the driver of a vehicle intending to turn right at an intersection, when overtaking or passing a bicycle proceeding in the same direction, must give an appropriate signal and make the right turn only if the bicycle is at least 20 feet from the intersection.

## **Bicycle Regulations**

### Current Situation

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<sup>18</sup> S. 316.003(36), F.S., defines the term "local authorities" as all officers and public officials of the several counties and municipalities of this state.

<sup>19</sup> S. 316.0875(1), F.S.

<sup>20</sup> S. 316.0875(2), F.S.

<sup>21</sup> S. 316.0875(3), F.S.

<sup>22</sup> S. 316.151(1)(a), F.S.

<sup>23</sup> S. 316.151(3), F.S.

<sup>24</sup> S. 318.18(3)(a), F.S.

<sup>25</sup> Florida Clerk of Courts, *2020 Distribution Schedule*, p. 23.

Chapter 316, F.S., is the Florida Uniform Traffic Control Law,<sup>26</sup> which is designed for the state to have uniform traffic laws throughout the state and its counties, and uniform traffic ordinances in all municipalities.<sup>27</sup>

Under Florida law, every person propelling a vehicle by human power has all of the rights and all of the duties applicable to the driver of any other vehicle under the law except as to special regulations in the Florida Uniform Traffic Control Law and except as to provisions of the law which by their nature can have no application.<sup>28</sup> Additionally, an electric bicycle is subject to the same rules and regulations afforded a bicycle, including s. 316.2065, F.S., relating to bicycle regulation.<sup>29</sup>

Any person operating a bicycle upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing must ride in the lane marked for bicycle use or, if no lane is marked for bicycle use, as close as practicable to the right-hand curb or edge of the roadway except under any of the following situations:

- When overtaking and passing another bicycle or vehicle proceeding in the same direction.
- When preparing for a left turn at an intersection or into a private road or driveway.
- When reasonably necessary to avoid any condition or potential conflict, including, but not limited to, a fixed or moving object, parked or moving vehicle, bicycle, pedestrian, animal, surface hazard, turn lane, or substandard-width lane,<sup>30</sup> which makes it unsafe to continue along the right-hand curb or edge or within a bicycle lane.<sup>31</sup>

Any person operating a bicycle upon a one-way highway with two or more marked traffic lanes may ride as near the left-hand curb or edge of such roadway as practicable.<sup>32</sup>

Persons riding bicycles upon a roadway may not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. Persons riding two abreast may not impede traffic when traveling at less than the normal speed of traffic at the time and place and under the conditions then existing and must ride within a single lane.<sup>33</sup>

Except as otherwise provided in s. 316.2065, F.S., a violation of s. 316.2065, F.S., is a noncriminal traffic infraction, punishable as a pedestrian violation as provided in ch. 318, F.S.<sup>34</sup> The base fine is \$15,<sup>35</sup> but with additional fees and surcharges, the total fine is up to \$56.60.<sup>36</sup>

#### Effect of the Bill

The bill provides that on roads that contain a substandard width lane, persons riding a bicycle must ride single file to maintain a minimum of three feet of space for vehicles to pass persons operating a bicycle.

The bill prohibits persons riding bicycles in a bike lane from riding more than two abreast. However, persons riding a bicycle may ride two abreast if both can stay within the bicycle lane. If the bicycle lane is too narrow to allow two persons riding a bicycle to ride two abreast, the persons must ride single file and within the bicycle lane. On roads that contain a substandard width lane, persons riding a bicycle may temporarily ride two abreast only to avoid hazards in the roadway or to overtake another person riding a bicycle.

The bill also provides that when stopping at a stop sign, persons riding bicycles in groups, after coming to a full stop and obeying all traffic laws, may proceed through the stop sign in a group of 10 or fewer at

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<sup>26</sup> S. 316.001, F.S.

<sup>27</sup> S. 316.002, F.S.

<sup>28</sup> S. 316.2065(1), F.S.

<sup>29</sup> S. 316.20655(1), F.S.

<sup>30</sup> For the purposes of s. 316.2065(5), F.S., the term "substandard-width lane" means a lane that is too narrow for a bicycle and another vehicle to travel safely side by side within the lane.

<sup>31</sup> S. 316.2065(5)(a), F.S.

<sup>32</sup> S. 316.2065(5)(b), F.S.

<sup>33</sup> S. 316.2065(6), F.S.

<sup>34</sup> S. 316.2065(19), F.S.

<sup>35</sup> S. 318.18(1), F.S.

<sup>36</sup> Florida Clerk of Courts, 2020 Distribution Schedule, p. 21.

a time. Motor vehicle operators must allow one such group to travel through the intersection before moving forward.

A violation of this provision would be a noncriminal traffic infraction, punishable as a pedestrian violation. The base fine is \$15,<sup>37</sup> but with additional fees and surcharges, the total fine is up to \$56.50.<sup>38</sup>

### **Conforming Changes**

The bill also amends ss. 212.05, 316.306, and 655.960, F.S., conforming cross-references.

### **Effective Date**

The bill has an effective date of July 1, 2021.

#### **B. SECTION DIRECTORY:**

**Section 1:** Amends s. 316.003, F.S., providing definitions.

**Section 2:** Amends s. 316.083, F.S., relating to overtaking and passing a vehicle, a bicycle, or other nonmotorized vehicle, or an electric bicycle.

**Section 3:** Amends s. 316.0875, F.S., relating to no-passing zones.

**Section 4:** Amends s. 316.151, F.S., relating to required position and method of turning at intersections.

**Section 5:** Amends s. 316.2065, F.S., relating to bicycle regulations.

**Section 6:** Amends s. 322.12, F.S. relating to the examination of applicants.

**Sections 7-9:** Amend ss. 212.05, 316.306, and 655.960, F.S., conforming cross-references.

**Section 10:** Provides an effective date of July 1, 2021.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

There would be a positive indeterminate, but insignificant, impact to state revenues as a result of expanding the overtaking and passing violation provisions to include a new requirement to keep a safe distance behind bicycles and nonmotorized vehicles until a driver can safely pass. These are considered noncriminal traffic infractions, punishable as moving violations. The bill also expands violations relating to bicycle riders riding two abreast. This is considered a noncriminal pedestrian violation.

However, the bill also expands the exceptions to a current violation for overtaking and passing a bicycle and other types of vehicles and pedestrians in a no-passing zone; a noncriminal traffic infraction, punishable as a moving violation. This would have a negative indeterminate, but insignificant, impact to state revenues.

##### **2. Expenditures:**

The bill appears to have an insignificant negative impact on state government expenditures.

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<sup>37</sup> S. 318.318(1), F.S.

<sup>38</sup> Florida Clerk of Courts, 2020 Distribution Schedule, p. 21.

DHSMV will incur expenditures associated with redesigning its driver license test banks to provide that at least 25 questions in the test bank address bicycle and pedestrian safety. This cost can be absorbed within existing resources.<sup>39</sup>

According to DHSMV, there are no costs associated with the implementation of the annual awareness and safety campaign that cannot be absorbed within existing resources.<sup>40</sup> DHSMV currently promotes traffic safety and educates citizens on traffic laws and regulations that protect the safety of pedestrians and bicyclists through partnerships with DOT, Florida's Pedestrian and Bicycle Safety Coalition, and Alert Today Florida.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill does not provide a grant of rulemaking, nor does it require rulemaking.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 22, 2021, the Tourism, Infrastructure & Energy adopted two amendments and reported the bill favorably as a committee substitute. In summary, the committee substitute:

- Clarifies that when overtaking a bicycle, other motorized vehicle, electric bicycle, or pedestrian on the road, a vehicle must pass at a safe distance of not less than three feet from the bicycle, other motorized vehicle, electric bicycle, or pedestrian.

<sup>39</sup> Department of Highway Safety and Motor Vehicles, Agency Analysis of 2021 Senate Bill 950. p. 4. (Mar. 9, 2021).

<sup>40</sup> Email from Susan Carey, Chief Financial Officer, Florida Department of Highway Safety and Motor Vehicles, RE: CS/HB 605, March 25, 2021.

- Requires DHSMV to annually conduct a bicycle and pedestrian safety and awareness campaign.
- Requires persons riding bicycles to ride single-file in substandard width lanes.
- Authorizes persons riding bicycles to ride two abreast in a bicycle lane, if both are able to remain within the bicycle lane.
- Requires persons riding bicycles to ride single-file in a bicycle lane if the bicycle lane is not wide enough to ride two abreast.
- Authorizes persons riding bicycles to temporarily ride two abreast to avoid hazards or to overtake another bicyclist.
- Removes the requirement that 20 percent of the questions on the driver license test be related to bicycle and pedestrian safety, and replaces it with a requirement that a minimum of 25 questions in the test bank be related to bicycle and pedestrian safety.

On April 19, 2021, the Commerce Committee adopted one amendment and reported the bill favorably as a committee substitute. The amendment:

- Removed the term “pedestrian” from provisions related to motor vehicles overtaking bicycles, other nonmotorized vehicles, and electric bicycles.
- Added that a motor vehicle overtaking and passing a bicycle may make a right turn if the bicycle is at such a distance that the motor vehicle may safely turn.
- Required drivers to stop to allow one group of 10 or fewer bicyclists to travel through an intersection prior to proceeding through the intersection.

This analysis is drafted to the committee substitute as approved by the Commerce Committee.