

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 Committee on Appropriations

BILL: SB 410

INTRODUCER: Senators Rodriguez and Taddeo

SUBJECT: Photographic Enforcement of School Zone Speed Limits

DATE: February 8, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brick</u>	<u>Bouck</u>	<u>ED</u>	Favorable
2.	<u>Wells</u>	<u>Hrdlicka</u>	<u>ATD</u>	Recommend: Favorable
3.	<u>Wells</u>	<u>Sadberry</u>	<u>AP</u>	Pre-meeting

I. Summary:

SB 410 authorizes a local government to install an automated speed detection system on a street or highway and allows use of such systems to enforce speed limits in areas designated as school zones. Under the bill, a local government may appoint local traffic infraction enforcement officers to issue traffic citations to persons that are detected as exceeding a school zone speed limit by at least 10 miles per hour.

Under the bill, a county or municipality may enforce school speed zones within 1 hour before, during the entirety of, and within 1 hour after a regularly scheduled school session. The bill authorizes a traffic infraction enforcement officer employed by a sheriff's department or municipal police department to issue a fine of \$158 or a traffic citation for unlawful speeds in areas designated as school zones as detected by a speed detection system.

In order to use a speed detection system to enforce speed limits in areas designated as school zones, the bill requires:

- The speed detection system to be permitted, placed, and installed in accordance with regulations developed by the Florida Department of Transportation.
- The local government to notify the public of the speed detection system through a 30-day public awareness campaign.
- A notice of violation to be mailed to the registered owner of the motor vehicle alleged to be in violation within 30 days of the violation and include information regarding the right to pay a \$158 fine, review the evidence, request a hearing, or submit an affidavit submitting a defense to the violation.

The bill provides that a traffic citation must be issued to a person who does not pay the fine or submit a specified affidavit within 30 days of the notification of violation. These provisions are similar to those in current law for use of traffic infraction detectors.

The bill includes requirements that will cause the Florida Department of Transportation and Department of Motor Vehicles to incur costs; local governments that choose to implement speed detection systems may incur costs to implement the systems, but these may be offset by the collection of fines. Collection of fines will positively impact general revenue and state trust funds, and may offset costs incurred by local governments that

The bill takes effect upon becoming a law.

II. Present Situation:

The Division of Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles (DHSMV); the Division of Law Enforcement of the Fish and Wildlife Conservation Commission; the Division of Law Enforcement of the Department of Environmental Protection; and the agents, inspectors, and officers of the Department of Law Enforcement each have authority to enforce all of the traffic laws in Florida on all the streets and highways and elsewhere throughout the state wherever the public has a right to travel by motor vehicle.¹

Local authorities may also exercise police power on streets and highways within their jurisdictions. This authority includes establishing speed limits and regulating traffic by means of police officers or official traffic control devices.²

Traffic Infraction Enforcement Officers

The DHSMV, a county, or a municipality are authorized to employ or designate traffic infraction enforcement officers. A traffic infraction enforcement officer must successfully complete instruction in traffic enforcement procedures and court presentation through the Selective Traffic Enforcement Program as approved by the Division of Criminal Justice Standards and Training of the Department of Law Enforcement, or through a similar program, but may not necessarily otherwise meet the uniform minimum standards established by the Criminal Justice Standards and Training Commission for law enforcement officers or auxiliary law enforcement officers.³

A DHSMV traffic infraction enforcement officer may issue traffic citations to persons who violate properly placed official traffic control devices or who do not stop at steady red lights.⁴ A sheriff's department or police department of a municipality traffic infraction enforcement officer is authorized to issue traffic citations for noncriminal traffic infractions, or parking infractions, that he or she observes as well as issue traffic citations to persons who violate properly placed official traffic control devices or who do not stop at steady red lights.⁵

¹ Section 316.640(1)(a), F.S.

² Section 316.008(1), F.S.

³ Section 316.640(1)(b)3. and (5), F.S.

⁴ Section 316.640(1)(b)3., F.S., authorizing enforcement of s. 316.0083, F.S.

⁵ Section 316.640(1)(b)3., F.S., authorizing enforcement of ss. 318.14 and 316.0083, F.S.

Failure to Stop at a Traffic Signal

The Florida Department of Transportation (FDOT) compiles and publishes a manual of uniform traffic control devices for use on streets and highways in Florida.⁶

Section 316.074, F.S., requires all drivers to obey the instructions of any official traffic control device, unless otherwise directed by a police officer. Generally, under s. 316.075(1)(c), F.S., a driver facing a steady red signal must stop before entering the crosswalk on the near side of the intersection or, if there is not a crosswalk, before entering the intersection and the driver must remain stopped until a green indication is shown on the signal. Either violation is a noncriminal traffic infraction, punishable as a moving violation under ch. 318, F.S.⁷

Penalties for Failure to Stop at a Traffic Signal

A fine of \$158 is levied on violators who violate properly placed official traffic control devices or steady red lights.⁸ When enforced by a law enforcement officer, fines are remitted to the Department of Revenue and \$60 of the fine is distributed as provided in s. 316.21, F.S.; \$30 is distributed to the General Revenue Fund; \$3 is deposited into the Brain and Spinal Cord Injury Trust Fund;⁹ and the remaining \$65 is deposited into the Department of Health's Emergency Medical Services Trust Fund.¹⁰

A person is ordinarily issued four points against their driver's license for a violation of an official traffic control signal device. Additionally, the violation may not be used for purposes of setting motor vehicle insurance rates.¹¹

There is a point system for convictions of violations of motor vehicle laws to determine whether a person may continue to operate a motor vehicle. The DHSMV is authorized to suspend the license of any person upon a showing of its records or other good and sufficient evidence that the person has been convicted of violating motor vehicle laws or ordinances amounting to 12 or more points as determined by the point system. The suspension may not exceed a period of 1 year.¹²

Traffic Infraction Detectors

Traffic infraction detectors may be used to enforce laws requiring drivers to stop at traffic signals.¹³ A traffic infraction detector is a vehicle sensor installed to work in conjunction with a traffic control signal and a camera or cameras synchronized to automatically record two or more sequenced photographs or electronic images or streaming video of only the rear of a motor

⁶ Section 316.0745(2), F.S.; Rule 14-15.010, F.A.C.

⁷ Sections 316.074(6) and 316.075(4), F.S.

⁸ Section 318.18(15)(a)1., F.S.

⁹ Proceeds are distributed to the Miami Project to Cure Paralysis and used for brain and spinal cord research.

¹⁰ Proceeds are distributed to trauma centers as provided in s. 395.4036, F.S.

¹¹ Section 322.27(3)(d)6., F.S.

¹² Section 322.27(3), F.S.

¹³ See s. 316.008(8), F.S.

vehicle at the time the vehicle fails to stop behind the stop bar or clearly marked stop line when facing a traffic control signal steady red light.¹⁴

In 2010, the Legislature authorized the DHSMV, counties, and municipalities to issue a traffic citation for a driver's failure to stop at a traffic control signal when such violation is identified by a traffic infraction detector.¹⁵ The state is responsible for regulating the use of such cameras.¹⁶

A municipality may install or authorize installation of traffic infraction detectors on streets and highways in accordance with FDOT standards, and on state roads within the incorporated area when permitted by the FDOT.¹⁷ A county may install or authorize installation of traffic infraction detectors on streets and highways in unincorporated areas of the county in accordance with FDOT standards and on state roads in unincorporated areas of the county when permitted by the FDOT.¹⁸ The DHSMV may install or authorize installation of traffic infraction detectors on any state road under the original jurisdiction of the FDOT, when permitted by the FDOT.¹⁹

If the DHSMV, a county, or a municipality installs a traffic infraction detector at an intersection, the respective governmental entity must install signage notifying the public that a traffic infraction device may be in use at that intersection, including specific notification of enforcement of violations concerning right turns.²⁰ Such signage must meet the specifications for uniform signals and devices adopted by the FDOT under to s. 316.0745, F.S.²¹

If the governmental entity has never used a traffic infraction detector program, it must make a public announcement and conduct a public awareness campaign of the proposed use of traffic infraction detectors at least 30 days before commencing the enforcement program.²² A county or municipality that operates a traffic infraction detector must also report annually in October to the DHSMV on statistical data of usage of the detector and procedures for enforcement. The DHSMV compiles these reports annually for submittal to the Governor and the Legislature.²³

Failure to Stop at a Traffic Signal and Traffic Infraction Detectors

If a traffic infraction detector identifies a vehicle disobeying a properly placed official traffic control device or red light, the visual information is captured and reviewed by either a traffic infraction enforcement officer or an authorized employee or agent of the enforcing entity before issuance of the traffic citation by the traffic infraction enforcement officer.²⁴

¹⁴ Section 316.003(98), F.S.

¹⁵ See generally ss. 316.0083, and 316.0776, F.S.; ch. 2010-80, Laws of Fla. Any notification or traffic citation issued by using a traffic infraction detector must include a photograph or other recorded image showing both the license tag of the offending vehicle and the traffic control device being violated. Section 316.003(95), F.S.

¹⁶ Section 316.0076, F.S.

¹⁷ Sections 316.008(8) and 316.0776(1), F.S.

¹⁸ *Ibid.*

¹⁹ Section 321.50, F.S.

²⁰ Section 316.0776(2), F.S.

²¹ *Ibid.*

²² Section 316.0776(2), F.S.

²³ Section 316.0083(4), F.S.

²⁴ Section 316.0083(1)(a), F.S.

A notification must be sent to the registered owner²⁵ of the vehicle within 30 days of the alleged violation. The notice must be accompanied by a photograph or other recorded image of the violation which shows both the license tag of the vehicle and the traffic control device being violated, a statement of the vehicle owner’s right to review images or video of the violation, and the time and place or Internet location where the evidence may be reviewed.²⁶

In order to avoid court fees, costs, and the issuance of a traffic citation, the law requires a person who receives a notification of violation to, within 60 days after the notification, either:

- Pay to the DHSMV, county, or municipality the penalty of \$158.
- Furnish an affidavit and supporting documentation establishing defenses discussed below.
- Request a hearing.

Penalties for Failure to Stop at a Traffic Signal and Traffic Infraction Detectors

Failure to stop at a properly placed official traffic control devices or steady red light when evidenced through use of a traffic infraction detector is also penalized with a fine of \$158.²⁷ Funds collected for violations by the governmental entities are deposited with the Department of Revenue.

Distribution of Fines	Traffic Infraction Enforcement Officer Enforcement	
	By DHSMV Officer	By County or Municipal Officer
General Revenue Fund	\$100	\$70
Emergency Medical Services Trust Fund	\$10	\$10
Brain and Spinal Cord Injury Trust Fund	\$3	\$3
County or Municipality Where Violation Occurred	\$45	\$75

A person may not receive a commission or per-ticket fee for any revenue collected from violations detected through use of traffic infraction detectors and a manufacturer or vendor may also not receive a fee or remuneration based on the number of violations detected through use of the detector.²⁸

No points may be imposed against a person’s driver license for violating an official traffic control signal device when enforced by a traffic infraction enforcement officer, which would include violations enforced by evidence of a traffic infraction detector. Additionally, the violation may not be used for purposes of setting motor vehicle insurance rates.²⁹

²⁵ The first name on the registration in cases of joint registration is considered the registered owner.

Section 316.0083(1)(c)1.c., F.S.

²⁶ Sections 316.003(98) and 316.0083(1)(b), F.S.

²⁷ Section 316.0083(1)(b)3.a., F.S.

²⁸ Sections 316.0083(1)(b)4. and 318.18(15)(d), F.S.

²⁹ Section 322.27(3)(d)6., F.S.

Request for Hearing

A person who receives a notice of violation may request a hearing within 60 days following the notification of violation or pay the penalty pursuant to the notice of violation, but a payment or fee may not be required before the hearing requested by the person. The notice of violation must be accompanied by, or direct the person to a website that provides, information on the person's right to request a hearing and on all court costs related thereto and a form to request a hearing.³⁰ If a person requests a hearing and the violation is upheld, then the local hearing officer may also order the payment of county or municipal costs, not to exceed \$250.³¹

Issuance of Uniform Traffic Citation

If the registered owner of the vehicle does not submit payment or otherwise contest the notice of violation within 60 days of being notified, the traffic infraction enforcement officer must issue and send by certified mail a uniform traffic citation to the registered owner. The citation must also include the photograph and statements described above regarding review of the photographic or video evidence.³² The report of a traffic infraction enforcement officer and images provided by a traffic infraction detector are admissible in court and provide a rebuttable presumption the vehicle was used in a violation.³³ A traffic infraction enforcement officer must provide by electronic transmission a replica of the citation data to the court having jurisdiction over the alleged offense or its traffic violations bureau within five days after the issuance date of the citation to the violator.³⁴

Defenses

The registered owner of the motor vehicle is responsible for payment of the fine unless the owner can establish that:³⁵

- The vehicle passed through the intersection to yield the right-of-way to an emergency vehicle or as part of a funeral procession;
- The vehicle passed through the intersection at the direction of a law enforcement officer;
- The vehicle was, at the time of the violation, in the care, custody, or control of another person; or
- The driver at the time received a uniform traffic citation for the alleged violation issued by a law enforcement officer.

An additional defense is available if the motor vehicle's owner was deceased on or before the date the uniform traffic citation was issued.³⁶

To establish any of these defenses, the owner of the vehicle must furnish an affidavit to the appropriate governmental entity that provides detailed information supporting an exemption as provided above, including relevant documents such as a police report (if the car had been reported stolen) or the serial number of the uniform traffic citation, if issued. If the owner

³⁰ Section 316.0083(1)(b)1.c., F.S.

³¹ Section 318.18(22), F.S.

³² Section 316.0083(1)(c), F.S.

³³ Section 316.0083(1)(e), F.S.

³⁴ Section 316.650(3)(c), F.S.

³⁵ Section 316.0083(d)(1)1., F.S.

³⁶ Section 316.0083(1)(d)1.e., F.S.

submits an affidavit that another driver was behind the wheel, the affidavit must contain the name, address, date of birth, and, if known, the driver license number of the driver. A traffic citation may be issued to this person, and the affidavit from the registered owner may be used as evidence in a further proceeding regarding that person's alleged violation.³⁷ Submission of a false affidavit is a second degree misdemeanor.³⁸

If a vehicle is leased, the owner of the leased vehicle is neither responsible for paying the citation nor required to submit an affidavit if the motor vehicle is registered in the name of the lessee.³⁹ Upon receipt of the affidavit and documentation of one of the above defenses, the governmental entity must dismiss the citation and provide proof of such dismissal to the person. If a person presents documentation from the appropriate governmental entity that the citation was issued in error, the clerk of court may dismiss the case and may not charge for such service.⁴⁰

Traffic Infraction Detector Litigation

In 2018, the Florida Supreme Court held that the review of red light camera images authorized by Florida law allows city's private third-party vendor, as its agent, to review and sort red light camera images to forward to a law enforcement officer when:

- The vendor's decisions are essentially ministerial and non-discretionary in that such decisions are strictly circumscribed by the contract language, guidelines promulgated by the city, and actual practices;
- Such ministerial decisions are additionally restricted by a broad policy that requires the vendor to automatically forward "close calls" to law enforcement for review;
- The law enforcement officer, not the vendor, makes the actual decision whether probable cause exists and whether a notice and citation should be issued; and
- The law enforcement officer's decision that probable cause exists and that the citation should be issued are supported by the responsible law enforcement officer's full, professional review which does not merely acquiesce to any decision by the vendor.⁴¹

As such, s. 316.0083(1), F.S., authorizes a local government to contract with a third-party vendor to review and sort information and images from red light cameras before sending that information to a trained law enforcement officer. A law enforcement officer must then review the information and determine whether probable cause exists to issue a citation.

Speed-Measuring Devices

Evidence of the speed of a vehicle measured by any radar speed-measuring device is inadmissible in any proceeding with respect to an alleged violation of provisions of law regulating the lawful speed of vehicles, unless such evidence is obtained by an officer who:⁴²

- Has satisfactorily completed the radar training course established by the Criminal Justice Standards and Training Commission pursuant to s. 943.17(1)(b), F.S.

³⁷ Section 316.0083(1)(d)2., F.S.

³⁸ Section 316.0083(1)(d)5., F.S.

³⁹ Section 316.0083(d)3., F.S.

⁴⁰ Sections 316.0083(d)2. and 318.18(15)(c), F.S.

⁴¹ *Jimenez v. State*, 246 So.3d 219 (Fla. 2018).

⁴² Section 316.1906(2), F.S.

- Has made an independent visual determination that the vehicle is operating in excess of the applicable speed limit.
- Has written a citation based on evidence obtained from radar when conditions permit the clear assignment of speed to a single vehicle.
- Is using radar which has no automatic speed locks and no audio alarms, unless disconnected or deactivated.
- Is operating radar with audio Doppler engaged.
- Is using a radar unit which meets the minimum design criteria for such units established by the DHSMV.⁴³

Whenever any peace officer engaged in the enforcement of the motor vehicle laws uses an electronic, electrical, mechanical, or other device used to determine the speed of a motor vehicle on any public road, the device must be approved by the DHSMV and must have been tested to determine that it is operating accurately. Tests for this purpose must be made at least once each six months.⁴⁴ Any police officer, upon receiving information relayed to him or her from a fellow officer stationed on the ground or in the air operating such a device that a driver of a vehicle has violated the speed laws, may arrest the driver for violation of said laws where reasonable and proper identification of the vehicle and the speed of same has been communicated to the arresting officer.⁴⁵

For example, an officer would estimate the actual speed he or she believes that the vehicle is going and then use the speed measurement device to verify that speed. In traffic court proceedings, the officer would testify to observing the vehicle on the road, visually estimating the speed of the vehicle, and then would present the radar measurements. The radar speed measuring device is pointed in the general direction of the vehicle, and when multiple vehicles are on the road, the officer would need to be able to testify where the vehicle was in relation to other vehicles present and whether it appeared to be going faster or slower than those around it.⁴⁶

Speeding Penalties

A person exceeding the legally posted speed limit:⁴⁷

MPH Over the Legally Posted Speed Limit	Fine
1-5 mph	Warning
1-9 mph	\$25
10-14 mph	\$100
15-19 mph	\$150
20-29 mph	\$175
30 mph or more	\$250

⁴³ The DHSMV adopts by rule the minimum design criteria for radar units and laser devices and maintains a list of approved speed measuring devices. Rules 15B-2.0082, 2.013, and 2.014, F.A.C.

⁴⁴ Section 316.1905(1), F.S.

⁴⁵ Section 316.1905(2), F.S.

⁴⁶ Department of Highway Safety and Motor Vehicles, 2022 Agency Legislative Bill Analysis, SB 410, (September 30, 2021) (on file with the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development).

⁴⁷ Section 318.18(3)(b) and (c), F.S.

Speeding violations are enforced by an officer who makes an independent visual determination that the vehicle is operating in excess of the applicable speed limit. Current law does not provide for the use of remote or other devices to capture evidence of speeding outside of the presence of an officer.

Points assessed against the driver license of a person found speeding are based upon how many mph the person was over the speed limit. For unlawful speed not in excess of 15 mph over the limit, 3 points are assessed; for unlawful speed in excess of 15 mph over the limit, 4 points.⁴⁸

School Zones

The Manual for Uniform Traffic Control Devices defines a school zone as “a designated roadway segment approaching, adjacent to, and beyond school buildings or grounds, or along which school related activities occur.”⁴⁹ A school zone is the “portion of a street or highway located within a school area that includes an established school speed limit posted thereof with signs and flashing beacons.”⁵⁰

The location of a school zone is determined based on an engineering study that assess where the need for reduced speed limits are necessary. The need is due to the fact that children have difficulties seeing and evaluating traffic conditions because of their height, lack of experience and premature judgment, ability to perceive the flow of traffic, understanding of the use of traffic control devices and crosswalks.⁵¹ School zones may be established at other locations when justified by an engineering study, but they cannot be applied in a blanket manner for all roads within a school’s area.⁵² For example, where school zones are “not warranted based on an engineering study, school entrance warning signs may be considered on a case-by-case basis for schools with low volumes of walking students.”⁵³ Further, FDOT advises “School zones should be kept as short as practical and should not necessarily extend along the entire highway frontage of the school property.”⁵⁴

The FDOT is required to maintain the school zones located on state roads, though it can enter into agreements with counties or municipalities for those local governmental entities to maintain

⁴⁸ Section 322.27(3)(d)5., F.S.

⁴⁹ U.S. Department of Transportation, Federal Highway Administration, Manual for Uniform Traffic Control Devices (MUTCD), Section 1A.13(03)(185) (2009 ed.).

⁵⁰ Florida Department of Transportation, *Speed Zoning for Highways, Roads, and Streets In Florida, Chapter 15 Establishing School Zones and School Crossings*, 15.1 (March 2018) available at https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/traffic/speedzone/2019-01-28_speed-zoning-manual_august-2018.pdf?sfvrsn=ac20bad7_0 (last visited January 22, 2022).

⁵¹ Florida Department of Transportation, *Speed Zoning for Highways, Roads, and Streets In Florida, Chapter 15 Establishing School Zones and School Crossings*, 15.2.

⁵² Florida Department of Transportation, *Speed Zoning for Highways, Roads, and Streets In Florida, Chapter 15 Establishing School Zones and School Crossings*, 15.1.

⁵³ Florida Department of Transportation, *Speed Zoning for Highways, Roads, and Streets In Florida, Chapter 15 Establishing School Zones and School Crossings*, 15.4.1(2).

⁵⁴ Florida Department of Transportation, *Speed Zoning for Highways, Roads, and Streets In Florida, Chapter 15 Establishing School Zones and School Crossings*, 15.4.2(15).

the zones.⁵⁵ Counties are required to maintain school zones on county roads outside of municipalities, and municipalities are required to maintain school zones located in a municipality.⁵⁶

School Speed Limits

Because a school zone is established based on the need for reduced speed limits due to children arriving at and leaving school, a reduced speed limit may be established in a school zone. For posted speeds of 35 mph or greater, a school zone speed limit of 20 mph must be used while on roads with posted speeds of less than 35 mph, a 15 mph school zone speed limit must be used, except if a local regulation allows for a lesser speed.⁵⁷

School zone speed limits may be in force only from 30 minutes before to 30 minutes after the periods of time when pupils are arriving or leaving a regularly scheduled breakfast program or school session.⁵⁸

School Speed Zone Signage

Pedestrian safety depends upon public understanding of accepted methods for efficient traffic control and the uniform approach to school area traffic controls ensures that pedestrians, bicyclists, and other vehicles in the vicinity of schools will understand how to move safely in school areas. “Procedures and devices that are not uniform might cause confusion among pedestrians and other road users, prompt wrong decisions, and contribute to crashes.”⁵⁹

“School area signs advise drivers of school zones and school crossings. School zones and school crossings provide students with a safe zone when they cross the road to and from school.”⁶⁰ In Florida, the FDOT is charged with establishing the uniform system of traffic control devices and pedestrian control devices for use on the streets and highways surrounding all schools, public and private, and publishes a manual containing all such specifications and requirements.⁶¹

Permanent signs designating school zones and school zone speed limits must be uniform in size and color and have the times during which the restrictive speed limit is enforced clearly designated on them.⁶² The school zone beginning and end must be clearly designated on the road surface as required by the FDOT and identified by specific signage. All school-related traffic control devices must meet the requirements established by the FDOT, based upon the federal

⁵⁵ Section 31.1895(3)(a) and (2), F.S. Upon request from the appropriate local government, the FDOT must install and maintain school zones on state roads for all prekindergarten early-intervention schools that receive federal funding through the Headstart program.

⁵⁶ Section 316.1895(3)(b) and (c), F.S.

⁵⁷ Florida Department of Transportation, *Speed Zoning for Highways, Roads, and Streets In Florida, Chapter 15 Establishing School Zones and School Crossings*, 15.4.2(3).

⁵⁸ Section 316.1895(5), F.S.

⁵⁹ MUTCD, Chapter 7A (2009 ed.).

⁶⁰ Florida Department of Highway Safety and Motor Vehicles, *Florida Driver License Handbook*, pp. 23 and 43, available at <https://www3.flhsmv.gov/handbooks/englishdriverhandbook.pdf> (last visited January 22, 2022).

⁶¹ Section 316.1895(1), F.S.; Rule 14-15.012, F.A.C. See generally Florida Department of Transportation, *Speed Zoning for Highways, Roads, and Streets In Florida, Chapter 15 Establishing School Zones and School Crossings*.

⁶² Section 316.1895(6), F.S. Florida Department of Transportation, *Speed Zoning for Highways, Roads, and Streets In Florida, Chapter 15 Establishing School Zones and School Crossings*, 15.5.

Manual for Uniform Traffic Control Devices. The preferred device is the school zone flashing beacon assembly.⁶³

Depending on the posted speed of the road, advance warning signs for school zone must be posed between 100 and 225 feet from the beginning of the zone.⁶⁴

For any newly established school zone or any school zone in which the signing has been replaced, a sign stating “Speeding Fines Doubled” must be installed within the school zone on the same pole as the school zone flashing beacon assembly.⁶⁵ The federal Manual for Uniform Traffic Control Devices requires the postage of signage where increased are imposed for traffic violations within a designated school zone as a supplement to the school zone sign to identify the beginning point of the higher fines zone.⁶⁶

School Zone Speeding Penalties

A person may not drive a vehicle in a school zone at a speed greater than that posted in the school zone.⁶⁷ A violation of the speed limits established under s. 316.1895, F.S., is cited as a moving violation, publishable as provided in ch. 318, F.S.

A person exceeding the legally posted speed limit, as discussed above, in a school zone or designated school crossing must pay a fine equal to double the standard amounts for exceeding the speed limit. Therefore, the fine in a school zone for exceeding the legally posted speed limit by:⁶⁸

MPH Over the Legally Posted Speed Limit	Fine
1-9 mph	\$50
10-14 mph	\$200
15-19 mph	\$300
20-29 mph	\$350
30 mph or more	\$500

Points assessed against the driver license of a person found speeding in a school zone are not different than those for violating regular speed limits.

⁶³ Florida Department of Transportation, *Speed Zoning for Highways, Roads, and Streets In Florida, Chapter 15 Establishing School Zones and School Crossings*, 15.4.2(2), (6), (7), (8).

⁶⁴ Florida Department of Transportation, *Speed Zoning for Highways, Roads, and Streets In Florida, Chapter 15 Establishing School Zones and School Crossings*, 15.4.2.

⁶⁵ Section 316.1895(6), F.S. Florida Department of Transportation, *Speed Zoning for Highways, Roads, and Streets In Florida, Chapter 15 Establishing School Zones and School Crossings*, 15.4.2(5).

⁶⁶ MUTCD, Chapter 7B.10 (2009 ed.).

⁶⁷ Section 316.1895(10), F.S.

⁶⁸ Section 318.18(3)(b) and (c), F.S.

III. Effect of Proposed Changes:

This bill authorizes a local government to install an automated speed detection system on a street or highway and allows use of such systems to enforce speeding in an area designated as a school zone.

Speed Detection Systems (Sections 1 and 3, amending ss. 316.003 and 316.0776, F.S.)

The bill amends s. 316.0776, F.S., to authorize a county or municipality to install a speed detection system on a local road or on a state road when permitted by the FDOT. The system must be placed and installed in accordance with regulations developed by the FDOT. The bill requires the FDOT to establish placement and installation specifications by August 1, 2022.

The bill adds a definition of a speed detection system to s. 316.003, F.S., defining a speed detection system as an automated system used to record a vehicle's speed using radar and to capture a photograph or video of a vehicle that exceeds the speed limit in force at the time of violation.

The authority that installs a speed detection system is required to notify the public using uniform signals and devices adopted by the FDOT. If the authority has never used a traffic infraction detector program, it must make a public announcement and conduct a public awareness campaign of the proposed use of traffic infraction detectors at least 30 days before commencing the enforcement program. During the 30-day public awareness campaign, a driver who is found to violate the speed limited in a school zone by a speed detection system shall only be issued a warning and is not liable for any fines.

Speed Detection Systems Design Requirements (Section 5, amending s. 316.1906, F.S.)

The bill amends s. 316.1906, F.S., to exempt a speed detection system from the design requirements for radar units established by the DHSMV. Instead, the bill requires a speed detection system to have the ability to perform self-tests as to its detection accuracy, which must be performed at least once every 30 days. The bill requires the law enforcement agency, or an agent acting on behalf of the law enforcement agency, that is operating a speed detection system to:

- Maintain a log of the results of the system's self-tests; and
- Perform an independent calibration test on the speed detection system at least once every 12 months.

Traffic Infraction Enforcement Officer and Speed Detection Systems (Sections 5 and 9, amending ss. 316.1906 and 316.640, F.S.)

The bill amends s. 316.640(5), F.S., to authorize a traffic infraction enforcement officer of a sheriff's department or municipal police department to issue traffic citations for enforcement of violations of speed in school zones found by speed detection systems.

The bill amends s. 316.1906, F.S., to modify the requirements related to evidence of speed of a vehicle as measured by a radar speed-measuring device. The bill authorizes a traffic infraction enforcement officer to review photographic or electronic images, streaming video, or evidence of

the speed of a vehicle as measured by a speed detection system to satisfy existing legal requirements for an officer to make an independent visual determination that a vehicle is operating in excess of the applicable speed limit.

School Zones and Speed Detection Systems (Section 2, amending s. 316.008, F.S.)

The bill amends s. 316.008, F.S., to authorize a county or municipality to enforce speed limits in areas designated as school zones within 1 hour before, during the entirety of, and within 1 hour after a regularly scheduled school session through the use of a speed detection system for the measurement of speed and recording of photographs or videos for violations that are in excess of 10 miles per hour over the speed limit in force at the time of the violation.

Currently, s. 316.1985, F.S., authorizes school zone speed limits to be in force only from 30 minutes before to 30 minutes after the periods of time when pupils are arriving or leaving a regularly scheduled breakfast program or school session.

It appears that the bill allows the use of a speed detection system to be used to catch violations of the regular posted speed limit:

- 30 minutes prior to the start of the legally posted school zone speed limits before a regularly scheduled school session;
- At the end of the legally posted school zone speed limits, throughout the day, and until the start of the legally posted school zone speed limits after a regularly scheduled school session; and
- 30 minutes after the end of the legally posted school zone speed limits after a regularly scheduled school session.

A local government may install, or contract with a vendor to install, a speed detection system within 1,000 feet of a school zone to enforce speed limits in school speed zones.

The bill specifies in creating s. 316.1896, F.S., that speed detection systems supplement the enforcement of school speed zones and do not prohibit law enforcement officers from issuing citations for violations of school speed zones.

School Zone Signage (Sections 2 and 3, amending ss. 316.008 and 316.0776, F.S.)

Under the bill, amending s. 316.008, F.S., compliance with the legal requirements for establishing, installing, maintaining, and providing notice of a school zone and school speed zone under current law creates a rebuttable presumption that the school zone is being properly maintained, even if the school zone does not include a sign stating “Speeding Fines Doubled.” For use of speed detection systems in school speed zones, the bill amends s. 316.0776, F.S., to provide that the sign for notification that speeding fines are doubled in the zone is not required to enforce speed violations in the zone using a speed detection system.

School Zone Speed Violations (Section 4, creating s. 316.1896, F.S.)

The bill creates s. 316.1896, F.S., to provide for enforcement of speed limits in areas designated as school zones through the use of a speed detection system. If a speed detection system identifies a vehicle speeding, the visual information is captured and reviewed by either a traffic

infraction enforcement officer of a sheriff’s department or municipal police department or an authorized employee or agent of the enforcing entity before issuance of the traffic citation by the traffic infraction enforcement officer.

A notification must be sent to the registered owner of the vehicle within 30 days of the alleged violation. Unlike the use of traffic infraction detectors, the notice is not required to be accompanied by a photograph or other recorded image of the violation that shows both the license tag of the vehicle and the location. However, similar to a notice related to use of a traffic infraction detector, the notice must include a statement of the vehicle owner’s right to review images or video of the violation and the time and place or Internet location where the evidence may be reviewed.

In order to avoid court fees, costs, and the issuance of a traffic citation, the bill requires a person who receives a notification of violation to, within 30 days after the notification, either:

- Pay to the county or municipality the penalty of \$158;
- Furnish an affidavit and supporting documentation establishing defenses discussed below; or
- Request a hearing.

Penalties (Section 4, creating s. 316.1896, F.S., and Sections 6 and 7, amending ss. 318.18 and 322.27, F.S.)

The bill amends s. 318.18, F.S., to provide that a person cited for exceeding the speed limit in a school zone when enforced by a traffic infraction enforcement officer using evidence from a speed detection device must pay a fine of \$158. The bill creates s. 316.1896, F.S., to provide that funds collected for violations by the governmental entities are deposited with the Department of Revenue.

Distribution of Fines	
General Revenue Fund	\$60
Department of Law Enforcement Criminal Justice Standards and Training Trust Fund ⁶⁹	\$4
Coach Aaron Feis Guardian Program ⁷⁰	\$4
Public School District Where Violation Occurred	\$6
County or Municipality Where Violation Occurred	\$84

Funds retained by the county or municipality must be used to administer speed detection systems in school zones or other public safety initiatives. Funds distributed to the public school district where the violation occurred must be used for school security initiatives or to improve the safety of student walking conditions; these funds must be shared with charter schools in the district based on each charter school’s proportionate share of the district’s total unweighted full-time equivalent student enrollment to be used for the same purposes.

⁶⁹ See s. 943.25, F.S.

⁷⁰ See s. 30.15(1)(k), F.S., and Florida Department of Education, *Coach Aaron Feis Guardian Program*, available at <https://www.fldoe.org/safe-schools/guardian-program.stml> (last visited January 22, 2022).

Similar to violations of law found through use of traffic infraction detectors, the bill amends s. 322.27, F.S., to provide that no points may be imposed against a person’s driver license for speeding violations evidenced by speed detection systems and the violation may not be used for purposes of setting motor vehicle insurance rates.

This bill allows for the application of different fines for speeding in an area marked as a school zone depending on whether enforced in person by a law enforcement officer or by a traffic infraction enforcement office through use of a speed detection system.

MPH Over the Legally Posted Speed Limit	Current Law		Under the Bill as Evidenced by a Speed Detection System	
	Fine – Regular Posted Speed Limit	Fine – School Zone Speed Limit	Fine – Regular Posted Speed Limit	Fine – School Zone Speed Limit
10-14 mph	\$100	\$200	\$158	\$158
15-19 mph	\$150	\$300	\$158	\$158
20-29 mph	\$175	\$350	\$158	\$158
30 mph or more	\$250	\$500	\$158	\$158

Defense (Section 4, creating s. 316.1896, F.S.)

The bill creates similar defenses to the traffic citation evidenced by a speed detection system as under current law for a traffic citation issued through use of a traffic infraction detector. The registered owner of the motor vehicle is responsible for payment of the fine unless the owner can establish that:⁷¹

- The vehicle was, at the time of the violation, in the care, custody, or control of another person; or
- The driver at the time received a uniform traffic citation for the alleged violation issued by a law enforcement officer.

An additional defense is available if the motor vehicle’s owner was deceased on or before the date the uniform traffic citation was issued. The affidavit must include a certified copy of the owner’s death certificate showing that the date of death occurred on or before the issuance of the uniform traffic citation and one of the following:

- A bill of sale or other document showing that the deceased owner’s motor vehicle was sold or transferred after his or her death but on or before the date of the alleged violation.
- Documented proof that the registered license plate belonging to the deceased owner’s vehicle was returned to the DHSMV or any branch office or authorized agent of the DHSMV after his or her death but on or before the date of the alleged violation.
- A copy of the police report showing that the deceased owner’s registered license plate or motor vehicle was stolen after his or her death but on or before the date of the alleged violation.

⁷¹ Section 316.0083(d)(1)1., F.S.

Similar to defenses of traffic citations issued through use of a traffic infraction detector, the bill requires that in order to establish any of these defenses, the owner of the vehicle must furnish an affidavit to the appropriate governmental entity that provides detailed information supporting an exemption as provided above, including relevant documents such as a police report (if the car had been reported stolen) or the serial number of the uniform traffic citation, if issued. If the owner submits an affidavit that another driver was behind the wheel, the affidavit must contain the name, address, date of birth, and, if known, the driver license number of the driver. A traffic citation may be issued to this person, and the affidavit from the registered owner may be used as evidence in a further proceeding regarding that person's alleged violation. If a vehicle is leased, the owner of the leased vehicle is neither responsible for paying the citation nor required to submit an affidavit if the motor vehicle is registered in the name of the lessee.

The bill creates a second degree misdemeanor for submission of a false affidavit.⁷²

Upon receipt of the affidavit and documentation of one of the above defenses, the governmental entity must dismiss the citation and provide proof of such dismissal to the person.

Request for Hearing (Section 4, creating s. 316.1896, F.S.)

The hearing provisions created by the bill are similar to the hearing provisions in current law for traffic citations issued through use of a traffic infraction detector. A person who receives a notice of violation may request a hearing within 30 days following the notification of violation or pay the penalty pursuant to the notice of violation, but a payment or fee may not be required before the hearing requested by the person. The notice of violation must be accompanied by, or direct the person to a website that provides, information on the person's right to request a hearing and on all court costs related thereto and a form to request a hearing.

Hearing Procedures (Section 4, creating s. 316.1896, F.S., and Section 5, amending s. 316.1906, F.S.)

The hearing procedures established by the bill are the same as those for challenging a traffic citations issued through use of a traffic infraction detector. In fact, the bill specifies that a hearing to challenge a traffic citation issued by a traffic infraction enforcement officer for school speed zone violations must be conducted under the procedures established in law for traffic citations issued by traffic infraction enforcement officers in s. 316.0083(5), F.S.

Additionally, hearing provisions include the following, which are also the same as those currently provided under s. 316.0083(5), F.S.:

- The DHSMV must publish and make available electronically to each county and municipality a model request for hearing form to assist each local government that is issuing notifications of school speed zone violations resulting from the use of a speed detection system.
- The county or municipality electing to authorize traffic infraction enforcement officers to issue traffic citations must designate by resolution existing staff to serve as the clerk to the local hearing officer.

⁷² Punishable by a term of imprisonment not to exceed 1 year and a fine of up to \$500. Sections 775.082 and 775.083, F.S.

- Any person, referenced in the bill as the “petitioner,” who elects to request a hearing must be scheduled for a hearing by the clerk to the local hearing officer. The clerk must furnish the petitioner with notice to be sent by first-class mail. Upon receipt of the notice, the petitioner may reschedule the hearing once by submitting a written request to reschedule to the clerk to the local hearing officer at least five calendar days before the day of the originally scheduled hearing. The petitioner may cancel his or her appearance before the local hearing officer by paying the penalty assessed, plus the administrative costs of \$50, before the start of the hearing.
- All testimony at the hearing must be under oath and recorded. The local hearing officer must take testimony from a traffic infraction enforcement officer and the petitioner and may take testimony from others. The local hearing officer must review the photographic or electronic images or streaming video and the evidence of the speed of the vehicle as measured by the speed detection system. Formal rules of evidence do not apply, but due process must be observed and govern the proceedings.
- At the conclusion of the hearing, the local hearing officer must determine whether a violation of school speed zone requirements occurred and either uphold or dismiss the violation. The local hearing officer must issue a final administrative order including the determination and, if the notification of violation is upheld, require the petitioner to pay the penalty previously assessed, and may also require the petitioner to pay county or municipal costs not to exceed \$250 as established in law. The final administrative order must be mailed to the petitioner by first-class mail.
- An aggrieved party may, within 30 days of the date of the final administrative order, appeal to the circuit court. Such an appeal does not initiate a new hearing, but is limited to appellate review of the record created before the enforcement board.

The bill provides that the photographic or electronic images, the streaming video evidence, and the evidence of the speed of the vehicle as measured by a speed detection system attached to or referenced in the traffic citation are evidence of a violation of school speed zone requirements and are admissible in any proceeding to enforce school speed zone requirements. The bill further provides that the images or video and evidence of speed raise a rebuttable presumption that the motor vehicle named in the report or shown in the images or video was used in violation of school speed zone requirements.

The bill amends s. 316.1906, F.S., to allow the self-test logs, as well as the results of the annual calibration test, of speed detection systems to be admitted in any court proceeding for a traffic citation issued for a violation of speed limits in an area designated as a school zone as detected by a speed detection system.

Issuance of Uniform Traffic Citation (Section 4, creating s. 316.1896, F.S., and Sections 10 and 11, amending ss. 316.650 and 318.14, F.S.)

Under the bill, if the registered owner of the vehicle does not submit payment or otherwise contest the notice of violation within 30 days of being notified, then the uniform traffic citation must be sent to the registered owner. Except for the method of mailing, which must be first class for a notice of violation and certified mail for a traffic citation, the bill requires the traffic citation to conform to the notice requirements included within the notification of violation. The bill specifies that delivery of the traffic citation constitutes notification, and if a person initiates a

proceeding to challenge the citation, the person waives any challenge or dispute as to the delivery of the traffic citation.

The bill amends s. 316.650, F.S., to require a traffic infraction enforcement officer to provide by electronic transmission a replica of the traffic citation data to the court having jurisdiction over the alleged offense or its traffic violations bureau within five days after the date of issuance of the traffic citation to the violator.

The bill provides in s. 318.14, F.S., that persons cited for unlawful speeding in areas designated as school zones as detected by a speed detection system are not required to sign and accept a citation indicating a promise to appear at a mandatory hearing. The bill amends s. 316.650, F.S., to provide that, if a hearing is requested, the traffic infraction enforcement officer must provide a replica of the traffic notice of violation data to the clerk for the local hearing officer having jurisdiction over the alleged offense within 14 days.

Cross-References

Sections 1, 8, 12, and 13 amend ss. 316.003, 316.306, 318.21, and 655.960, F.S., to conform cross-references.

Effective Date (Section 14)

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill will generate an indeterminable amount of revenue for private companies that manufacture and install speed detection systems.⁷³

Individuals speeding in areas designated as school zones may be subject to fines if found in violation by a traffic infraction enforcement officer reviewing the evidence of the speed detection system. Individuals that submit false affidavits defending the imposition of a traffic infraction may be subject to jail time and fines if found guilty of a second degree misdemeanor.

C. Government Sector Impact:

The Department of Revenue and the court clerks will need to update their systems in order to account for this new fine. The DHSMV will have to update the Uniform Traffic Citation template as well as create a new violation code for UTC reporting. These costs may be absorbed within existing resources.

If a county or municipality elects to implement a speed detection system program the bill may have a positive fiscal impact on state and local government revenues if implementation of the system results in increased enforcement of speed limits in areas designated as school zones. Collection of fines benefit the General Revenue Fund, the Department of Law Enforcement Criminal Justice Standards and Training Trust Fund, the Coach Aaron Feis Guardian Program, public school districts, and local governments.

The fines may offset any costs the local government incur to implement the system, as the portion of fines retained by the counties and municipalities must be used to administer speed detection systems in school zones or other public safety initiatives. Funds distributed to the public school district where the violation occurred must be used for school security initiatives or to improve the safety of student walking conditions; these funds must be shared with charter schools in the district based on each charter school's proportionate share of the district's total unweighted full-time equivalent student enrollment to be used for the same purposes.

Local government costs associated with using speed detection equipment in school zones may vary depending on the unique needs and circumstances in each county or municipality. Costs may be influenced by numerous factors, such as equipment choices, operational and administrative decisions made by the county or municipality, and

⁷³ Department of Education, 2022 Agency Legislative Bill Analysis, SB 410, (October 13, 2021) p. 4 (on file with the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development).

contractual agreements with vendors.⁷⁴ Local governments will also incur costs to mail notices of violations and issue traffic citations (first-class mail and certified mail, respectively).

VI. Technical Deficiencies:

Line 432 of the bill adds a definition of “traffic enforcement officer” to s. 316.1906, F.S., which sets forth the requirements for the use of radar speed-measuring devices. While the current statute applies to all officers, both state and local, the created definition only applies to traffic infraction enforcement officers of the DHSMV. However, the bill only authorizes local government traffic infraction enforcement officers to enforce violations of school zone speed limited identified by speed detection systems. It is likely that the reference in the definition should be to s. 316.640(5), F.S., and not s. 316.640(1)(b)3., F.S.

VII. Related Issues:

The bill does not amend s. 316.1985, F.S., and may create a conflict and uncertainty in the enforcement of speed limits around schools, including when the school speed zones may be enforced and whether such speed limits may be enforced during regularly scheduled school sessions.

The bill refers to “school speed zones,” which is not clearly defined. It is unclear if this refers just to the currently authorized lower school zone speed limits allowed under s. 316.01895, F.S., or the use of the school zone as an area in which speeding is enforced. It may be more appropriate to refer to the enforcement of speed limits in areas designated as school zones.

While current law allows the legally posted school zone speed limits to be enforced 30 minutes before the start of a regularly schedule breakfast program, the bill does not address that different time frame. There may be some uncertainty when the speed detection system will be used to enforce regular posted speed limits and legally posted school zone speed limits for school zones that are timed based on breakfast programs.

Allowing a local government that uses a speed detection system in a school zone to not post signs indicating that increased fines are imposed may violate the Federal Highway Safety Administration requirements Manual for Uniform Traffic Control Devices, putting the state out of compliance and jeopardizing the receipt of federal highway funding.

Nothing in the bill specifies what the image and video of the speed detection system must capture, unlike with traffic infraction detectors. The DHSMV recommends specifying that the image capture the location where the vehicle is measured as well as the area leading up to it for the visual to be made. A clear view of the vehicle and traffic approaching the speed measurement device would allow the reviewing traffic infraction enforcement officer to be able to see enough of the road and other traffic to ensure that the proper vehicle is cited for speeding, rather than a vehicle traveling next to it.⁷⁵

⁷⁴ Department of Education, 2022 Agency Legislative Bill Analysis, SB 410, (October 13, 2021) p. 4.

⁷⁵ DHSMV, 2022 Agency Legislative Bill Analysis, SB 410, (September 30, 2021).

A notification must be sent to the registered owner of the vehicle within 30 days of the alleged violation evidenced by a speed detection system. Unlike the use of traffic infraction detectors, the notice is not required to be accompanied by a photograph or other recorded image of the violation that shows both the license tag of the vehicle and the location. The sponsor may want to require the inclusion of some evidence of the violation in the notice, which may lead some drivers to decide not to contest the citation.

The fine for failure to stop at a traffic signal is \$158 whether enforced by a law enforcement officer or by a traffic infraction enforcement officer through use of a traffic infraction detector. The bill allows for the application of different fines for speeding in an area marked as a school zone depending on whether enforced by an officer or by evidence of a speed detection system.

MPH Over the Legally Posted Speed Limit	Current Law		Under the Bill as Evidenced by a Speed Detection System	
	Fine – Regular Posted Speed Limit	Fine – School Zone Speed Limit	Fine – Regular Posted Speed Limit	Fine – School Zone Speed Limit
10-14 mph	\$100	\$200	\$158	\$158
15-19 mph	\$150	\$300	\$158	\$158
20-29 mph	\$175	\$350	\$158	\$158
30 mph or more	\$250	\$500	\$158	\$158

The law for traffic infraction detectors prohibits a person from receiving a commission or per-ticket fee for any revenue collected from violations detected through use of traffic infraction detectors and a manufacturer or vendor from receiving a fee or remuneration based on the number of violations detected through use of the detector. The sponsor may wish to include similar provisions for use of a speed detection system.

The Department of Revenue recommends specifying if the \$6 of the fine to be distributed to the school district should be distributed by the department or by the local government. It may be administratively easier for the local government to make such a distribution.⁷⁶

The DHSMV recommends that the effective date of the bill be changed to October 1, 2022, to allow time for the DHSMV and stakeholders to implement the necessary technology changes.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.003, 316.008, 316.0776, 316.1906, 318.18, 322.27, 316.306, 316.640, 316.650, 318.14, 318.21, and 655.960.

This bill creates section 316.1896 of the Florida Statutes.

⁷⁶ Department of Revenue, 2022 Agency Legislative Bill Analysis, SB 410, (October 19, 2021) p. 4 (on file with the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development).

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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