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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/30/2011	.	
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The Committee on Transportation (Latvala) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 1506 and 1507  
insert:

Section 33. Subsection (4) of section 310.002, Florida Statutes, is amended to read:

310.002 Definitions.—As used in this chapter, except where the context clearly indicates otherwise:

(4) "Port" means any place in the state into which vessels enter or depart and includes, without limitation, Fernandina, Nassau Inlet, Jacksonville, St. Augustine, Canaveral, Port Citrus, Ft. Pierce, Palm Beach, Port Everglades, Miami, Key



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13 West, Boca Grande, Charlotte Harbor, Punta Gorda, Tampa, Port  
14 Tampa, Port Manatee, St. Petersburg, Clearwater, Apalachicola,  
15 Carrabelle, Panama City, Port St. Joe, and Pensacola.

16 Section 34. Subsection (1) of section 311.09, Florida  
17 Statutes, is amended to read:

18 311.09 Florida Seaport Transportation and Economic  
19 Development Council.—

20 (1) The Florida Seaport Transportation and Economic  
21 Development Council is created within the Department of  
22 Transportation. The council consists of the following 18 ~~17~~  
23 members: the port director, or the port director's designee, of  
24 each of the ports of Jacksonville, Port Canaveral, Port Citrus,  
25 Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee,  
26 St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key  
27 West, and Fernandina; the secretary of the Department of  
28 Transportation or his or her designee; the director of the  
29 Office of Tourism, Trade, and Economic Development or his or her  
30 designee; and the secretary of the Department of Community  
31 Affairs or his or her designee.

32 Section 35. Subsection (3) of section 316.075, Florida  
33 Statutes, is amended to read:

34 316.075 Traffic control signal devices.—

35 (3) (a) No traffic control signal device shall be used which  
36 does not exhibit a yellow or "caution" light between the green  
37 or "go" signal and the red or "stop" signal.

38 (b) No traffic control signal device shall display other  
39 than the color red at the top of the vertical signal, nor shall  
40 it display other than the color red at the extreme left of the  
41 horizontal signal.



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42           (c) The Department of Transportation shall establish  
43 minimum yellow light change interval times for traffic control  
44 devices. The minimum yellow light change interval time shall be  
45 established in accordance with nationally recognized engineering  
46 standards set forth in the Institute of Transportation Engineers  
47 Traffic Engineering Handbook, and any such established time may  
48 not be less than the recognized national standard.

49           Section 36. Present subsections (3) and (4) of section  
50 316.0083, Florida Statutes, are renumbered as subsections (4)  
51 and (5), respectively, and a new subsection (3) is added to that  
52 section, to read:

53           316.0083 Mark Wandall Traffic Safety Program;  
54 administration; report.—

55           (3) A notice of violation and a traffic citation may not be  
56 issued pursuant to this section for a violation committed at an  
57 intersection where the traffic signal device does not meet all  
58 requirements under s. 316.075(3). Any such notice of violation  
59 or citation is unenforceable and the court, clerk of court,  
60 designated official, or authorized operator of a traffic  
61 violations bureau shall dismiss the citation without penalty or  
62 assessment of points against the license of the person cited.

63           Section 37. Section 316.2045, Florida Statutes, is  
64 repealed.

65           Section 38. Section 316.2046, Florida Statutes, is created  
66 to read:

67           316.2046 Obstruction of public streets, highways, and  
68 roads.—

69           (1) LEGISLATIVE FINDINGS.—The Legislature finds that:

70           (a) Ensuring public safety on public streets, highways, and



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71 roads is an important and substantial state interest.

72 (b) Obstruction of the free flow of traffic on public  
73 streets, highways, and roads endangers the public safety.

74 (c) Obtrusive and distracting activities that impede  
75 pedestrian traffic adjacent to streets, highways, and roads can  
76 also disrupt the free flow of traffic and endanger public  
77 safety.

78 (d) Soliciting funds or engaging in a commercial exchange  
79 with a person who is in a vehicle that is not stopped in a  
80 driveway or designated parking area endangers the safe movement  
81 of vehicles.

82 (2) DEFINITIONS.—As used in this section, the term  
83 “solicit” means to request employment, business, contributions,  
84 donations, sales, or exchanges of any kind.

85 (3) PERMIT REQUIRED.—It is unlawful for any person,  
86 willfully and without a permit, to solicit or obstruct the free,  
87 convenient, and normal use of any public street, highway, or  
88 road by standing or approaching motor vehicles while on or  
89 immediately adjacent to the street, highway, or road in a manner  
90 that could endanger the safe movement of vehicles or pedestrians  
91 traveling thereon.

92 (a) Each county and municipality shall adopt a permitting  
93 process that protects public safety but does not impair the  
94 rights of free speech, except to the extent necessary to protect  
95 public safety. The permitting process must authorize or deny a  
96 permit within 24 hours. Permits may be issued if the county or  
97 municipality determines that the permit applicant will not:

- 98 1. Increase the likelihood of traffic accidents;  
99 2. Violate traffic laws, rules, or ordinances;



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100 3. Make the sidewalk impassable for pedestrians; or

101 4. Significantly increase the likelihood of harm to  
102 motorists and passersby.

103 (b) If the county or municipality approves the permit, it  
104 must issue to the applicant a document specifying:

105 1. The name and address of the person to whom the permit is  
106 granted;

107 2. The name of the company the person represents, if any;  
108 and

109 3. The expiration date of the permit.

110 (c) The permit holder must keep the permit on his or her  
111 person at all times when engaging in activity authorized by the  
112 permit.

113 (d) The cost of the permit may not exceed an amount that is  
114 reasonably necessary to administer the permitting process.  
115 However, a permit may not be denied to any applicant for lack of  
116 financial means, as attested to by a signed affidavit.

117 (4) LOCAL GOVERNMENT JURISDICTION.—For purposes of this  
118 section, counties and municipalities have original jurisdiction  
119 over non-limited access state roads, and local roads, streets,  
120 and highways within their physical jurisdiction. Counties and  
121 municipalities may increase the restrictions of the permit  
122 program if those restrictions are narrowly tailored to serve an  
123 important public purpose. A county or municipality may opt out  
124 of the permit program by a majority vote of the members of the  
125 county or municipal governing body. This section does not  
126 preempt any existing ordinances.

127 (5) EXCEPTIONS.—This section does not:

128 (a) Restrict a person from passively standing or sitting on



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129 a public sidewalk and holding a sign if that person does not  
130 obstruct the flow of vehicle or pedestrian traffic.

131 (b) Apply to any art festival, parade, fair, or other  
132 special event permitted by the appropriate county or  
133 municipality where the streets are blocked off from the normal  
134 flow of traffic.

135 (c) Apply to:

136 1. Law enforcement officers carrying out their duties;

137 2. Emergency vehicles responding to an emergency or  
138 possible emergency;

139 3. Mail-delivery vehicles;

140 4. Service vehicles performing work adjacent to the  
141 roadway; and

142 5. Any commercial vehicle that is used solely for the  
143 purpose of collecting solid waste or recyclable or recovered  
144 materials and that is stopped for the sole purpose of collecting  
145 solid waste or recyclable or recovered materials.

146 (6) VIOLATIONS.—Any person who violates the provisions of  
147 this section, upon conviction, shall be cited for a pedestrian  
148 violation, punishable as provided in chapter 318. An additional  
149 \$10 shall be added to the fine levied under chapter 318. Moneys  
150 collected from this additional \$10 fine shall be deposited into  
151 the Grants and Donations Trust Fund of the Department of  
152 Children and Family Services and used by the State Office on  
153 Homelessness to supplement grants made under s. 420.622(4) and  
154 (5).

155 (7) ENFORCEMENT.—The Department of Highway Safety and Motor  
156 Vehicles and other law enforcement agencies are authorized and  
157 directed to enforce this section.



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158 Section 39. Section 316.2047, Florida Statutes, is created  
159 to read:

160 316.2047 Panhandling.—

161 (1) LEGISLATIVE FINDINGS.—The Legislature finds that  
162 panhandling, soliciting, or demanding money, gifts, or donations  
163 may interfere with the safe ingress and egress of human and  
164 vehicular traffic into public buildings, public areas, and  
165 public transportation areas, thereby constituting a threat to  
166 the public health, welfare, and safety of the citizenry. The  
167 Legislature also finds that aggressive and fraudulent  
168 panhandling are threats to public safety and personal security.

169 (2) DEFINITIONS.—As used in this section, the term:

170 (a) "Aggressive panhandling" means to knowingly request  
171 money, gifts, or donations:

172 1. By unwanted touching, detaining, impeding, or  
173 intimidation;

174 2. Under circumstances that warrant justifiable and  
175 reasonable alarm or immediate concern for the safety of persons  
176 or property in the vicinity;

177 3. By following the solicited person after that person has  
178 made a negative response; or

179 4. By using obscene or abusive language or gestures that  
180 are reasonably likely to intimidate or cause fear of bodily  
181 harm.

182 (b) "False or misleading representation" means, without  
183 limitation:

184 1. Stating that the donation is needed to meet a specific  
185 need, when the solicitor already has sufficient funds to meet  
186 that need and does not disclose that fact;



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187           2. Stating that the solicitor is from out of town and  
188 stranded, when such is not true;

189           3. Wearing a military uniform or other indication of  
190 military service when the solicitor is not a present or former  
191 member of the service indicated;

192           4. Wearing or displaying an indication of physical  
193 disability, when the solicitor does not suffer the disability  
194 indicated;

195           5. Using any makeup or device to simulate any deformity; or

196           6. Stating that the solicitor is homeless, when he or she  
197 is not.

198           (c) "Fraudulent panhandling" means to knowingly make any  
199 false or misleading representation in the course of soliciting a  
200 donation.

201           (d) "Panhandling" means to:

202           1. Solicit, request, or beg for an immediate donation of  
203 money or something else of value; or

204           2. Offer an individual an item of little or no monetary  
205 value in exchange for money or another gratuity under  
206 circumstances that would cause a reasonable individual to  
207 understand that the transaction is only a donation.

208           (3) PROHIBITED ACTIVITY.—It is unlawful to:

209           (a) Engage in aggressive panhandling.

210           (b) Engage in panhandling:

211           1. Within 20 feet of a bus stop;

212           2. Within 20 feet of an automated teller machine or the  
213 entrance to a bank;

214           3. While blocking the entrance to a building or motor  
215 vehicle; or





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216 4. In a parking garage owned or operated by a county, a  
217 municipality, or an agency of the state or the Federal  
218 Government.

219 (c) Engage in fraudulent panhandling.

220 (4) LOCAL GOVERNMENT JURISDICTION.—Counties and  
221 municipalities may increase the restrictions on panhandling if  
222 those restrictions are nondiscriminatory and narrowly tailored  
223 to serve an important public purpose. A county or municipality  
224 may opt out of the provisions of this section by a majority vote  
225 of the members of the county or municipal governing body. This  
226 section does not preempt any existing ordinances that are  
227 consistent with this section.

228 (5) VIOLATIONS; PENALTIES.—Any person who violates the  
229 provisions of this section, upon conviction, shall be cited for  
230 a pedestrian violation, punishable as provided in chapter 318.  
231 An additional \$10 shall be added to the fine levied under  
232 chapter 318. Moneys collected from this additional \$10 fine  
233 shall be deposited into the Grants and Donations Trust Fund of  
234 the Department of Children and Family Services and used by the  
235 State Office on Homelessness to supplement grants made under s.  
236 420.622(4) and (5).

237 (6) ENFORCEMENT.—The Department of Highway Safety and Motor  
238 Vehicles and other law enforcement agencies are authorized and  
239 directed to enforce this section.

240 Section 40. Paragraph (c) of subsection (2) of section  
241 316.302, Florida Statutes, is amended to read:

242 316.302 Commercial motor vehicles; safety regulations;  
243 transporters and shippers of hazardous materials; enforcement.—

244 (2)



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245 (c) Except as provided in 49 C.F.R. s. 395.1, a person who  
246 operates a commercial motor vehicle solely in intrastate  
247 commerce not transporting any hazardous material in amounts that  
248 require placarding pursuant to 49 C.F.R. part 172 may not drive  
249 after having been on duty more than 70 hours in any period of 7  
250 consecutive days or more than 80 hours in any period of 8  
251 consecutive days if the motor carrier operates every day of the  
252 week. Thirty-four consecutive hours off duty shall constitute  
253 the end of any such period of 7 or 8 consecutive days. This  
254 weekly limit does not apply to a person who operates a  
255 commercial motor vehicle solely within this state while  
256 transporting, during harvest periods, any unprocessed  
257 agricultural products or unprocessed food or fiber that is  
258 subject to seasonal harvesting from place of harvest to the  
259 first place of processing or storage or from place of harvest  
260 directly to market or while transporting livestock, livestock  
261 feed, or farm supplies directly related to growing or harvesting  
262 agricultural products. Upon request of the Department of  
263 Transportation, motor carriers shall furnish time records or  
264 other written verification to that department so that the  
265 Department of Transportation can determine compliance with this  
266 subsection. These time records must be furnished to the  
267 Department of Transportation within 2 days after receipt of that  
268 department's request. Falsification of such information is  
269 subject to a civil penalty not to exceed \$100. The provisions of  
270 this paragraph do not apply to operators of farm labor vehicles  
271 operated during a state of emergency declared by the Governor or  
272 operated pursuant to s. 570.07(21), and do not apply to drivers  
273 of utility service vehicles as defined in 49 C.F.R. s. 395.2.



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274 Section 41. Subsection (26) of section 334.044, Florida  
275 Statutes, is amended to read:

276 334.044 Department; powers and duties.—The department shall  
277 have the following general powers and duties:

278 (26) To provide for the enhancement of environmental  
279 benefits, including air and water quality; to prevent roadside  
280 erosion; to conserve the natural roadside growth and scenery;  
281 and to provide for the implementation and maintenance of  
282 roadside conservation, enhancement, and stabilization programs.  
283 No less than 1.5 percent of the amount contracted for  
284 construction projects that add capacity to the existing system  
285 shall be allocated by the department for the purchase of plant  
286 materials, if such amount does not exceed \$1 million per  
287 project. ~~with,~~ To the greatest extent practical, a minimum of 50  
288 percent of these funds shall be allocated for large plant  
289 materials and the remaining funds for other plant materials. All  
290 such plant materials shall be purchased from Florida commercial  
291 nursery stock in this state on a uniform competitive bid basis.  
292 The department will develop grades and standards for landscaping  
293 materials purchased through this process. To accomplish these  
294 activities, the department may contract with nonprofit  
295 organizations having the primary purpose of developing youth  
296 employment opportunities.

297 Section 42. Section 337.406, Florida Statutes, is amended  
298 to read:

299 337.406 Unlawful use of state transportation facility  
300 right-of-way; penalties.—

301 (1) Except when leased as provided in s. 337.25(5) ~~or~~  
302 ~~otherwise authorized by the rules of the department,~~ it is



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303 unlawful to make any use of any limited access highway ~~the~~  
304 ~~right-of-way of any state transportation facility~~, including  
305 appendages thereto, ~~outside of an incorporated municipality~~ in  
306 any manner that interferes with the safe and efficient movement  
307 of people and property from place to place on the transportation  
308 facility. Failure to prohibit the use of right-of-way in this  
309 manner will endanger the health, safety, and general welfare of  
310 the public by causing distractions to motorists, unsafe  
311 pedestrian movement within travel lanes, sudden stoppage or  
312 slowdown of traffic, rapid lane changing and other dangerous  
313 traffic movement, increased vehicular accidents, and motorist  
314 injuries and fatalities. Such prohibited uses include, but are  
315 not limited to, the free distribution or sale, or display or  
316 solicitation for free distribution or sale, of any merchandise,  
317 goods, property or services; the solicitation for charitable  
318 purposes; the servicing or repairing of any vehicle, except the  
319 rendering of emergency service; the storage of vehicles being  
320 serviced or repaired on abutting property or elsewhere; and the  
321 display of advertising of any sort, ~~except that any portion of a~~  
322 ~~state transportation facility may be used for an art festival,~~  
323 ~~parade, fair, or other special event if permitted by the~~  
324 ~~appropriate local governmental entity.~~ Counties and  
325 municipalities shall regulate the use of transportation  
326 facilities within their jurisdiction, except limited access  
327 highways, pursuant to s. 316.2046. The Department of  
328 Transportation shall regulate the use of rest areas and welcome  
329 centers as limited public forums that are provided to the public  
330 for safety rest stops. Accordingly, the uses within these rest  
331 areas and welcome centers may be limited. ~~Local government~~



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332 ~~entities may issue permits of limited duration for the temporary~~  
333 ~~use of the right-of-way of a state transportation facility for~~  
334 ~~any of these prohibited uses if it is determined that the use~~  
335 ~~will not interfere with the safe and efficient movement of~~  
336 ~~traffic and the use will cause no danger to the public. The~~  
337 ~~permitting authority granted in this subsection shall be~~  
338 ~~exercised by the municipality within incorporated municipalities~~  
339 ~~and by the county outside an incorporated municipality. Before a~~  
340 ~~road on the State Highway System may be temporarily closed for a~~  
341 ~~special event, the local governmental entity which permits the~~  
342 ~~special event to take place must determine that the temporary~~  
343 ~~closure of the road is necessary and must obtain the prior~~  
344 ~~written approval for the temporary road closure from the~~  
345 ~~department. Nothing in this subsection shall be construed to~~  
346 ~~authorize such activities on any limited access highway. Local~~  
347 ~~governmental entities may, within their respective~~  
348 ~~jurisdictions, initiate enforcement action by the appropriate~~  
349 ~~code enforcement authority or law enforcement authority for a~~  
350 ~~violation of this section.~~

351 ~~(2) Persons holding valid peddlers' licenses issued by~~  
352 ~~appropriate governmental entities may make sales from vehicles~~  
353 ~~standing on the right-of-way to occupants of abutting property~~  
354 ~~only.~~

355 ~~(2)(3)~~ The Department of Highway Safety and Motor Vehicles  
356 and other law enforcement agencies are authorized and directed  
357 to enforce this statute.

358 ~~(3)(4)~~ Camping is prohibited on any portion of the right-  
359 of-way of the State Highway System that is within 100 feet of a  
360 bridge, causeway, overpass, or ramp.



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361           ~~(4)-(5)~~ The violation of any provision of this section or  
362 any rule promulgated by the department pursuant to this section  
363 constitutes a misdemeanor of the second degree, punishable as  
364 provided in s. 775.082 or s. 775.083, and each day a violation  
365 continues to exist constitutes a separate offense.

366           Section 43. Section 373.413, Florida Statutes, is amended  
367 to read:

368           373.413 Permits for construction or alteration.—

369           (1) Except for the exemptions set forth herein, the  
370 governing board or the department may require such permits and  
371 impose such reasonable conditions as are necessary to assure  
372 that the construction or alteration of any stormwater management  
373 system, dam, impoundment, reservoir, appurtenant work, or works  
374 will comply with the provisions of this part and applicable  
375 rules promulgated thereto and will not be harmful to the water  
376 resources of the district. The department or the governing board  
377 may delineate areas within the district wherein permits may be  
378 required.

379           (2) A person proposing to construct or alter a stormwater  
380 management system, dam, impoundment, reservoir, appurtenant  
381 work, or works subject to such permit shall apply to the  
382 governing board or department for a permit authorizing such  
383 construction or alteration. The application shall contain the  
384 following:

385           (a) Name and address of the applicant.

386           (b) Name and address of the owner or owners of the land  
387 upon which the works are to be constructed and a legal  
388 description of such land.

389           (c) Location of the work.



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390 (d) Sketches of construction pending tentative approval.  
391 (e) Name and address of the person who prepared the plans  
392 and specifications of construction.  
393 (f) Name and address of the person who will construct the  
394 proposed work.  
395 (g) General purpose of the proposed work.  
396 (h) Such other information as the governing board or  
397 department may require.  
398 (3) After receipt of an application for a permit, the  
399 governing board or department shall publish notice of the  
400 application by sending a notice to any persons who have filed a  
401 written request for notification of any pending applications  
402 affecting the particular designated area. Such notice may be  
403 sent by regular mail. The notice shall contain the name and  
404 address of the applicant; a brief description of the proposed  
405 activity, including any mitigation; the location of the proposed  
406 activity, including whether it is located within an Outstanding  
407 Florida Water or aquatic preserve; a map identifying the  
408 location of the proposed activity subject to the application; a  
409 depiction of the proposed activity subject to the application; a  
410 name or number identifying the application and the office where  
411 the application can be inspected; and any other information  
412 required by rule.  
413 (4) In addition to the notice required by subsection (3),  
414 the governing board or department may publish, or require an  
415 applicant to publish at the applicant's expense, in a newspaper  
416 of general circulation within the affected area, a notice of  
417 receipt of the application and a notice of intended agency  
418 action. This subsection does not limit the discretionary



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419 authority of the department or the governing board of a water  
420 management district to publish, or to require an applicant to  
421 publish at the applicant's expense, any notice under this  
422 chapter. The governing board or department shall also provide  
423 notice of this intended agency action to the applicant and to  
424 persons who have requested a copy of the intended agency action  
425 for that specific application.

426 (5) The governing board or department may charge a  
427 subscription fee to any person who has filed a written request  
428 for notification of any pending applications to cover the cost  
429 of duplication and mailing charges.

430 (6) It is the intent of the Legislature that the governing  
431 board or department exercise flexibility in the permitting of  
432 stormwater management systems associated with the construction  
433 or alteration of systems serving state transportation projects  
434 and facilities. Because of the unique limitations of linear  
435 facilities, the governing board or department shall take the  
436 expenditure of public funds for stormwater treatment for state  
437 transportation projects and facilities into account and balance  
438 the costs and benefits to the public. If it is found to be cost-  
439 effective and prudent, the regionalization of stormwater  
440 treatment shall be considered. In addition, the Department of  
441 Transportation is not responsible for the abatement of  
442 pollutants and flows entering its stormwater management systems  
443 from offsite sources or for updating stormwater permits for  
444 adjacent lands impacted by right-of-way acquisition from public  
445 transportation projects; however, this subsection does not  
446 prohibit the Department of Transportation from receiving and  
447 managing such pollutants and flows when it is found to be cost-





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448 effective and prudent. To accomplish this, the governing board  
449 or department may establish rules for these activities.

450 Section 44. Subsections (1), (2), (3), (4), and (5) of  
451 section 373.4137, Florida Statutes, are amended to read:

452 373.4137 Mitigation requirements for specified  
453 transportation projects.—

454 (1) The Legislature finds that environmental mitigation for  
455 the impact of transportation projects proposed by the Department  
456 of Transportation or a transportation authority established  
457 pursuant to chapter 348 or chapter 349 can be more effectively  
458 achieved by regional, long-range mitigation planning rather than  
459 on a project-by-project basis. It is the intent of the  
460 Legislature that mitigation to offset the adverse effects of  
461 these transportation projects be funded by the Department of  
462 Transportation and be carried out by the water management  
463 districts, including the use of mitigation banks and any other  
464 mitigation options that satisfy state and federal requirements  
465 ~~established pursuant to this part.~~

466 (2) Environmental impact inventories for transportation  
467 projects proposed by the Department of Transportation or a  
468 transportation authority established pursuant to chapter 348 or  
469 chapter 349 shall be developed as follows:

470 (a) By July 1 of each year, the Department of  
471 Transportation or a transportation authority established  
472 pursuant to chapter 348 or chapter 349 which chooses to  
473 participate in this program shall submit to the water management  
474 districts a list ~~copy~~ of its projects in the adopted work  
475 program and an environmental impact inventory of habitats  
476 addressed in the rules adopted pursuant to this part and s. 404



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477 of the Clean Water Act, 33 U.S.C. s. 1344, which may be impacted  
478 by its plan of construction for transportation projects in the  
479 next 3 years of the tentative work program. The Department of  
480 Transportation or a transportation authority established  
481 pursuant to chapter 348 or chapter 349 may also include in its  
482 environmental impact inventory the habitat impacts of any future  
483 transportation project. The Department of Transportation and  
484 each transportation authority established pursuant to chapter  
485 348 or chapter 349 may fund any mitigation activities for future  
486 projects using current year funds.

487 (b) The environmental impact inventory shall include a  
488 description of these habitat impacts, including their location,  
489 acreage, and type; state water quality classification of  
490 impacted wetlands and other surface waters; any other state or  
491 regional designations for these habitats; and a list ~~survey~~ of  
492 threatened species, endangered species, and species of special  
493 concern affected by the proposed project.

494 (3) (a) To fund development and implementation of the  
495 mitigation plan for the projected impacts identified in the  
496 environmental impact inventory described in subsection (2), the  
497 Department of Transportation shall identify funds quarterly in  
498 an escrow account within the State Transportation Trust Fund for  
499 the environmental mitigation phase of projects budgeted by the  
500 Department of Transportation for the current fiscal year. The  
501 escrow account shall be maintained by the Department of  
502 Transportation for the benefit of the water management  
503 districts. Any interest earnings from the escrow account shall  
504 remain with the Department of Transportation.

505 (b) Each transportation authority established pursuant to



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506 chapter 348 or chapter 349 that chooses to participate in this  
507 program shall create an escrow account within its financial  
508 structure and deposit funds in the account to pay for the  
509 environmental mitigation phase of projects budgeted for the  
510 current fiscal year. The escrow account shall be maintained by  
511 the authority for the benefit of the water management districts.  
512 Any interest earnings from the escrow account shall remain with  
513 the authority.

514 (c) Except for current mitigation projects in the  
515 monitoring and maintenance phase and except as allowed by  
516 paragraph (d), the water management districts may request a  
517 transfer of funds from an escrow account no sooner than 30 days  
518 prior to the date the funds are needed to pay for activities  
519 associated with development or implementation of the approved  
520 mitigation plan described in subsection (4) for the current  
521 fiscal year, including, but not limited to, design, engineering,  
522 production, and staff support. Actual conceptual plan  
523 preparation costs incurred before plan approval may be submitted  
524 to the Department of Transportation or the appropriate  
525 transportation authority each year with the plan. The conceptual  
526 plan preparation costs of each water management district will be  
527 paid from mitigation funds associated with the environmental  
528 impact inventory for the current year. The amount transferred to  
529 the escrow accounts each year by the Department of  
530 Transportation and participating transportation authorities  
531 established pursuant to chapter 348 or chapter 349 shall  
532 correspond to a cost per acre of \$75,000 multiplied by the  
533 projected acres of impact identified in the environmental impact  
534 inventory described in subsection (2). However, the \$75,000 cost



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535 per acre does not constitute an admission against interest by  
536 the state or its subdivisions nor is the cost admissible as  
537 evidence of full compensation for any property acquired by  
538 eminent domain or through inverse condemnation. Each July 1, the  
539 cost per acre shall be adjusted by the percentage change in the  
540 average of the Consumer Price Index issued by the United States  
541 Department of Labor for the most recent 12-month period ending  
542 September 30, compared to the base year average, which is the  
543 average for the 12-month period ending September 30, 1996. Each  
544 quarter, the projected acreage of impact shall be reconciled  
545 with the acreage of impact of projects as permitted, including  
546 permit modifications, pursuant to this part and s. 404 of the  
547 Clean Water Act, 33 U.S.C. s. 1344. The subject year's transfer  
548 of funds shall be adjusted accordingly to reflect the acreage of  
549 impacts as permitted. The Department of Transportation and  
550 participating transportation authorities established pursuant to  
551 chapter 348 or chapter 349 are authorized to transfer such funds  
552 from the escrow accounts to the water management districts to  
553 carry out the mitigation programs. Environmental mitigation  
554 funds that are identified or maintained in an escrow account for  
555 the benefit of a water management district may be released if  
556 the associated transportation project is excluded in whole or  
557 part from the mitigation plan. For a mitigation project that is  
558 in the maintenance and monitoring phase, the water management  
559 district may request and receive a one-time payment based on the  
560 project's expected future maintenance and monitoring costs. Upon  
561 disbursement of the final maintenance and monitoring payment,  
562 the obligation of the department or the participating  
563 transportation authority is satisfied, the water management



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564 district has the continuing responsibility for the mitigation  
565 project, and the escrow account for the project established by  
566 the Department of Transportation or the participating  
567 transportation authority may be closed. Any interest earned on  
568 these disbursed funds shall remain with the water management  
569 district and must be used as authorized under this section.

570 (d) Beginning in the 2005-2006 fiscal year, each water  
571 management district shall be paid a lump-sum amount of \$75,000  
572 per acre, adjusted as provided under paragraph (c), for  
573 federally funded transportation projects that are included on  
574 the environmental impact inventory and that have an approved  
575 mitigation plan. Beginning in the 2009-2010 fiscal year, each  
576 water management district shall be paid a lump-sum amount of  
577 \$75,000 per acre, adjusted as provided under paragraph (c), for  
578 federally funded and nonfederally funded transportation projects  
579 that have an approved mitigation plan. All mitigation costs,  
580 including, but not limited to, the costs of preparing conceptual  
581 plans and the costs of design, construction, staff support,  
582 future maintenance, and monitoring the mitigated acres shall be  
583 funded through these lump-sum amounts.

584 (4) Prior to March 1 of each year, each water management  
585 district, in consultation with the Department of Environmental  
586 Protection, the United States Army Corps of Engineers, the  
587 Department of Transportation, participating transportation  
588 authorities established pursuant to chapter 348 or chapter 349,  
589 and other appropriate federal, state, and local governments, and  
590 other interested parties, including entities operating  
591 mitigation banks, shall develop a plan for the primary purpose  
592 of complying with the mitigation requirements adopted pursuant



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593 to this part and 33 U.S.C. s. 1344. In developing such plans,  
594 the districts shall utilize sound ecosystem management practices  
595 to address significant water resource needs and shall focus on  
596 activities of the Department of Environmental Protection and the  
597 water management districts, such as surface water improvement  
598 and management (SWIM) projects and lands identified for  
599 potential acquisition for preservation, restoration or  
600 enhancement, and the control of invasive and exotic plants in  
601 wetlands and other surface waters, to the extent that such  
602 activities comply with the mitigation requirements adopted under  
603 this part and 33 U.S.C. s. 1344. In determining the activities  
604 to be included in such plans, the districts shall also consider  
605 the purchase of credits from public or private mitigation banks  
606 permitted under s. 373.4136 and associated federal authorization  
607 and shall include such purchase as a part of the mitigation plan  
608 when such purchase would offset the impact of the transportation  
609 project, provide equal benefits to the water resources than  
610 other mitigation options being considered, and provide the most  
611 cost-effective mitigation option. The mitigation plan shall be  
612 submitted to the water management district governing board, or  
613 its designee, for review and approval. At least 14 days prior to  
614 approval, the water management district shall provide a copy of  
615 the draft mitigation plan to any person who has requested a  
616 copy.

617 (a) For each transportation project with a funding request  
618 for the next fiscal year, the mitigation plan must include a  
619 brief explanation of why a mitigation bank was or was not chosen  
620 as a mitigation option, including an estimation of identifiable  
621 costs of the mitigation bank and nonbank options to the extent



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622 practicable.

623 (b) Specific projects may be excluded from the mitigation  
624 plan, in whole or in part, and are ~~shall not be~~ subject to this  
625 section upon the election agreement of the Department of  
626 Transportation, ~~or a transportation authority,~~ if applicable, or  
627 ~~and the appropriate water management district that the inclusion~~  
628 ~~of such projects would hamper the efficiency or timeliness of~~  
629 ~~the mitigation planning and permitting process. The water~~  
630 ~~management district may choose to exclude a project in whole or~~  
631 ~~in part if the district is unable to identify mitigation that~~  
632 ~~would offset impacts of the project.~~

633 (5) The water management district shall ensure ~~be~~  
634 ~~responsible for ensuring~~ that mitigation requirements pursuant  
635 to 33 U.S.C. s. 1344 are met for the impacts identified in the  
636 environmental impact inventory described in subsection (2), by  
637 implementation of the approved plan described in subsection (4)  
638 to the extent funding is provided by the Department of  
639 Transportation, or a transportation authority established  
640 pursuant to chapter 348 or chapter 349, if applicable. During  
641 the federal permitting process, the water management district  
642 may deviate from the approved mitigation plan in order to comply  
643 with federal permitting requirements.

644 Section 45. Paragraph (c) of subsection (1) of section  
645 374.976, Florida Statutes, is amended to read:

646 374.976 Authority to address impacts of waterway  
647 development projects.—

648 (1) Each inland navigation district is empowered and  
649 authorized to undertake programs intended to alleviate the  
650 problems associated with its waterway or waterways, including,



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651 but not limited to, the following:

652 (c) The district is authorized to aid and cooperate with  
653 the Federal Government; state; member counties; nonmember  
654 counties that contain any part of the intracoastal waterway  
655 within their boundaries; navigation districts; the seaports of  
656 Jacksonville, Port Canaveral, Port Citrus, Fort Pierce, Palm  
657 Beach, Port Everglades, Miami, Port Manatee, St. Petersburg,  
658 Tampa, Port St. Joe, Panama City, Pensacola, Key West, and  
659 Fernandina; and local governments within the district in  
660 planning and carrying out public navigation, local and regional  
661 anchorage management, beach renourishment, public recreation,  
662 inlet management, environmental education, and boating safety  
663 projects, directly related to the waterways. The district is  
664 also authorized to enter into cooperative agreements with the  
665 United States Army Corps of Engineers, state, and member  
666 counties, and to covenant in any such cooperative agreement to  
667 pay part of the costs of acquisition, planning, development,  
668 construction, reconstruction, extension, improvement, operation,  
669 and maintenance of such projects.

670 Section 46. Subsection (9) of section 403.021, Florida  
671 Statutes, is amended to read:

672 403.021 Legislative declaration; public policy.—

673 (9) (a) The Legislature finds and declares that it is  
674 essential to preserve and maintain authorized water depth in the  
675 existing navigation channels, port harbors, turning basins, and  
676 harbor berths of this state in order to provide for the  
677 continued safe navigation of deepwater shipping commerce. The  
678 department shall recognize that maintenance of authorized water  
679 depths consistent with port master plans developed pursuant to





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680 s. 163.3178(2)(k) is an ongoing, continuous, beneficial, and  
681 necessary activity that is in the public interest; and it shall  
682 develop a regulatory process that shall enable the ports of this  
683 state to conduct such activities in an environmentally sound,  
684 safe, expeditious, and cost-efficient manner. It is the further  
685 intent of the Legislature that the permitting and enforcement of  
686 dredging, dredged-material management, and other related  
687 activities for Florida's deepwater ports pursuant to this  
688 chapter and chapters 161, 253, and 373 shall be consolidated  
689 within the department's Division of Water Resource Management  
690 and, with the concurrence of the affected deepwater port or  
691 ports, may be administered by a district office of the  
692 department or delegated to an approved local environmental  
693 program.

694 (b) The provisions of paragraph (a) apply only to the port  
695 waters, dredged-material management sites, port harbors,  
696 navigation channels, turning basins, and harbor berths used for  
697 deepwater commercial navigation in the ports of Jacksonville,  
698 Tampa, Port Everglades, Miami, Port Canaveral, Port Citrus, Ft.  
699 Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St.  
700 Petersburg, Pensacola, Fernandina, and Key West.

701 Section 47. Subsection (26) of section 403.061, Florida  
702 Statutes, is amended to read:

703 403.061 Department; powers and duties.—The department shall  
704 have the power and the duty to control and prohibit pollution of  
705 air and water in accordance with the law and rules adopted and  
706 promulgated by it and, for this purpose, to:

707 (26) (a) Develop standards and criteria for waters used for  
708 deepwater shipping which standards and criteria consider



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709 existing water quality; appropriate mixing zones and other  
710 requirements for maintenance dredging in previously constructed  
711 deepwater navigation channels, port harbors, turning basins, or  
712 harbor berths; and appropriate mixing zones for disposal of  
713 spoil material from dredging and, where necessary, develop a  
714 separate classification for such waters. Such classification,  
715 standards, and criteria shall recognize that the present  
716 dedicated use of these waters is for deepwater commercial  
717 navigation.

718 (b) The provisions of paragraph (a) apply only to the port  
719 waters, spoil disposal sites, port harbors, navigation channels,  
720 turning basins, and harbor berths used for deepwater commercial  
721 navigation in the ports of Jacksonville, Tampa, Port Everglades,  
722 Miami, Port Canaveral, Port Citrus, Ft. Pierce, Palm Beach, Port  
723 Manatee, Port St. Joe, Panama City, St. Petersburg, Port Bartow,  
724 Florida Power Corporation's Crystal River Canal, Boca Grande,  
725 Green Cove Springs, and Pensacola.

726  
727 The department shall implement such programs in conjunction with  
728 its other powers and duties and shall place special emphasis on  
729 reducing and eliminating contamination that presents a threat to  
730 humans, animals or plants, or to the environment.

731 Section 48. Subsection (3) of section 403.813, Florida  
732 Statutes, is amended to read:

733 403.813 Permits issued at district centers; exceptions.—

734 (3) For maintenance dredging conducted under this section  
735 by the seaports of Jacksonville, Port Canaveral, Port Citrus,  
736 Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee,  
737 St. Petersburg, Tampa, Port St. Joe, Panama City, Pensacola, Key



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738 West, and Fernandina or by inland navigation districts:

739 (a) A mixing zone for turbidity is granted within a 150-  
740 meter radius from the point of dredging while dredging is  
741 ongoing, except that the mixing zone may not extend into areas  
742 supporting wetland communities, submerged aquatic vegetation, or  
743 hardbottom communities.

744 (b) The discharge of the return water from the site used  
745 for the disposal of dredged material shall be allowed only if  
746 such discharge does not result in a violation of water quality  
747 standards in the receiving waters. The return-water discharge  
748 into receiving waters shall be granted a mixing zone for  
749 turbidity within a 150-meter radius from the point of discharge  
750 during and immediately after the dredging, except that the  
751 mixing zone may not extend into areas supporting wetland  
752 communities, submerged aquatic vegetation, or hardbottom  
753 communities.

754 (c) The state may not exact a charge for material that this  
755 subsection allows a public port or an inland navigation district  
756 to remove.

757 (d) The use of flocculants at the site used for disposal of  
758 the dredged material is allowed if the use, including supporting  
759 documentation, is coordinated in advance with the department and  
760 the department has determined that the use is not harmful to  
761 water resources.

762 (e) This subsection does not prohibit maintenance dredging  
763 of areas where the loss of original design function and  
764 constructed configuration has been caused by a storm event,  
765 provided that the dredging is performed as soon as practical  
766 after the storm event. Maintenance dredging that commences



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767 within 3 years after the storm event shall be presumed to  
768 satisfy this provision. If more than 3 years are needed to  
769 commence the maintenance dredging after the storm event, a  
770 request for a specific time extension to perform the maintenance  
771 dredging shall be submitted to the department, prior to the end  
772 of the 3-year period, accompanied by a statement, including  
773 supporting documentation, demonstrating that contractors are not  
774 available or that additional time is needed to obtain  
775 authorization for the maintenance dredging from the United  
776 States Army Corps of Engineers.

777 Section 49. Section 403.816, Florida Statutes, is amended  
778 to read:

779 403.816 Permits for maintenance dredging of deepwater ports  
780 and beach restoration projects.—

781 (1) The department shall establish a permit system under  
782 this chapter and chapter 253 which provides for the performance,  
783 for up to 25 years from the issuance of the original permit, of  
784 maintenance dredging of permitted navigation channels, port  
785 harbors, turning basins, harbor berths, and beach restoration  
786 projects approved pursuant to chapter 161. However, permits  
787 issued for dredging river channels which are not a part of a  
788 deepwater port shall be valid for no more than five years. No  
789 charge shall be exacted by the state for material removed during  
790 such maintenance dredging by a public port authority.

791 (2) The provisions of s. 253.77 do not apply to a permit  
792 for maintenance dredging and spoil site approval when there is  
793 no change in the size or location of the spoil disposal site and  
794 when the applicant provides documentation to the department that  
795 the appropriate lease, easement, or consent of use for the



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796 project site issued pursuant to chapter 253 is recorded in the  
797 county where the project is located.

798 (3) The provisions of this section relating to ports apply  
799 only to the port waters, spoil disposal sites, port harbors,  
800 navigation channels, turning basins, and harbor berths used for  
801 deepwater commercial navigation in the ports of Jacksonville,  
802 Tampa, Port Everglades, Miami, Port Canaveral, Port Citrus, Ft.  
803 Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St.  
804 Petersburg, Port Bartow, Florida Power Corporation's Crystal  
805 River Canal, Boca Grande, Green Cove Springs, and Pensacola.

806  
807

808 ===== T I T L E A M E N D M E N T =====

809 And the title is amended as follows:

810 Delete line 76

811 and insert:

812 changes made by the act; amending s. 310.002, F.S.;

813 redefining the term "port" to include Port Citrus;

814 amending s. 311.09, F.S.; including a representative

815 of Port Citrus as a member of the Florida Seaport

816 Transportation and Economic Development Council;

817 amending s. 316.075, F.S.; providing for minimum

818 yellow light change interval times for traffic control

819 devices; amending s. 316.0083, F.S.; prohibiting the

820 issuance of a traffic citation for certain traffic

821 light violations unless the light meets specified

822 requirements; repealing s. 316.2045, F.S., relating to

823 obstruction of public streets, highways, and roads;

824 creating s. 316.2046, F.S., relating to obstruction of



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825 public streets, highways, and roads; providing  
826 legislative findings; defining the term "solicit";  
827 requiring a permit in order to obstruct the use of any  
828 public street, highway, or road when that obstruction  
829 may endanger the safe movement of vehicles or  
830 pedestrians; requiring each county or municipality to  
831 adopt a permitting process that protects public safety  
832 but does not impair the rights of free speech;  
833 providing criteria for the permitting process;  
834 limiting the cost of the permit to the amount required  
835 to administer the permitting process; prohibiting the  
836 denial of a permit due to lack of funds, as attested  
837 to by a signed affidavit; providing for jurisdiction  
838 over non-limited access state roads, and local roads,  
839 streets, and highways for counties and municipalities;  
840 providing exceptions; providing that a violation of  
841 the act is a pedestrian violation, punishable under  
842 ch. 318, F.S.; providing for an additional fine;  
843 providing for the disposition of moneys collected;  
844 providing for enforcement by the Department of Highway  
845 Safety and Motor Vehicles and other law enforcement  
846 agencies; creating s. 316.2047, F.S., relating to  
847 panhandling; providing legislative findings; defining  
848 terms; prohibiting aggressive panhandling, panhandling  
849 under certain circumstances, and fraudulent  
850 panhandling; authorizing counties and municipalities  
851 to increase the restrictions on panhandling under  
852 certain conditions; providing that a violation of the  
853 act is a pedestrian violation, punishable under ch.



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854 318, F.S.; providing for an additional fine; providing  
855 for the disposition of moneys collected; providing for  
856 enforcement by the Department of Highway Safety and  
857 Motor Vehicles and other law enforcement agencies;  
858 amending s. 316.302, F.S.; providing that certain  
859 restrictions on the number of consecutive hours that a  
860 commercial motor vehicle may operate do not apply to a  
861 farm labor vehicle operated during a state of  
862 emergency or during an emergency pertaining to  
863 agriculture; amending s. 334.044, F.S.; revising the  
864 types of transportation projects for which landscaping  
865 materials must be purchased; limiting the amount of  
866 funds that may be allocated for such purchases;  
867 amending s. 337.406, F.S.; removing the Department of  
868 Transportation's authority to provide exceptions to  
869 the unlawful use of the right-of-way of any state  
870 transportation facility; broadening provisions to  
871 prohibit the unlawful use of any limited access  
872 highway; removing an exception to prohibited uses  
873 provided for art festivals, parades, fairs, or other  
874 special events; removing a local government's  
875 authority to issue certain permits; authorizing  
876 counties and municipalities to regulate the use of  
877 transportation facilities within their respective  
878 jurisdictions, with the exception of limited access  
879 highways; authorizing the Department of Transportation  
880 to regulate the use of welcome centers and rest stops;  
881 removing provisions authorizing valid peddler  
882 licensees to make sales from vehicles standing on the



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883 rights-of-way of welcome centers and rest stops;  
884 amending s. 373.413, F.S.; providing legislative  
885 intent regarding flexibility in the permitting of  
886 stormwater management systems; requiring the cost of  
887 stormwater treatment for a transportation project to  
888 be balanced with benefits to the public; absolving the  
889 Department of Transportation of responsibility for the  
890 abatement of pollutants entering its stormwater  
891 facilities from offsite sources and from updating  
892 permits for adjacent lands impacted by right-of-way  
893 acquisition; authorizing the water management  
894 districts and the department to adopt rules; amending  
895 s. 373.4137, F.S.; revising mitigation requirements  
896 for transportation projects to include other  
897 nonspecified mitigation options; providing for the  
898 release of escrowed mitigation funds under certain  
899 circumstances; providing for the exclusion of projects  
900 from a mitigation plan upon the election of one or  
901 more agencies rather than the agreement of all  
902 parties; amending s. 374.976, F.S.; conforming  
903 provisions to include Port Citrus in provisions  
904 relating to the authority of inland navigation  
905 districts; amending s. 403.021, F.S.; conforming  
906 provisions to include Port Citrus in legislative  
907 declarations relating to environmental control;  
908 amending s. 403.061, F.S.; conforming provisions to  
909 include Port Citrus in provisions relating to powers  
910 of the Department of Environmental Protection;  
911 amending s. 403.813, F.S.; conforming provisions to





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912 include Port Citrus in provisions relating to permits  
913 issued at Department of Environmental Protection  
914 district centers; amending s. 403.816, F.S.;  
915 conforming provisions to include Port Citrus in  
916 provisions relating to certain maintenance projects at  
917 deepwater ports and beach restoration projects;  
918 providing an effective date.

919  
920 WHEREAS, the state has a significant and substantial  
921 interest in vehicular and pedestrian safety and the free flow of  
922 traffic, and

923 WHEREAS, studies have shown that Florida is one of the most  
924 dangerous states in the country for pedestrians, and

925 WHEREAS, while the streets may have been the natural and  
926 proper places for the public dissemination of information prior  
927 to the advent of the automobile, the streets, highways, and  
928 roads of this state are now used primarily for transportation,  
929 and

930 WHEREAS, obstructing the flow of pedestrian traffic on a  
931 sidewalk can cause pedestrians to enter into the roadway and is  
932 a serious threat to public safety, and

933 WHEREAS, the current permitting provisions curtail behavior  
934 only on sidewalks and streets, which is a danger to public  
935 safety, and

936 WHEREAS, the provisions of this act directed toward  
937 ordinary panhandling are designed to promote public safety,  
938 including minimizing panhandling in transit systems or in areas  
939 where panhandling is likely to intimidate persons who are  
940 solicited, and



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941           WHEREAS, aggressive panhandling may obstruct the free flow  
942 of traffic when carried out in or adjacent to a roadway, may  
943 intimidate citizens who may choose to avoid certain public areas  
944 or give money to panhandlers in order to avoid an escalation of  
945 aggressive behavior, and generally threatens public safety and  
946 diminishes the quality of life for residents and tourists alike,  
947 and

948           WHEREAS, an important public purpose is served when the  
949 public safety is protected in keeping with rights granted by the  
950 First Amendment to the United States Constitution, NOW,  
951 THEREFORE,