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CS/CS/CS/HB 41, Engrossed 1

2015 Legislature

1
2 An act relating to hazardous walking conditions;
3 providing a short title; amending s. 1006.23, F.S.;
4 revising criteria that determine a hazardous walking
5 condition for public school students; revising
6 procedures for inspection and identification of
7 hazardous walking conditions; authorizing a district
8 school superintendent to initiate a formal request for
9 correction of a hazardous walking condition;
10 authorizing a district school board to initiate a
11 declaratory judgment proceeding under certain
12 circumstances and providing requirements therefor;
13 requiring a district school board to provide
14 transportation to students who would be subjected to
15 hazardous walking conditions; requiring state or local
16 governmental entities with jurisdiction over a road
17 with a hazardous walking condition to correct the
18 condition within a reasonable period of time;
19 providing requirements for a governmental entity
20 relating to its transportation work program; providing
21 requirements relating to a civil action for damages;
22 providing that certain interlocal agreements that meet
23 specified criteria are not prohibited under this
24 section; amending s. 1012.45, F.S.; providing that a
25 district school board may implement a safe driver
26 toll-free telephone hotline for specified purposes;



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27 | providing an effective date.

28 |

29 | Be It Enacted by the Legislature of the State of Florida:

30 |

31 | Section 1. This act may be cited as "Gabby's Law for
 32 | Student Safety."

33 | Section 2. Section 1006.23, Florida Statutes, is reordered
 34 | and amended to read:

35 | 1006.23 Hazardous walking conditions.—

36 | (1) DEFINITION.—As used in this section, the term
 37 | "student" means any public elementary school student whose grade
 38 | level does not exceed grade 6.

39 | ~~(2) (4) STATE CRITERIA FOR DETERMINING HAZARDOUS WALKING~~
 40 | ~~CONDITIONS.—~~

41 | (a) Walkways parallel to the road.—

42 | 1. It shall be considered a hazardous walking condition
 43 | with respect to any road along which students must walk in order
 44 | to walk to and from school if there is not an area at least 4
 45 | feet wide adjacent to the road, not including drainage ditches,
 46 | sluiceways, swales, or channels, having a surface upon which
 47 | students may walk without being required to walk on the road
 48 | surface. In addition, whenever the road along which students
 49 | must walk is uncurbed and has a posted speed limit of 50 ~~55~~
 50 | miles per hour or greater, the area as described above for
 51 | students to walk upon shall be set off the road by no less than
 52 | 3 feet from the edge of the road.



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53 2. ~~The provisions of~~ Subparagraph 1. does ~~de~~ not apply
54 when the road along which students must walk:

55 ~~a. Is in a residential area which has little or no~~
56 ~~transient traffic;~~

57 a.b. Is a road on which the volume of traffic is less than
58 180 vehicles per hour, per direction, during the time students
59 walk to and from school; or

60 ~~b.e.~~ Is located in a residential area and has a posted
61 speed limit of 30 miles per hour or less.

62 (b) Walkways perpendicular to the road.—It shall be
63 considered a hazardous walking condition with respect to any
64 road across which students must walk in order to walk to and
65 from school if:

66 1. ~~If~~ The traffic volume on the road exceeds the rate of
67 360 vehicles per hour, per direction (including all lanes),
68 during the time students walk to and from school and if the
69 crossing site is uncontrolled. For purposes of this subsection,
70 an "uncontrolled crossing site" is an intersection or other
71 designated crossing site where no crossing guard, traffic
72 enforcement officer, or stop sign or other traffic control
73 signal is present during the times students walk to and from
74 school.

75 2. ~~If~~ The total traffic volume on the road exceeds 4,000
76 vehicles per hour through an intersection or other crossing site
77 controlled by a stop sign or other traffic control signal,
78 unless crossing guards or other traffic enforcement officers are



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79 | also present during the times students walk to and from school.

80 |

81 | Traffic volume shall be determined by the most current traffic
82 | engineering study conducted by a state or local governmental
83 | agency.

84 | (c) Crossings over the road.—It shall be considered a
85 | hazardous walking condition with respect to any road at any
86 | uncontrolled crossing site which students must walk in order to
87 | walk to and from school if:

88 | 1. The road has a posted speed limit of 50 miles per hour
89 | or greater; or

90 | 2. The road has six lanes or more, not including turn
91 | lanes, regardless of the speed limit.

92 | (3) IDENTIFICATION OF HAZARDOUS CONDITIONS.—

93 | (a) When a request for review is made by ~~to~~ the district
94 | school superintendent with respect to a road over which a state
95 | or local governmental entity has jurisdiction ~~or the district~~
96 | ~~school superintendent's designee~~ concerning a condition
97 | perceived to be hazardous to students in that district who live
98 | within the 2-mile limit and who walk to school, such condition
99 | shall be inspected jointly by a representative of the school
100 | district, ~~and~~ a representative of the state or local
101 | governmental entity with that has jurisdiction over the
102 | perceived hazardous location, and a representative of the
103 | municipal police department for a municipal road, a
104 | representative of the sheriff's office for a county road, or a



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105 representative of the Department of Transportation for a state
106 road. If the jurisdiction is within an area for which there is a
107 metropolitan planning organization, a representative of that
108 organization shall also be included. The governmental
109 representatives shall determine whether the condition
110 constitutes a hazardous walking condition as provided in
111 subsection (2). If the governmental representatives concur that
112 a condition constitutes a hazardous walking condition as
113 provided in subsection (2), the governmental entity with
114 jurisdiction shall report that determination in writing to the
115 district school superintendent, who shall initiate a formal
116 request for correction as provided in subsection (4).

117 (b) If the governmental representatives are unable to
118 reach a consensus, the reasons for lack of consensus shall be
119 reported to the district school superintendent, who shall
120 provide a report and recommendation to the district school
121 board. The district school board may initiate a proceeding under
122 chapter 86 seeking a determination as to whether the condition
123 constitutes a hazardous walking condition as provided in
124 subsection (2) after providing at least 30 days' notice in
125 writing to the state or local governmental entity having
126 jurisdiction over the road of its intent to do so unless, within
127 30 days after such notice is provided, the state or local
128 governmental entity concurs in writing that the condition is a
129 hazardous walking condition as provided in subsection (2) and
130 provides the position statement pursuant to subsection (4). If a



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131 proceeding is initiated under this paragraph, the district
132 school board has the burden of proving such condition by the
133 greater weight of evidence. If the district school board
134 prevails, the district school superintendent shall report the
135 outcome to the Department of Education and initiate a formal
136 request for correction of the hazardous walking condition as
137 provided in subsection (4). ~~The district school superintendent~~
138 ~~or his or her designee and the state or local governmental~~
139 ~~entity or its representative shall then make a final~~
140 ~~determination that is mutually agreed upon regarding whether the~~
141 ~~hazardous condition meets the state criteria pursuant to this~~
142 ~~section. The district school superintendent or his or her~~
143 ~~designee shall report this final determination to the~~
144 ~~Department.~~

145 (4)(2) TRANSPORTATION; CORRECTION OF HAZARDS.-

146 (a) A district school board ~~It is intended that district~~
147 ~~school boards~~ and other governmental entities shall work
148 cooperatively to identify conditions that are hazardous along
149 student walking routes to school, and a district school board
150 shall ~~that district school boards~~ provide transportation to
151 students who would be subjected to such conditions.
152 Additionally, ~~It is further intended that~~ state or local
153 governmental entities with having jurisdiction over a road along
154 which a hazardous walking condition is determined to exist shall
155 correct the condition ~~such hazardous conditions~~ within a
156 reasonable period of time.



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157 (b) Upon a determination pursuant to subsection (3) ~~this~~
158 ~~section~~ that a hazardous walking condition exists ~~is hazardous~~
159 ~~to students~~, the district school superintendent ~~board~~ shall
160 request a position statement with respect to correction of such
161 condition ~~determination~~ from the state or local governmental
162 entity with ~~having~~ jurisdiction over the road. Within 90 days
163 after receiving such request, the state or local governmental
164 entity shall inform the district school superintendent ~~regarding~~
165 whether the entity will include correction of the hazardous
166 walking condition in its next annual 5-year transportation work
167 program ~~hazard will be corrected~~ and, if so, when correction of
168 the condition will be completed. If the hazardous walking
169 condition will not be included in the state or local
170 governmental entity's next annual 5-year transportation work
171 program, the factors justifying such conclusion must be stated
172 in writing to the district school superintendent and the
173 Department of Education ~~regarding a projected completion date~~.

174 (c) State funds shall be allocated for the transportation
175 of students subjected to a hazardous walking condition. However,
176 ~~such hazards, provided that~~ such funding shall cease upon
177 correction of the hazardous walking condition ~~hazard~~ or upon the
178 projected completion date, whichever occurs first.

179 (5) CIVIL ACTION.—In a civil action for damages brought
180 against a governmental entity under s. 768.28, the designation
181 of a hazardous walking condition under this section is not
182 admissible in evidence.



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183 (6) INTERLOCAL AGREEMENTS.—This section does not prohibit
184 a district school board and other governmental entities from
185 entering into an interlocal agreement pursuant to s. 163.31777
186 that addresses the identification and correction of hazardous
187 walking conditions, if such agreement:

188 (a) Implements the Safe Paths to Schools Program as
189 provided in s. 335.066; or

190 (b) Establishes standards for the safety of students
191 walking to school and procedures for identifying and correcting
192 hazardous walking conditions that meet or exceed the standards
193 and procedures provided in subsections (2), (3), and (4).

194 Section 3. Subsection (5) is added to section 1012.45,
195 Florida Statutes, to read:

196 1012.45 School bus drivers; requirements and duties.—

197 (5) Each district school board may implement a safe driver
198 toll-free telephone hotline for motorists or others who observe
199 improper driving or operation by a school bus driver to report
200 such violations to the district school board for investigation
201 and corrective or disciplinary action by the school board.

202 Section 4. This act shall take effect July 1, 2015.