



## II. Present Situation:

### Traffic Infraction Penalties

Section 318.18, F.S., provides penalties for non-criminal traffic infractions, which typically must be paid within 30 days. The penalties include:

- A \$15 fine for pedestrian infractions, bicycle infractions, and certain other infractions involving persons under 14;
- A \$30 fine for all non-moving violations; failure to update a driver's license address; failure to carry certificate of title, vehicle registration, or driver's license; expiration of a driver's license; and failure to move over for an emergency vehicle;
- Speeding fines ranging from \$25 - \$250, depending on the rate of excess speed, and including additional fines for exceeding the speed limit in a school zone, construction zone, or other special circumstance;
- A \$100 fine for failing to stop for a school bus, or \$200 for passing a school bus on the side from which children enter and exit, if the bus displays a stop signal;
- A \$100 fine for illegally parking in a handicap space;
- A \$100 fine for each failure to pay a toll when required;
- A \$100 fine for failing to obey railroad crossing signals;
- A \$25 fine for unlawfully operating an all-terrain vehicle under s. 316.2074, F.S.;
- A \$200 fine for overloading a vehicle or improperly securing a vehicle's load;
- A \$125 fine for failure to obey traffic signals generally, and red lights specifically; and
- A \$60 fine for any moving violation that is not otherwise specified and does not trigger a mandatory hearing.

This section also contains additional costs to be added to the fines above. Clerks of court are authorized to collect:

- An additional \$2.50 for every infraction, to help pay for criminal justice education and training programs pursuant to s. 938.15, F.S.;
- An additional \$3 for every infraction towards the Court Cost Clearing Trust Fund created by s. 938.01, F.S., and an additional \$2 for every infraction to assist with criminal justice education for local government, pursuant to s. 938.15, F.S., when the penalty is assessed by a municipality or county; and,
- An additional \$3 for each pedestrian infraction, \$16 for nonmoving traffic infractions, and \$30 for moving traffic infractions, to be paid into the fine and forfeiture fund established pursuant to s. 142.01, F.S.
- Also, in Brevard, Bay, Alachua, and Pinellas counties, an additional \$3 for every infraction to support their criminal justice selection centers or criminal justice access and assessment centers.

Additionally, many boards of county commissioners and other local governments are authorized to impose a surcharge of up to \$15 for any infraction or violation to fund state court facilities. Boards of county commissioners may also require by ordinance a \$5 fine with any civil traffic penalty, to fund driver education programs.

### Failure to Pay Citation Penalties

Section 318.18(8)(a), F.S., provides any person who fails to comply with the court's requirements or who fails to pay civil penalties must pay an additional penalty of \$12, \$2.50 of which must be deposited in the General Revenue Fund, and \$9.50 of which must be deposited in the Highway Safety Operating Trust Fund.

If a person persists in failing to pay a civil penalty, the person's drivers license is eventually suspended pursuant to s. 318.15, F.S. The clerk of court is directed to notify the Department of Highway Safety and Motor Vehicles, Division of Driver's Licenses within 10 days of the person's failure to pay. Upon receipt, the Department immediately issues a suspension effective 20 days after mailing to the person. The person's privilege to drive is not restored until the person complies with the provisions of s. 318.18, F.S., and pays a service charge of \$47.50 to the clerk, thereby clearing the suspension.

### **Financial Hardship**

Section 318.18(8)(b), F.S., provides any person who fails to comply with the court's requirements due to "demonstrable financial hardship" shall be authorized to satisfy such civil penalties by public works or community service.

The community service is presumed to be valued "at the rate of the minimum wage,"<sup>1</sup> and credited toward payment of the person's civil penalties. However, if the person has a "trade or profession" for which there is a community service need and application, the person may be credited not at the minimum wage, but at the "average standard wage for such trade or profession."

Even lacking a demonstration of financial hardship, a person may also, at the discretion of the court, be authorized to satisfy these civil penalties "by public works or community service in the same manner."

In comparison, as s. 938.30, F.S., details for criminal penalties, a court may require a person liable for payment of an obligation to appear and be examined under oath concerning the person's financial ability to pay the obligation. The judge may convert the statutory financial obligation into a court-ordered obligation to perform community service after examining a person under oath and determining a person's inability to pay. However, this criminal statute also allows for judicial liens on non-exempt property (forfeiture), payment plans, and other judicial remedies to make victims whole, and allows the court to charge the convicted person with associated costs related to these collection actions.

### **Community Service "Valuation"**

Community service is valued in various ways in different sections of the Florida Statutes. For example, s. 316.193, F.S., regarding driving under the influence, states that a first conviction penalty must include at least 50 hours of community service; however, these hours may be "bought out" at a rate of \$10 per hour, if the judge makes certain determinations. Other prohibitions have far lower rates. Section 569.11, F.S., regarding underage possession of tobacco

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<sup>1</sup> Statute is not clear as to whether this refers to the state or federal minimum wage; however, s. 948.0345, F.S., references the federal minimum wage as the minimum reasonable value of the service provided as in lieu payment of the fee that an offender unable pay can substitute community service for.

products or attempts to purchase tobacco products, states violations are punishable by 16 hours of community service, or a \$25 fine – a conversation rate of just over \$1.56 per hour. Section 386.212(3), F.S., prohibiting smoking near school property, includes an even lower rate (\$.50 per hour), stating violations are punished by a \$25 fine or 50 hours of community service. Under s. 806.13, F.S., a minor violating certain prohibitions against graffiti may have his or her driver's license suspended, but in hardship cases may "buy back" his or her license at the rate of one hour of community service per day of driving privileges.

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

The bill creates a new section, 318.185, F.S. The new section provides a person ordered to pay a civil penalty for a non-criminal traffic infraction may present evidence of a "demonstrable financial hardship." Upon a finding of such hardship, the court shall allow the person to satisfy the civil penalty by participating in community service.

The bill defines "community service" as "uncompensated labor for a community service agency," and defines a "community service agency" as a:

- not-for-profit corporation,
- community organization,
- charitable organization,
- public officer,
- the state or any political subdivision of the state, or,
- any other body the purpose of which is to improve the quality of life or social welfare of the community and which agrees to accept community service from persons unable to pay civil penalties for non-criminal traffic infractions.

The bill values community service at the "specified hourly credit rate per hour." This phrase is defined as either:

- The federal minimum wage, specifically: the wage rate specified in 29 U.S.C. 206(a)(1) under the federal Fair Labor Standards Act of 1938, that is then in effect and an employer subject to that provision must pay per hour to each employee who is subject to that provision, or
- If the person has a trade or profession for which there is a need from a community service agency, the "prevailing wage rate" for such trade or profession.

The community service performed under the bill must be reported by the community service agency to the clerk of court in a report on official agency letterhead, bearing the signature of the person designated to represent the community service agency. When the value of the community service reaches the amount of the fine, the clerk shall so certify to the court, and the clerk shall report the fine as paid.

The bill also states a person ordered to pay a civil penalty for a non-criminal traffic infraction cannot be imprisoned for failing to pay such penalty if the person is unable to pay.

Notwithstanding any other provision of law, the bill prevents a person's drivers license from being suspended for failure to pay a civil penalty, absent a finding that the person has the ability to pay.

The bill provides an effective date of July 1, 2008.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have a positive economic impact on indigent drivers who commit traffic violations.

Community service agencies, as defined by the bill, could benefit from additional “free” labor to the extent that judges authorize community service hours in lieu of payment of civil penalties.

C. Government Sector Impact:

The bill may have an indeterminate effect on the revenues and expenditures of state and local court systems. It is unclear how many potential hardship cases might request a “conversion” of their civil penalty into community service hours. As a result, the secondary impacts (such as, the decrease in the amount of revenue collected from civil penalties and the additional costs to clerks of court to implement and verify the accurate tracking of legitimate community service hours) are similarly difficult to estimate.

Other sources receiving civil traffic ticket proceeds, including state general revenue (20.6% of each ticket) and municipal revenue (50.8% of each ticket), could be affected by conversions of traffic fines into community service.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Portions of the bill appear to exist, in large part, in current statute, specifically in s. 318.18(8)(b), F.S.

The bill states a person ordered to pay a civil penalty for a non-criminal traffic infraction cannot be imprisoned for failing to pay such penalty if the person is unable to pay. As traffic infractions are specifically non-criminal offenses, imprisonment is not authorized under current law.

**VIII. Additional Information:**

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

None.

B. **Amendments:**

**Barcode 241534 by Transportation on March 25, 2008.**

The amendment deleted provisions authorizing the court, at its discretion, to allow persons unable to demonstrate financial hardship to perform community service in lieu of payment of civil penalties. (WITH TITLE AMENDMENT).