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LEGISLATIVE ACTION

Senate

House

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01/14/2009 10:36 AM

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The Conference Committee on CS for SB 12-A recommended the following:

**Senate Conference Committee Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Subsection (9) of section 318.14, Florida Statutes, is amended to read:

318.14 Noncriminal traffic infractions; exception; procedures.—

(9) Any person who does not hold a commercial driver's license and who is cited for an infraction under this section



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12 other than a violation of s. 316.183(2), s. 316.187, or s.  
13 316.189 when the driver exceeds the posted limit by 30 miles per  
14 hour or more, s. 320.0605, s. 320.07(3)(a) or (b), s. 322.065,  
15 s. 322.15(1), s. 322.61, or s. 322.62 may, in lieu of a court  
16 appearance, elect to attend in the location of his or her choice  
17 within this state a basic driver improvement course approved by  
18 the Department of Highway Safety and Motor Vehicles. In such a  
19 case, adjudication must be withheld ~~and~~ points, as provided by  
20 s. 322.27, may not be assessed. ~~and the civil penalty that is~~  
21 ~~imposed by s. 318.18(3) must be reduced by 18 percent.~~ However,  
22 a person may not make an election under this subsection if the  
23 person has made an election under this subsection in the  
24 preceding 12 months. A person may make no more than five  
25 elections within 10 years under this subsection. The requirement  
26 for community service under s. 318.18(8) is not waived by a plea  
27 of nolo contendere or by the withholding of adjudication of  
28 guilt by a court. If a person makes an election to attend a  
29 basic driver improvement course under this subsection, 18  
30 percent of the civil penalty imposed under s. 318.18(3) shall be  
31 deposited in the State Courts Revenue Trust Fund; however, that  
32 portion is not revenue for purposes of s. 28.36 and may not be  
33 used in establishing the budget of the clerk of the court under  
34 that section or s. 28.35.

35 Section 2. Subsection (1) of section 318.15, Florida  
36 Statutes, is amended to read:

37 318.15 Failure to comply with civil penalty or to appear;  
38 penalty.—

39 (1)(a) If a person fails to comply with the civil penalties  
40 provided in s. 318.18 within the time period specified in s.



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41 318.14(4), fails to attend driver improvement school, or fails  
42 to appear at a scheduled hearing, the clerk of the court shall  
43 notify the Division of Driver Licenses of the Department of  
44 Highway Safety and Motor Vehicles of such failure within 10 days  
45 after such failure. Upon receipt of such notice, the department  
46 shall immediately issue an order suspending the driver's license  
47 and privilege to drive of such person effective 20 days after  
48 the date the order of suspension is mailed in accordance with s.  
49 322.251(1), (2), and (6). Any such suspension of the driving  
50 privilege which has not been reinstated, including a similar  
51 suspension imposed outside Florida, shall remain on the records  
52 of the department for a period of 7 years from the date imposed  
53 and shall be removed from the records after the expiration of 7  
54 years from the date it is imposed.

55 (b) However, a person who elects to attend driver  
56 improvement school and has paid the civil penalty as provided in  
57 s. 318.14(9), but who subsequently fails to attend the driver  
58 improvement school within the time specified by the court shall  
59 be deemed to have admitted the infraction and shall be  
60 adjudicated guilty. In such a case in which there was an 18  
61 percent reduction pursuant to s. 318.14(9) as it existed prior  
62 to the effective date of this act, the person must pay the clerk  
63 of the court that amount ~~the 18 percent deducted pursuant to s.~~  
64 ~~318.14(9),~~ and a processing fee of up to \$18, after which no  
65 additional penalties, court costs, or surcharges shall be  
66 imposed for the violation. The clerk of the court shall notify  
67 the department of the person's failure to attend driver  
68 improvement school and points shall be assessed pursuant to s.  
69 322.27.



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70 Section 3. Subsection (3) of section 318.18, Florida  
71 Statutes, is amended, and subsection (19) is added to that  
72 section, to read:

73 318.18 Amount of penalties.—The penalties required for a  
74 noncriminal disposition pursuant to s. 318.14 or a criminal  
75 offense listed in s. 318.17 are as follows:

76 (3) (a) Except as otherwise provided in this section, \$60  
77 for all moving violations not requiring a mandatory appearance.

78 (b) For moving violations involving unlawful speed, the  
79 fines are as follows:

80

81 For speed exceeding the limit by:	Fine:
82 1-5 m.p.h.....	Warning
83 6-9 m.p.h.....	\$25
84 10-14 m.p.h.....	\$100
85 15-19 m.p.h.....	<u>\$150</u> <del>\$125</del>
86 20-29 m.p.h.....	<u>\$175</u> <del>\$150</del>
87 30 m.p.h. and above.....	\$250

88

89 (c) Notwithstanding paragraph (b), a person cited for  
90 exceeding the speed limit by up to 5 m.p.h. in a legally posted  
91 school zone will be fined \$50. A person exceeding the speed  
92 limit in a school zone shall pay a fine double the amount listed  
93 in paragraph (b).

94 (d) A person cited for exceeding the speed limit in a  
95 posted construction zone, which posting must include  
96 notification of the speed limit and the doubling of fines, shall  
97 pay a fine double the amount listed in paragraph (b). The fine  
98 shall be doubled for construction zone violations only if



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99 construction personnel are present or operating equipment on the  
100 road or immediately adjacent to the road under construction.

101 (e) A person cited for exceeding the speed limit in an  
102 enhanced penalty zone shall pay a fine amount of \$50 plus the  
103 amount listed in paragraph (b). Notwithstanding paragraph (b), a  
104 person cited for exceeding the speed limit by up to 5 m.p.h. in  
105 a legally posted enhanced penalty zone shall pay a fine amount  
106 of \$50.

107 (f) If a violation of s. 316.1301 or s. 316.1303 results in  
108 an injury to the pedestrian or damage to the property of the  
109 pedestrian, an additional fine of up to \$250 shall be paid. This  
110 amount must be distributed pursuant to s. 318.21.

111 (g) A person cited for exceeding the speed limit within a  
112 zone posted for any electronic or manual toll collection  
113 facility shall pay a fine double the amount listed in paragraph  
114 (b). However, no person cited for exceeding the speed limit in  
115 any toll collection zone shall be subject to a doubled fine  
116 unless the governmental entity or authority controlling the toll  
117 collection zone first installs a traffic control device  
118 providing warning that speeding fines are doubled. Any such  
119 traffic control device must meet the requirements of the uniform  
120 system of traffic control devices.

121 (h) A person cited for a second or subsequent conviction of  
122 speed exceeding the limit by 30 miles per hour and above within  
123 a 12-month period shall pay a fine that is double the amount  
124 listed in paragraph (b). For purposes of this paragraph, the  
125 term "conviction" means a finding of guilt as a result of a jury  
126 verdict, nonjury trial, or entry of a plea of guilty. Moneys  
127 received from the increased fine imposed by this paragraph shall



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128 be remitted to the Department of Revenue and deposited into the  
129 Department of Health Administrative Trust Fund to provide  
130 financial support to certified trauma centers to assure the  
131 availability and accessibility of trauma services throughout the  
132 state. Funds deposited into the Administrative Trust Fund under  
133 this section shall be allocated as follows:

134 1. Fifty percent shall be allocated equally among all Level  
135 I, Level II, and pediatric trauma centers in recognition of  
136 readiness costs for maintaining trauma services.

137 2. Fifty percent shall be allocated among Level I, Level  
138 II, and pediatric trauma centers based on each center's relative  
139 volume of trauma cases as reported in the Department of Health  
140 Trauma Registry.

141 (19) In addition to any penalties imposed, an Article V  
142 assessment of \$10 must be paid for all noncriminal moving and  
143 nonmoving traffic violations under chapter 316. The assessment  
144 is not revenue for purposes of s. 28.36 and may not be used in  
145 establishing the budget of the clerk of the court under that  
146 section or s. 28.35. Of the funds collected under this  
147 subsection:

148 (a) The sum of \$5 shall be deposited in the State Courts  
149 Revenue Trust Fund for use by the state courts system;

150 (b) The sum of \$3.33 shall be deposited in the State  
151 Attorneys Revenue Trust Fund for use by the state attorneys; and

152 (c) The sum of \$1.67 shall be deposited in the Public  
153 Defenders Revenue Trust Fund for use by the public defenders.

154 Section 4. Subsections (18), (19), and (20) are added to  
155 section 318.21, Florida Statutes, to read:

156 318.21 Disposition of civil penalties by county courts.—All



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157 civil penalties received by a county court pursuant to the  
158 provisions of this chapter shall be distributed and paid monthly  
159 as follows:

160 (18) Notwithstanding subsections (1) and (2), the proceeds  
161 from the administrative fee imposed under s. 318.18(18) shall be  
162 distributed as provided in that subsection.

163 (19) Notwithstanding subsections (1) and (2), the proceeds  
164 from the Article V assessment imposed under s. 318.18(19) shall  
165 be distributed as provided in that subsection.

166 (20) For fines assessed under s. 318.18(3) for unlawful  
167 speed, effective for violations occurring on or after the  
168 effective date of this act, the following amounts shall be  
169 remitted to the Department of Revenue for deposit in the State  
170 Courts Revenue Trust Fund; however, these amounts are not  
171 revenue for purposes of s. 28.36 and may not be used in  
172 establishing the budget of the clerk of the court under that  
173 section or s. 28.35:

<u>For speed exceeding the limit by:</u>	<u>Fine:</u>
<u>1-5 m.p.h. ....</u>	<u>\$ .00</u>
<u>6-9 m.p.h. ....</u>	<u>\$ .00</u>
<u>10-14 m.p.h. ....</u>	<u>\$ .00</u>
<u>15-19 m.p.h. ....</u>	<u>\$25</u>
<u>20-29 m.p.h. ....</u>	<u>\$25</u>
<u>30 m.p.h. and above ....</u>	<u>\$ .00</u>

182  
183 The remaining amount shall be distributed pursuant to  
184 subsections (1) and (2).

185 Section 5. Section 775.083, Florida Statutes, is amended to



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186 read:

187 775.083 Fines.—

188 (1) A person who has been convicted of an offense other  
189 than a capital felony may be sentenced to pay a fine in addition  
190 to any punishment described in s. 775.082; when specifically  
191 authorized by statute, he or she may be sentenced to pay a fine  
192 in lieu of any punishment described in s. 775.082. A person who  
193 has been convicted of a noncriminal violation may be sentenced  
194 to pay a fine. Fines for designated crimes and for noncriminal  
195 violations shall not exceed:

196 (a) \$15,000, when the conviction is of a life felony.

197 (b) \$10,000, when the conviction is of a felony of the  
198 first or second degree.

199 (c) \$5,000, when the conviction is of a felony of the third  
200 degree.

201 (d) \$1,000, when the conviction is of a misdemeanor of the  
202 first degree.

203 (e) \$500, when the conviction is of a misdemeanor of the  
204 second degree or a noncriminal violation.

205 (f) Any higher amount equal to double the pecuniary gain  
206 derived from the offense by the offender or double the pecuniary  
207 loss suffered by the victim.

208 (g) Any higher amount specifically authorized by statute.

209

210 Fines imposed in this subsection shall be deposited by the clerk  
211 of the court in the fine and forfeiture fund established  
212 pursuant to s. 142.01, except that fines imposed when  
213 adjudication is withheld shall be deposited in the State Courts  
214 Revenue Trust Fund, and such fines imposed when adjudication is



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215 withheld are not revenue for purposes of s. 28.36 and may not be  
216 used in establishing the budget of the clerk of the court under  
217 that section or s. 28.35. If a defendant is unable to pay a  
218 fine, the court may defer payment of the fine to a date certain.  
219 As used in this subsection, the term "convicted" or "conviction"  
220 means a determination of guilt which is the result of a trial or  
221 the entry of a plea of guilty or nolo contendere, regardless of  
222 whether adjudication is withheld.

223 (2) In addition to the fines set forth in subsection (1),  
224 court costs shall be assessed and collected in each instance a  
225 defendant pleads nolo contendere to, or is convicted of, or  
226 adjudicated delinquent for, a felony, a misdemeanor, or a  
227 criminal traffic offense under state law, or a violation of any  
228 municipal or county ordinance if the violation constitutes a  
229 misdemeanor under state law. The court costs imposed by this  
230 section shall be \$50 for a felony and \$20 for any other offense  
231 and shall be deposited by the clerk of the court into an  
232 appropriate county account for disbursement for the purposes  
233 provided in this subsection. A county shall account for the  
234 funds separately from other county funds as crime prevention  
235 funds. The county, in consultation with the sheriff, must expend  
236 such funds for crime prevention programs in the county,  
237 including safe neighborhood programs under ss. 163.501-163.523.

238 (3) The purpose of this section is to provide uniform  
239 penalty authorization for criminal offenses and, to this end, a  
240 reference to this section constitutes a general reference under  
241 the doctrine of incorporation by reference.

242 Section 6. Subsection (2) of section 948.01, Florida  
243 Statutes, is amended to read:



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244 948.01 When court may place defendant on probation or into  
245 community control.-

246 (2) If it appears to the court upon a hearing of the matter  
247 that the defendant is not likely again to engage in a criminal  
248 course of conduct and that the ends of justice and the welfare  
249 of society do not require that the defendant presently suffer  
250 the penalty imposed by law, the court, in its discretion, may  
251 either adjudge the defendant to be guilty or stay and withhold  
252 the adjudication of guilt.~~;~~ ~~and,~~ In either case, the court ~~it~~  
253 shall stay and withhold the imposition of sentence upon the ~~such~~  
254 defendant and shall place a felony ~~the~~ defendant upon probation.  
255 If the defendant is found guilty of a nonfelony offense as the  
256 result of a trial or entry of a plea of guilty or nolo  
257 contendere, regardless of whether adjudication is withheld, the  
258 court may place the defendant on probation. In addition to court  
259 costs and fees and notwithstanding any law to the contrary, the  
260 court may impose a fine authorized by law if the offender is a  
261 nonfelony offender who is not placed on probation. However, a ~~ne~~  
262 defendant who is placed on probation for a misdemeanor may not  
263 be placed under the supervision of the department unless the  
264 circuit court was the court of original jurisdiction.

265 Section 7. This act shall take effect February 1, 2009, or  
266 upon becoming a law, whichever occurs later.

267  
268 ===== T I T L E A M E N D M E N T =====

269 And the title is amended as follows:

270 Delete everything before the enacting clause  
271 and insert:

272 A bill to be entitled



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273 An act relating to the state judicial system; amending s.  
274 318.14, F.S.; eliminating a percentage reduction in penalties  
275 for noncriminal traffic infractions which is provided for  
276 attending a basic driver improvement course; providing for the  
277 distribution of a specified portion of penalty revenues;  
278 amending s. 318.15, F.S., to conform; amending s. 318.18, F.S.;  
279 increasing certain fines for speeding; creating an assessment to  
280 be paid for noncriminal moving and nonmoving traffic  
281 infractions; providing for distribution of the assessment;  
282 amending s. 318.21, F.S.; providing for the distribution of  
283 funds from certain penalties imposed for traffic infractions;  
284 amending s. 775.083, F.S.; providing for the distribution of  
285 certain criminal and noncriminal fines; defining the terms  
286 "convicted" and "conviction" for purposes of liability for  
287 payment of criminal and noncriminal fines; providing that a fine  
288 may be imposed for a determination of guilt from a trial or  
289 plea, regardless of whether adjudication is withheld; amending  
290 s. 948.01, F.S.; providing that the imposition of probation in  
291 certain nonfelony cases is discretionary rather than mandatory;  
292 authorizing the court to impose a fine without placing a  
293 nonfelony offender on probation; providing that certain revenues  
294 generated under the act may not be used to establish the budgets  
295 of clerks of the court; providing an effective date.