

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 1376

INTRODUCER: Senator Evers

SUBJECT: Traffic Offenses

DATE: March 27, 2015

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------|----------------|-----------|------------------|
| 1. | Erickson | Cannon | CJ | Favorable |
| 2. | | | TR | |
| 3. | | | AP | |

I. Summary:

SB 1376 provides that it is a second degree misdemeanor for a person to commit a specified moving violation that causes serious bodily injury to a vulnerable road user. The violator must also pay a fine of up to \$1,500, serve a minimum of 30 days of house arrest, and attend a driver improvement course. The court must also revoke the violator's license for at least 30 days.

The bill also provides that it is a first degree misdemeanor if the moving violation causes the death of a vulnerable road user. The violator must also pay a fine of up to \$5,000, serve a minimum of 180 days of house arrest, and attend a driver improvement course. The court must also revoke the violator's license for at least one year.

II. Present Situation:

With some specified exceptions, a person who commits a noncriminal traffic infraction in which a person dies as a result of the infraction may be required to perform 120 community service hours in addition to any other penalties.¹

Any traffic infraction which results in a crash that causes the death of another requires a mandatory hearing.²

The Department of Highway Safety and Motor Vehicles (DHSMV) may require an examination or reexamination to determine the competence and driving ability of any driver causing or contributing to the cause of any crash resulting in death or personal injury.³ The DHSMV may also suspend the license or identification card of any person without preliminary hearing upon a showing of its records or other sufficient evidence that the licensee or cardholder has been

¹ Section 318.14(1), F.S.

² Section 318.19(1), F.S.

³ Section 322.221(2)(a), F.S.

convicted of a violation of any traffic law which resulted in a crash that caused the death or personal injury of another.⁴

A driver convicted of, or who pled nolo contendere to, a traffic offense giving rise to a crash involving death or a bodily injury requiring transport to a medical facility must attend a driver improvement course to maintain his or her driving privileges.⁵

III. Effect of Proposed Changes:

The bill creates s. 318.195, F.S., which provides that it is a second degree misdemeanor⁶ for a person to commit a moving violation that causes serious bodily injury, as defined in s. 316.027(1), F.S.,⁷ to a vulnerable road user, as that term is defined in s. 316.027(1), F.S.⁸ The violator must also pay a fine of up to \$1,500, serve a minimum of 30 days of house arrest,⁹ and attend a driver improvement course. The court must also revoke the violator's license for at least 30 days.

The bill also provides that it is a first degree misdemeanor¹⁰ if the moving violation causes the death of a vulnerable road user. The violator must also pay a fine of up to \$5,000, serve a minimum of 180 days of house arrest, and attend a driver improvement course. The court must also revoke the violator's license for at least one year.

The bill provides that s. 318.195, F.S., does not prohibit a person from being charged with, convicted of, or punished for any other violation of law.

The bill takes effect on October 1, 2015.

⁴ Section 377.27(1)(b), F.S.

⁵ Section 322.0261, F.S.

⁶ A second degree misdemeanor is punishable by up to 60 days in jail, a fine of up to \$500, or both. Sections 775.082 and 775.083, F.S. The bill provides for a fine of up to \$1,500. Section 775.083, F.S., provides that a higher amount may be imposed when specifically authorized by statute.

⁷ Section 316.027(1)(a), F.S., defines "serious bodily injury" as an injury to a person, including the driver, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of a bodily member or organ.

⁸ Section 316.027(1)(b), F.S., defines "vulnerable road user" as: a pedestrian, including a person actually engaged in work upon a highway, or in work upon utility facilities along a highway, or engaged in the provision of emergency services within the right-of-way; a person operating a bicycle, motorcycle, scooter, or moped lawfully on the roadway; a person riding an animal; or a person lawfully operating on a public right-of-way, crosswalk, or shoulder of the roadway, a farm tractor (or similar vehicle designed primarily for farm use), a skateboard, roller skates, in-line skates, a horse-drawn carriage, an electric personal assistive mobility device, or a wheelchair.

⁹ Florida law does not use the term "house arrest." Under s. 948.10, F.S., community control is an alternative, community-based method to punish an offender in lieu of incarceration. Generally, misdemeanor violators are not a target group for community control. Confinement to an agreed-upon residence during hours away from employment and public service activities is a community control condition the court may impose. Section 948.101, F.S. Unless the requirement for "house arrest" in the bill is an indirect amendment or expansion of community control, it appears to be a sanction specific to the misdemeanor offenses created by the bill.

¹⁰ A first degree misdemeanor is punishable by up to one year in jail, a fine of up to \$1,000, or both. Sections 775.082 and 775.083, F.S. The bill provides for a fine of up to \$5,000. Section 775.083, F.S., provides that a higher amount may be imposed when specifically authorized by statute.

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 will have an impact on operators of motor vehicles who commit traffic infractions that cause serious bodily injury or death to a vulnerable road user: payment of a fine; the potential for lost wages (house arrest) and costs that may arise from attending a driver improvement course and driver license revocation/reinstatement.

An analysis of the bill by DHSMV was requested but not received at the time this analysis was completed. In analyzing an identical bill introduced in the 2014 Session (SB 1312), the DHSMV indicated the bill might generate additional revenue for organizations that already teach traffic safety courses.¹¹

C. Government Sector Impact:

In its analysis of SB 1312 (2014 Session), the DHSMV indicated that the bill might have a positive indeterminate impact on revenues due to the reinstatement of driver license revocations and required driver improvement courses. The DHSMV also indicated that that the bill would have required non-recurring programing costs that the DHSMV would have absorbed.¹²

VI. Technical Deficiencies:

In its analysis of SB 1312 (2014 Session), the DHSMV proposed changes to that bill to effectuate its implementation.¹³

¹¹ Analysis of SB 1312 (July 1, 2014), Department of Highway Safety and Motor Vehicles (on file with the Senate Committee on Criminal Justice).

¹² *Id.*

¹³ *Id.*

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 318.195 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

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