

By the Committees on Community Affairs; and Education Pre-K -
12; and Senator Hays

578-01927-15

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1 A bill to be entitled
2 An act relating to hazardous walking conditions;
3 amending s. 1006.23, F.S.; requiring a district school
4 board to correct hazardous walking conditions and
5 provide transportation to students who would be
6 subjected to hazardous walking conditions; requiring
7 state or local governmental entities with jurisdiction
8 over a road with a hazardous walking condition to
9 correct the condition within a reasonable period of
10 time; providing requirements for a governmental entity
11 relating to its transportation work program; revising
12 procedures for inspection and identification of
13 hazardous walking conditions; requiring a district
14 school superintendent to initiate a formal request for
15 correction of a hazardous walking condition under
16 certain circumstances; authorizing a district school
17 board to initiate a declaratory judgment proceeding
18 under certain circumstances and providing requirements
19 therefor; deleting the requirement that the district
20 school superintendent and specified governmental
21 entities make a final determination that is mutually
22 agreed upon regarding hazardous walking conditions;
23 revising criteria that determine a hazardous walking
24 condition for public school students; providing
25 requirements relating to a civil action for damages;
26 providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
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30 Section 1. Section 1006.23, Florida Statutes, is reordered
31 and amended to read:

32 1006.23 Hazardous walking conditions.—

33 (1) DEFINITION.—As used in this section, the term “student”
34 means any public elementary school student whose grade level
35 does not exceed grade 6.

36 (4)(2) TRANSPORTATION; CORRECTION OF HAZARDS.—

37 (a) A district school board ~~It is intended that district~~
38 ~~school boards~~ and other governmental entities shall work
39 cooperatively to identify conditions that are hazardous along
40 student walking routes to school, and a district school board
41 shall ~~that district school boards~~ provide transportation to
42 students who would be subjected to such conditions.

43 Additionally, It is further intended that state or local
44 governmental entities with having jurisdiction over a road along
45 which a hazardous walking condition is determined to exist shall
46 correct the condition ~~such hazardous conditions~~ within a
47 reasonable period of time.

48 (b) Upon a determination pursuant to subsection (3) ~~this~~
49 ~~section~~ that a hazardous walking condition exists ~~is hazardous~~
50 ~~to students~~, the district school superintendent ~~board~~ shall
51 request a position statement with respect to correction of such
52 condition ~~determination~~ from the state or local governmental
53 entity with having jurisdiction over the road. Within 90 days
54 after receiving such request, the state or local governmental
55 entity shall inform the district school superintendent ~~regarding~~
56 whether the entity will include correction of the hazardous
57 walking condition in its next annual 5-year transportation work
58 program ~~hazard will be corrected~~ and, if so, when correction of

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59 the condition will be completed. If the hazardous walking
60 condition will not be included in the state or local
61 governmental entity's next annual 5-year transportation work
62 program, the factors justifying such conclusion must be stated
63 in writing to the district school superintendent and the
64 Department of Education regarding a projected completion date.

65 (c) State funds shall be allocated for the transportation
66 of students subjected to a hazardous walking condition. However,
67 ~~such hazards, provided that~~ such funding shall cease upon
68 correction of the hazardous walking condition ~~hazard~~ or upon the
69 projected completion date, whichever occurs first.

70 (3) IDENTIFICATION OF HAZARDOUS CONDITIONS.—

71 (a) When a request for review is made by ~~to~~ the district
72 school superintendent with respect to a road over which a state
73 or local governmental entity has jurisdiction ~~or the district~~
74 ~~school superintendent's designee~~ concerning a condition
75 perceived to be hazardous to students in that district who live
76 within the 2-mile limit and who walk to school, such condition
77 shall be inspected jointly by a representative of the school
78 district, and a representative of the state or local
79 governmental entity with ~~that has~~ jurisdiction over the
80 perceived hazardous location, and a representative of the
81 municipal police department for a municipal road, a
82 representative of the sheriff's office for a county road, or a
83 representative of the Department of Transportation for a state
84 road. If the jurisdiction is within an area for which there is a
85 metropolitan planning organization, a representative of that
86 organization shall also be included. The governmental
87 representatives shall determine whether the condition

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88 constitutes a hazardous walking condition as provided in
89 subsection (2). If the governmental representatives concur that
90 a condition constitutes a hazardous walking condition as
91 provided in subsection (2), the governing entity with
92 jurisdiction shall report that determination in writing to the
93 district school superintendent, who shall initiate a formal
94 request for correction as provided in subsection (4).

95 (b) If the governmental representatives are unable to reach
96 a consensus, the reasons for lack of consensus shall be reported
97 to the district school superintendent, who shall provide a
98 report and recommendation to the district school board. The
99 district school board may initiate a proceeding under chapter 86
100 seeking a determination as to whether the condition constitutes
101 a hazardous walking condition as provided in subsection (2)
102 after providing at least 30 days' notice in writing to the local
103 governmental entities having jurisdiction over the road of its
104 intent to do so unless, within 30 days after such notice is
105 provided, the local governmental entities concur in writing that
106 the condition is a hazardous walking condition as provided in
107 subsection (2) and provide the position statement pursuant to
108 subsection (4). If a proceeding is initiated under this
109 paragraph, the district school board has the burden of proving
110 such condition by the greater weight of evidence. If the
111 district school board prevails, the district school
112 superintendent shall report the outcome to the Department of
113 Education and initiate a formal request for correction of the
114 hazardous walking condition as provided in subsection (4) ~~The~~
115 ~~district school superintendent or his or her designee and the~~
116 ~~state or local governmental entity or its representative shall~~

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117 ~~then make a final determination that is mutually agreed upon~~
118 ~~regarding whether the hazardous condition meets the state~~
119 ~~criteria pursuant to this section. The district school~~
120 ~~superintendent or his or her designee shall report this final~~
121 ~~determination to the Department.~~

122 ~~(2)(4) STATE CRITERIA FOR DETERMINING HAZARDOUS WALKING~~
123 ~~CONDITIONS.-~~

124 ~~(a) Walkways parallel to the road.-~~

125 1. It shall be considered a hazardous walking condition
126 with respect to any road along which students must walk in order
127 to walk to and from school if there is not an area at least 4
128 feet wide adjacent to the road, not including drainage ditches,
129 sluiceways, swales, or channels, having a surface upon which
130 students may walk without being required to walk on the road
131 surface. In addition, whenever the road along which students
132 must walk is uncurbed and has a posted speed limit of 50 ~~55~~
133 miles per hour or greater, the area as described above for
134 students to walk upon shall be set off the road by no less than
135 3 feet from the edge of the road.

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

138 ~~a. Is in a residential area which has little or no~~
139 ~~transient traffic;~~

140 ~~a.b.~~ Is a road on which the volume of traffic is less than
141 180 vehicles per hour, per direction, during the time students
142 walk to and from school; or

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

145 (b) *Walkways perpendicular to the road.*-It shall be

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146 considered a hazardous walking condition with respect to any
147 road across which students must walk in order to walk to and
148 from school if:

149 1. ~~If~~ The traffic volume on the road exceeds the rate of
150 360 vehicles per hour, per direction (including all lanes),
151 during the time students walk to and from school and if the
152 crossing site is uncontrolled. For purposes of this subsection,
153 an "uncontrolled crossing site" is an intersection or other
154 designated crossing site where no crossing guard, traffic
155 enforcement officer, or stop sign or other traffic control
156 signal is present during the times students walk to and from
157 school.

158 2. ~~If~~ The total traffic volume on the road exceeds 4,000
159 vehicles per hour through an intersection or other crossing site
160 controlled by a stop sign or other traffic control signal,
161 unless crossing guards or other traffic enforcement officers are
162 also present during the times students walk to and from school.

163
164 Traffic volume shall be determined by the most current traffic
165 engineering study conducted by a state or local governmental
166 agency.

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

171 1. The road has a posted speed limit of 50 miles per hour
172 or greater; or

173 2. The road has six lanes or more, not including turn
174 lanes, regardless of the speed limit.

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

179 Section 2. This act shall take effect July 1, 2015.