

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 Education

BILL: SB 410

INTRODUCER: Senator Rodriguez

SUBJECT: Photographic Enforcement of School Zone Speed Limits

DATE: November 29, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brick	Bouck	ED	Favorable
2.			ATD	
3.			AP	

I. Summary:

SB 410 authorizes a local government to install an automated speed detection system in a school speed zone and appoint traffic infraction enforcement officers to issue traffic citations to persons that are detected as exceeding a school zone speed limit by at least 10 miles per hour. Under the bill, a county or municipality may enforce school speed zones within 1 hour before, during the entirety of, and within 1 hour after a regularly scheduled school session. The bill authorizes a traffic infraction enforcement officer employed by a sheriff's department or police department of a municipality to issue a fine of \$158 or a traffic citation for violations of school speed zone requirements as detected by a speed detection system in a school speed zone.

In order to use a speed detection system to enforce school speed zone requirements, the bill requires:

- The speed detection system to be permitted, placed, and installed in accordance with regulations developed by the Florida Department of Transportation.
- The local government to notify the public of the speed detection system through a 30-day public awareness campaign.
- A notice of violation to be mailed to the registered owner of the motor vehicle alleged to be in violation within 30 days of the violation and include information regarding the right to pay a \$158 fine, review the evidence, request a hearing, or submit an affidavit identifying another person as the person in violation.

The bill provides that a traffic citation must be issued to a person who does not pay the fine or submit a specified affidavit within 30 days of the notification of violation.

The bill does not require the expenditure of state funds.

The bill takes effect upon becoming law.

II. Present Situation:

The Division of Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles (DHSMV); the Division of Law Enforcement of the Fish and Wildlife Conservation Commission; the Division of Law Enforcement of the Department of Environmental Protection; and the agents, inspectors, and officers of the Department of Law Enforcement each have authority to enforce all of the traffic laws in Florida on all the streets and highways and elsewhere throughout the state wherever the public has a right to travel by motor vehicle.¹

Local authorities may also exercise police power on streets and highways within their jurisdiction. This authority includes establishing speed limits and regulating traffic by means of police officers or official traffic control devices.²

Traffic Safety Enforcement

The Florida Department of Transportation (FDOT) compiles and publishes a manual of uniform traffic control devices for use on the streets and highways in Florida.³ The driver of any vehicle is legally obligated to obey the instructions of any properly placed official traffic control device unless otherwise authorized by a police officer.⁴ There is a point system for convictions of violations of motor vehicle laws to determine whether a person may continue to operate a motor vehicle. The DHSMV is authorized to suspend the license of any person upon showing of its records or other good and sufficient evidence that the licensee has been convicted of violating motor vehicle laws or ordinances amounting to 12 or more points as determined by the point system. The suspension may not exceed a period of 1 year.⁵

Evidence of the speed of a vehicle measured by any radar speed-measuring device is inadmissible in any proceeding with respect to an alleged violation of provisions of law regulating the lawful speed of vehicles, unless such evidence is obtained by an officer who:⁶

- Has satisfactorily completed the radar training course established by the Criminal Justice Standards and Training Commission pursuant to s. 943.17(1)(b).
- Has made an independent visual determination that the vehicle is operating in excess of the applicable speed limit.
- Has written a citation based on evidence obtained from radar when conditions permit the clear assignment of speed to a single vehicle.
- Is using radar which has no automatic speed locks and no audio alarms, unless disconnected or deactivated.
- Is operating radar with audio Doppler engaged.
- Is using a radar unit which meets the minimum design criteria for such units established by the DHSMV.⁷

¹ Section 316.640(1)(a), F.S.

² Section 316.008(1), F.S.

³ Section 316.0745(2), F.S.; Rule 14-15.010, F.A.C.

⁴ Section 316.074(1), F.S.

⁵ Section 322.27(3), F.S.

⁶ Section 316.1906(2), F.S.

⁷ The DHSMV adopts by rule the minimum design criteria for radar units and laser devices and maintains a list of approved speed measuring devices. Rules 15B-2.0082, 2.013-2.014, F.A.C.

Whenever any peace officer engaged in the enforcement of the motor vehicle laws uses an electronic, electrical, mechanical, or other device used to determine the speed of a motor vehicle on any highway, road, street, or other public way, such device shall be of a type approved by the DHSMV and shall have been tested to determine that it is operating accurately. Tests for this purpose must be made not less than once each 6 months.⁸ Any police officer, upon receiving information relayed to him or her from a fellow officer stationed on the ground or in the air operating such a device that a driver of a vehicle has violated the speed laws, may arrest the driver for violation of said laws where reasonable and proper identification of the vehicle and the speed of same has been communicated to the arresting officer.⁹

Traffic infraction detectors are allowed on state roads when permitted by the FDOT. Traffic infraction detectors are also allowed on streets and highways under the jurisdiction of counties or municipalities in accordance with placement and installation specifications developed by the FDOT.¹⁰ The authority that installs a traffic infraction detector is required to notify the public using uniform signals and devices adopted by the FDOT and, if the authority has never used a traffic infraction detector program, must make a public announcement and conduct a public awareness campaign of the proposed use of traffic infraction detectors at least 30 days before commencing the enforcement program.¹¹

Traffic Infraction Enforcement Officers

The DHSMV, a county, or a municipality may authorize a traffic infraction enforcement officer to issue traffic citations to persons who violate properly placed official traffic control devices.¹² If a traffic infraction detector identifies a vehicle disobeying a properly placed official traffic control device, the visual information is captured and reviewed by the traffic infraction enforcement officer. A notification must be sent to the registered owner¹³ of the vehicle within 30 days of the alleged violation. The notice must be accompanied by a photograph or other recorded image of the violation, a statement of the vehicle owner's right to review images or video of the violation, and the time and place, or Internet location where the evidence may be reviewed.¹⁴

Penalty

A fine of \$158 is levied on violators who violate properly placed official traffic control devices.¹⁵ Violations of properly placed official traffic control devices enforced by traffic infraction detectors may not result in points being assessed against the operator's driver's license and may not be used for the purpose of setting motor vehicle insurance rates.¹⁶

⁸ Section 316.1905(1), F.S.

⁹ Section 316.1905(2), F.S.

¹⁰ Section 316.0776(1), F.S.

¹¹ Section 316.0776, F.S.

¹² Section 316.0083(1)(a), F.S.

¹³ The first name on the registration in cases of joint registration is considered the registered owner. Section 316.0083(1)(c)1.c., F.S.

¹⁴ Section 316.0083(1)(b), F.S.

¹⁵ Section 316.0083(1)(b)3.a., F.S.

¹⁶ Section 322.27(3)(d)6., F.S.

Request for Hearing

A person who receives a notice of violation may request a hearing within 60 days following the notification of violation or pay the penalty pursuant to the notice of violation, but a payment or fee may not be required before the hearing requested by the person. The notice of violation must be accompanied by, or direct the person to a website that provides, information on the person's right to request a hearing and on all court costs related thereto and a form to request a hearing.¹⁷

If the registered owner of the vehicle does not submit payment or otherwise contest the notice of violation within 60 days of being notified, the traffic infraction enforcement officer must issue and send by certified mail a uniform traffic citation to the registered owner. The citation must also include the photograph and statements described above regarding review of the photographic or video evidence.¹⁸ The report of a traffic infraction enforcement officer and images provided by a traffic infraction detector are admissible in court and provide a rebuttable presumption the vehicle was used in a violation.¹⁹ A traffic infraction enforcement officer must provide by electronic transmission a replica of the citation data to the court having jurisdiction over the alleged offense or its traffic violations bureau within five days after the issuance date of the citation to the violator.²⁰

Defenses

The registered owner of the motor vehicle is responsible for payment of the fine unless the owner can establish that the vehicle:²¹

- Passed through the intersection to yield the right-of-way to an emergency vehicle or as part of a funeral procession;
- Passed through the intersection at the direction of a law enforcement officer;
- Was, at the time of the violation, in the care, custody, or control of another person; or
- Received a uniform traffic citation for the alleged violation issued by a law enforcement officer.

An additional defense is available if the motor vehicle's owner was deceased on or before the date the uniform traffic citation was issued.²²

To establish any of these defenses, the owner of the vehicle must furnish an affidavit to the appropriate governmental entity that provides detailed information supporting an exemption as provided above, including relevant documents such as a police report (if the car had been reported stolen) or a copy of the uniform traffic citation, if issued. If the owner submits an affidavit that another driver was behind the wheel, the affidavit must contain the name, address, date of birth, and if known, the driver's license number, of the driver. A traffic citation may be issued to this person, and the affidavit from the registered owner may be used as evidence in a

¹⁷ Section 316.0083(1)(b)1.c., F.S.

¹⁸ Section 316.0083(1)(b), F.S.

¹⁹ Section 316.0083(1)(e), F.S.

²⁰ Section 316.650(3)(c), F.S.

²¹ Section 316.0083(1)(d), F.S.

²² Section 316.0083(1)(d), F.S.

further proceeding regarding that person's alleged violation.²³ Submission of a false affidavit is a second degree misdemeanor.²⁴

If a vehicle is leased, the owner of the leased vehicle is not responsible for paying the citation, nor required to submit an affidavit, if the motor vehicle is registered in the name of the lessee.²⁵ If a person presents documentation from the appropriate governmental entity that the citation was issued in error, the clerk of court may dismiss the case and may not charge for such service.²⁶

A person is ordinarily issued four points against their driver's license for a violation of an official traffic control signal device.²⁷ However, no points may be imposed for violating an official traffic control device when enforced by a traffic infraction enforcement officer, and the violation may not be used for purposes of setting motor vehicle insurance rates.²⁸

School Speed Zones

The FDOT establishes a uniform system of traffic control devices and pedestrian control devices for use on the streets and highways in the state surrounding all schools, public and private, and publishes a manual containing all such specifications and requirements.²⁹ Upon request from the appropriate local government, the FDOT must install and maintain such traffic and pedestrian control devices on state-maintained roads for all prekindergarten early-intervention schools that receive federal funding through the Headstart program.³⁰

The FDOT is further required to maintain school zones located on state-maintained primary or secondary roads.³¹ The FDOT may enter into agreements with counties or municipalities whereby the local governmental entities maintain specified school zones on state-maintained primary or secondary roads.³² Counties are required to maintain school zones on county roads outside of municipalities, and municipalities are required to maintain school zones located in a municipality.³³

School Speed Limits

A school zone speed limit may not be less than 15 miles per hour except by local regulation. No school zone speed limit may be more than 20 miles per hour in an urbanized area. School zone speed limits may be in force only from 30 minutes before to 30 minutes after the periods of time when pupils are arriving or leaving a regularly scheduled breakfast program or school session.³⁴

²³ Section 316.0083(1)(d), F.S.

²⁴ Section 316.0083(1)(d)5., F.S.

²⁵ *Id.*

²⁶ Section 318.18(15), F.S.

²⁷ Section 322.27(3)(d)6., F.S.

²⁸ *Id.*

²⁹ Section 316.1895(1)(a), F.S.; Rule 14-15.012, F.A.C.

³⁰ Section 316.1895(2), F.S.

³¹ Section 316.1895(3)(a), F.S.

³² Section 316.1895(3)(a), F.S.

³³ Section 316.1895(3), F.S.

³⁴ Section 316.1895(5), F.S.

School Speed Zone Signage

Permanent signs designating school zones and school zone speed limits must be uniform in size and color and have the times during which the restrictive speed limit is enforced clearly designated thereon. Other devices, such as flashing beacons activated by a time clock, may be used as an alternative to posting the times during which the restrictive school speed limit is enforced.³⁵

Portable signs designating school zones and school zone speed limits must be uniform in size and color. Such signs must be erected on the roadway only during those hours when pupils are arriving at and leaving regularly scheduled school sessions.³⁶ For any newly established school zone or any school zone in which the signing has been replaced, a sign stating “Speeding Fines Doubled” must be installed within the school zone.³⁷

School Speed Zone Fines

A person may not drive a vehicle in a school zone at a speed greater than that posted in the school zone.³⁸ A person exceeding the speed limit in a school zone or designated school crossing must pay a fine equal to double the standard amounts for exceeding the speed limit. Therefore, the fine in a school zone for exceeding the speed limit by:³⁹

- 1-9 mph is \$50.
- 10-14 mph is \$200.
- 15-19 mph is \$300.
- 20-29 mph is \$350.
- 30 mph and above is \$500.

III. Effect of Proposed Changes:

SB 410 authorizes a local government to install an automated speed detection system in a school speed zone and appoint traffic infraction enforcement officers to issue traffic citations to persons that are detected as exceeding a school zone speed limit by at least 10 miles per hour. Under the bill, a county or municipality may enforce school speed zones within 1 hour before, during the entirety of, and within 1 hour after a regularly scheduled school session. The bill authorizes a traffic infraction enforcement officer employed by a sheriff’s department or police department of a municipality to issue a fine of \$158 or a traffic citation for violations of school speed zone requirements as detected by a speed detection system in a school speed zone.

In order to use a speed detection system to enforce school speed zone requirements, the bill requires:

- The speed detection system to be permitted, placed, and installed in accordance with regulations developed by the Florida Department of Transportation (FDOT).
- The local government to notify the public of the speed detection system through a 30-day public awareness campaign.

³⁵ Section 316.1895(6), F.S.

³⁶ Section 316.1895(7), F.S.

³⁷ Section 316.1895(6), F.S.

³⁸ Section 316.1895(10), F.S.

³⁹ Section 318.18(3), F.S.

- A notice of violation to be mailed to the registered owner of the motor vehicle alleged to be in violation within 30 days of the violation and include information regarding the right to pay a \$158 fine, review the evidence, request a hearing, or submit an affidavit identifying another person as the person in violation.

The bill provides that a traffic citation must be issued to a person who does not pay the fine or submit an affidavit identifying another person as the person in violation within 30 days of the notification of violation.

Traffic Safety Enforcement

The bill modifies s. 316.0776, F.S., to authorize a speed detection system to be installed on a municipal or county road, or a state road when permitted by the FDOT, but must be placed and installed in accordance with regulations developed by the FDOT. The bill requires the FDOT to establish such placement and installation specifications by August 1, 2022. The bill adds a definition of a speed detection system to s. 316.003, F.S., defining a speed detection system as an automated system used to record a vehicle's speed using radar and to capture a photograph or video of a vehicle that exceeds the speed limit in force at the time of violation. However, the bill specifies that speed detection systems supplement the enforcement of school speed zones, and do not prohibit law enforcement officers from issuing citations for violations of school speed zones.

Traffic Infraction Enforcement Officer

The bill modifies s. 316.1906, F.S., to define a "traffic infraction enforcement officer" as one who is employed or appointed and satisfies the requirements established in law for the designation by the Florida Department of Highway Safety and Motor Vehicles (DHSMV) of traffic infraction enforcement officers, with or without compensation, and who is vested with authority to enforce a violation of school speed zone requirements as detected by a speed detection system.

The bill authorizes a traffic infraction enforcement officer to review photographic or electronic images, streaming video, or evidence of the speed of a vehicle as measured by a speed detection system to satisfy existing legal requirements for the officer to make an independent visual determination that a vehicle is operating in excess of the applicable speed limit.

Authorizing traffic infraction enforcement officers to issue traffic citations through the use of speed detection systems may assist in the enforcement of speed limits.

School Speed Zones

The bill modifies s. 316.008, F.S., to authorize a county or municipality to install, or contract with a vendor to install, a speed detection system within 1,000 feet of a school zone to enforce speed limits in school speed zones. Under the bill, a county or municipality may enforce school speed zones within 1 hour before, during the entirety of, and within 1 hour after a regularly scheduled school session through the use of a speed detection system for the measurement of speed and recording of photographs or videos for violations that are in excess of 10 miles per hour over the speed limit in force at the time of the violation.

The enforcement by a speed detection system of speed limits in school speed zones may improve the safety of pedestrians in school speed zones during the entire school day.

School Speed Zone Signage

A school zone's compliance with the legal requirements for establishing, installing, maintaining, and providing notice of a school speed zone and speed detection system creates a rebuttable presumption that the school zone is being properly maintained, even if the school zone does not include a sign stating "Speeding Fines Doubled."

The bill requires the county or municipality that installs a speed detection system to notify the public, using FDOT uniform signals and devices, that a speed detection system may be in use and to specifically include notification of camera or video enforcement of violations. For speed detection systems enforcing traffic control requirements in school speed zones, a sign stating "Speeding Fines Doubled," is not required when a violation of school speed zone requirements is enforced by a speed detection system in a school speed zone.

When a local authority first begins a speed detection system program, the bill requires the authority to make a public announcement and conduct a public awareness campaign on the proposed use of speed detection systems at least 30 days before commencing enforcement under the speed detection system program and notify the public of the specific date on which the program will commence. During the 30-day public awareness campaign, the bill requires a motor vehicle operator found to have violated school speed zone requirements by a speed detection system to be issued a warning for the violation and provides that the motor vehicle operator is not liable for the doubled fine for exceeding the speed limit in a school zone.

The required signage and public awareness campaign may assist in ensuring drivers obey speed limits in school speed zones.

School Zone Speed Limits

The bill creates s. 316.1896, F.S., to provide for enforcement of school speed zone requirements through the use of a speed detection system. The bill authorizes a traffic infraction enforcement officer employed by a sheriff's department or police department of a municipality to issue a traffic citation for violations of school speed zone requirements as detected by a speed detection system in a school speed zone. The bill also authorizes a sheriff's department or police department of a municipality to designate employees as traffic infraction enforcement officers to enforce school speed zone requirements. The bill expressly does not prohibit:

- A review of information from a speed detection system by an authorized employee or agent of a county or municipality before issuance of the traffic citation by the traffic infraction enforcement officer.
- A county or municipality from issuing notifications to the registered owner of the motor vehicle regarding potential remedies available and opportunities to resolve the fine.

Notification of Violation

The bill prescribes the timeline for notifying a person of a violation of school speed zone requirements as detected by a speed detection system and the procedures for resolving the

violation. The bill specifies that the term “person” includes a natural person, the registered owner or co-owner of a motor vehicle, or the person identified in an affidavit as having actual care, custody, or control of the motor vehicle at the time of the violation. The bill requires that the notification of violation:

- Be sent by first-class mail to the registered owner of the vehicle within 30 days after the violation.
- Include a notice that the owner has the right to review, in person or remotely, the photographic or electronic images or streaming video and the evidence of the speed of the vehicle as measured by a speed detection system which constitute a rebuttable presumption against the owner of the vehicle.
- State the time and place or website where the images or video and evidence of speed may be examined and observed.
- Be accompanied by, or direct the person to a website that provides, information on the person’s right to request a hearing and on all court costs related thereto and a form used for requesting a hearing.

Affidavit of Dispute

In order to avoid court fees, costs, and the issuance of a traffic citation, the bill requires a person who receives a notification of violation to, within 30 days after the notification, either:

- Pay to the applicable county or municipality the penalty of \$158.
- Furnish an affidavit and supporting documentation establishing that:
 - The motor vehicle was, at the time of the violation, in the care, custody, or control of another person, including the name, address, date of birth, and, if known, the driver license number of the other person, or, if the vehicle was alleged stolen, the police report indicating that the motor vehicle was stolen;
 - A uniform traffic citation was issued by law enforcement to the driver of the motor vehicle for the alleged violation including the serial number of the uniform traffic citation; or
 - The motor vehicle’s owner was deceased on or before the date that the uniform traffic citation was issued, as established by an affidavit submitted by the representative of the motor vehicle owner’s estate or other designated person or family member.

If the motor vehicle’s owner to whom a uniform traffic citation has been issued is deceased, the bill provides that the affidavit must include a certified copy of the owner’s death certificate showing that the date of death occurred on or before the issuance of the uniform traffic citation and one of the following:

- A bill of sale or other document showing that the deceased owner’s motor vehicle was sold or transferred after his or her death but on or before the date of the alleged violation.
- Documented proof that the registered license plate belonging to the deceased owner’s vehicle was returned to the department or any branch office or authorized agent of the department after his or her death but on or before the date of the alleged violation.
- A copy of the police report showing that the deceased owner’s registered license plate or motor vehicle was stolen after his or her death but on or before the date of the alleged violation.

The authority to submit an affidavit identifying an alternate violator may ensure registered motor vehicle owners are not unfairly fined.

Request for Hearing

The bill alternatively authorizes a person to request a hearing within 30 days after the notification of violation and prohibits any requirement that the person submit a payment or fee before the hearing requested by the person. The bill provides that a person who initiates a proceeding to challenge the violation waives any challenge or dispute as to the delivery of the notification of violation.

Penalty

The bill modifies s. 318.18, F.S., to provide that a person cited for exceeding the speed limit in a school zone as indicated by a speed detection device and enforced by a traffic infraction enforcement officer must pay a fine of \$158. The bill modifies s. 322.27, F.S., to specify that no points may be imposed for a violation of unlawful speed in a school speed zone when enforced by a traffic infraction enforcement officer relying on a speed detection enforcement system in a school speed zone. The bill also provides that a violation of school speed zone requirements as detected by a speed detection system may not be used for purposes of setting motor vehicle insurance rates.

The bill requires penalties that are assessed and collected by the county or municipality, less the amount the county or municipality is specifically authorized by the bill to retain, to be paid by electronic funds transfer to the Department of Revenue weekly. The bill requires that, in addition to the payment, a detailed summary of the penalties remitted must be reported to the Department of Revenue. The bill requires that the \$158 fines collected by the county or municipality be remitted as follows:

- Sixty dollars must be remitted to the Department of Revenue for deposit into the General Revenue Fund.
- Eighty-four dollars must be retained by the county or municipality and be used to administer speed detection systems in school zones or other public safety initiatives.
- Four dollars must be remitted to the Department of Revenue for deposit into the Department of Law Enforcement Criminal Justice Standards and Training Trust Fund.
- Six dollars must be remitted to the public school district in which the violation occurred and be used for school security initiatives or to improve the safety of student walking conditions. Funds so remitted must be shared with charter schools in the district, based on each charter school's proportionate share of the district's total unweighted full-time equivalent student enrollment, and be used for school security initiatives or to improve the safety of student walking conditions.
- Four dollars must be remitted to the Department of Revenue for deposit into the General Revenue Fund for the benefit of the Coach Aaron Feis Guardian Program.

Traffic Citation

If, within 30 days after the notification of violation, the registered owner has not paid the fine, requested a hearing, or submitted an affidavit disputing the allegations, the bill requires a traffic

citation to be issued by mailing the traffic citation by certified mail to the first name appearing on the registration of the motor vehicle involved in the violation, unless the first name appearing on the registration is a business organization, in which case the second name appearing on the registration may be used. Except for the method of mailing, which must be first class for a notice of violation and certified mail for a traffic citation, the bill requires the traffic citation to conform to the notice requirements included within the notification of violation. The bill specifies that delivery of the traffic citation constitutes notification, and if a person initiates a proceeding to challenge the citation, the person waives any challenge or dispute as to the delivery of the traffic citation.

The bill amends s. 316.650, F.S., to require a traffic infraction enforcement officer to provide by electronic transmission a replica of the traffic citation data to the court having jurisdiction over the alleged offense or its traffic violations bureau within five days after the date of issuance of the traffic citation to the violator.

The bill provides in s. 318.14, F.S., that persons cited for violating school speed zone requirements as detected by a speed detection system are not required to sign and accept a citation indicating a promise to appear at a mandatory hearing. The bill provides that, if a hearing is requested, the traffic infraction enforcement officer must provide a replica of the traffic notice of violation data to the clerk for the local hearing officer having jurisdiction over the alleged offense within 14 days.

The bill authorizes an owner to avoid liability for paying the traffic citation by submitting an affidavit following the same requirements for challenging a notification of violation. The bill provides that the affidavit is admissible in a proceeding for the purpose of providing proof that the person identified in the affidavit was in actual care, custody, or control of the motor vehicle. The bill provides that the submission of a false affidavit is a misdemeanor of the second degree.

The bill also provides that the owner of a leased vehicle for which a traffic citation is issued for violating school speed zone requirements is not responsible for paying the traffic citation and is not required to submit an affidavit if the motor vehicle involved in the violation is registered in the name of the lessee of such motor vehicle.

The bill requires the issuing governmental entity, upon receipt of the affidavit and required documentation, to dismiss the citation and provide proof of such dismissal to the person who submitted the affidavit. Within 30 days of receipt of an affidavit, the bill requires the governmental entity to send a notification of violation to the person identified in the affidavit as having care, custody, or control of the motor vehicle at the time of the violation.

Hearing Procedures

The bill specifies that a hearing to challenge a traffic citation issued by a traffic infraction enforcement officer for school speed zone violations must be conducted under the procedures established in law for traffic citations issued by traffic infraction enforcement officers and as follows:

- The DHSMV must publish and make available electronically to each county and municipality a model request for hearing form to assist each local government that is issuing

notifications of school speed zone violations resulting from the use of a speed detection system.

- The county or municipality electing to authorize traffic infraction enforcement officers to issue traffic citations must designate by resolution existing staff to serve as the clerk to the local hearing officer.
- Any person, referenced in the bill as the “petitioner,” who elects to request a hearing must be scheduled for a hearing by the clerk to the local hearing officer. The clerk must furnish the petitioner with notice to be sent by first-class mail. Upon receipt of the notice, the petitioner may reschedule the hearing once by submitting a written request to reschedule to the clerk to the local hearing officer at least five calendar days before the day of the originally scheduled hearing. The petitioner may cancel his or her appearance before the local hearing officer by paying the penalty assessed, plus the administrative costs of \$50 as established in law, before the start of the hearing.
- All testimony at the hearing must be under oath and recorded. The local hearing officer must take testimony from a traffic infraction enforcement officer and the petitioner and may take testimony from others. The local hearing officer must review the photographic or electronic images or streaming video and the evidence of the speed of the vehicle as measured by the speed detection system. Formal rules of evidence do not apply, but due process must be observed and govern the proceedings.
- At the conclusion of the hearing, the local hearing officer must determine whether a violation of school speed zone requirements occurred and either uphold or dismiss the violation. The local hearing officer must issue a final administrative order including the determination and, if the notification of violation is upheld, require the petitioner to pay the penalty previously assessed, and may also require the petitioner to pay county or municipal costs not to exceed \$250 as established in law. The final administrative order must be mailed to the petitioner by first-class mail.
- An aggrieved party may, within 30 days of the date of the final administrative order, appeal to the circuit court. Such an appeal does not initiate a new hearing, but is limited to appellate review of the record created before the enforcement board.

The bill provides that the photographic or electronic images, the streaming video evidence, and the evidence of the speed of the vehicle as measured by a speed detection system attached to or referenced in the traffic citation are evidence of a violation of school speed zone requirements and are admissible in any proceeding to enforce school speed zone requirements. The bill further provides that the images or video and evidence of speed raise a rebuttable presumption that the motor vehicle named in the report or shown in the images or video was used in violation of school speed zone requirements.

The bill provides that a speed detection system is exempt from the design requirements for radar units established by the DHSMV. Instead, the bill requires a speed detection system to have the ability to perform self-tests as to its detection accuracy, which must be performed at least once every 30 days. The bill requires the law enforcement agency, or an agent acting on behalf of the law enforcement agency, that is operating a speed detection system to maintain a log of the results of the system’s self-tests, and to perform an independent calibration test on the speed detection system at least once every 12 months. The bill provides that the self-test logs, as well as the results of the annual calibration test, are admissible in any court proceeding for a traffic

citation issued for a violation of school speed zone requirements as detected by a speed detection system.

The hearing procedures and evidentiary measures included in the bill may assist in supporting the fair administration of the enforcement of school speed zone requirements by a speed detection system and a traffic infraction enforcement officer.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

SB 410 will generate an indeterminable amount of revenue for private companies that manufacture and install speed detection systems.⁴⁰

C. Government Sector Impact:

If a county or municipality elects to begin a speed detection system program the bill may have a positive fiscal impact on state government revenues by increasing enforcement of

⁴⁰ Florida Department of Education, *2022 Agency Bill Analysis of SB 410* (Oct. 13, 2021), at 4.

school speed zone limits resulting in more fines being remitted to the General Revenue Fund.

If a county or municipality elects to begin a speed detection system program the bill may have a positive fiscal impact on local governments by increasing enforcement of school speed zone limits resulting in more fines being remitted to the county or municipality and school district where the violation occurred.

Local government costs associated with using speed detection equipment in school zones may vary depending on the unique needs and circumstances in each county or municipality. Costs may be influenced by numerous factors, such as equipment choices, operational and administrative decisions made by the county or municipality, and contractual agreements with vendors.⁴¹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.003, 316.008, 316.0776, 316.1906, 318.18, 322.27, 316.306, 316.640, 316.650, 318.14, 318.21, and 655.960.

This bill creates section 316.1896 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.

⁴¹ Florida Department of Education, *2022 Agency Bill Analysis of SB 410* (Oct. 13, 2021), at 4.