

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 Judiciary

BILL: SB 702

INTRODUCER: Senator Burgess and others

SUBJECT: Photographic Enforcement of School Bus Safety

DATE: January 28, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Proctor</u>	<u>Vickers</u>	<u>TR</u>	Favorable
2.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Pre-meeting
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 702 authorizes a school district to contract with a private vendor or manufacturer to provide a side stop signal arm enforcement system on each school bus in its fleet. The system uses electronic traffic enforcement technology to record traffic violations when drivers fail to stop for a school bus displaying a stop signal.

A private vendor or manufacturer contracting with a school district must submit specific information regarding an alleged violation to any law enforcement agency authorized to enforce school bus stop arm violations. The information must be submitted within 30 days after the alleged violation is captured, including the following: a copy of the recorded image showing the motor vehicle; the license plate number and state of issuance; and the date, time, and place of the alleged violation.

The bill requires a law enforcement agency to review the information and determine if there is sufficient evidence that a violation occurred. If the evidence shows that a violation occurred, the agency or an authorized agent must electronically certify a notice of violation and, within 30 days, send a notice of violation by registered mail to the vehicle's registered owner. The notice must also include specific information detailing how to pay the civil penalty, contest the violation, and the consequence of failing to pay or contest. If the owner does not contest or pay the civil penalty, the Department of Highway Safety and Motor Vehicles (DHSMV) must prohibit the owner from renewing his or her registration or transferring the title of his or her vehicle.

Under the bill, any funds received from violations must be provided to the school district in which the violation occurred. The funds must be used to install or maintain side stop signal arm enforcement systems or for any other technology that increases the safety of the transportation of students.

The bill requires each school district using the system to provide an annual report to the Governor, President of the Senate, Speaker of the House of Representatives, and the DHSMV by December 31, 2022, and every year thereafter providing specified information.

The bill may have an indeterminate fiscal impact on school districts electing to install a school bus side stop signal arm enforcement system on its school buses. See Section V. Fiscal Impact Statement.

The bill has an effective date of July 1, 2022.

II. Present Situation:

School Buses and Traffic Laws

Law enforcement agencies are responsible for enforcing traffic laws, including school transportation related traffic violations. However, law enforcement officers are not always present along every school transportation route. Because law enforcement officers cannot feasibly monitor each bus on every route each day, many school transportation traffic violations may go unenforced.

In Florida, a school bus must stop as far to the right of the street as possible and display warning lights and stop signals before discharging or loading passengers.¹ When possible, school buses should not stop where visibility is obscured for a distance of 200 feet from the bus.²

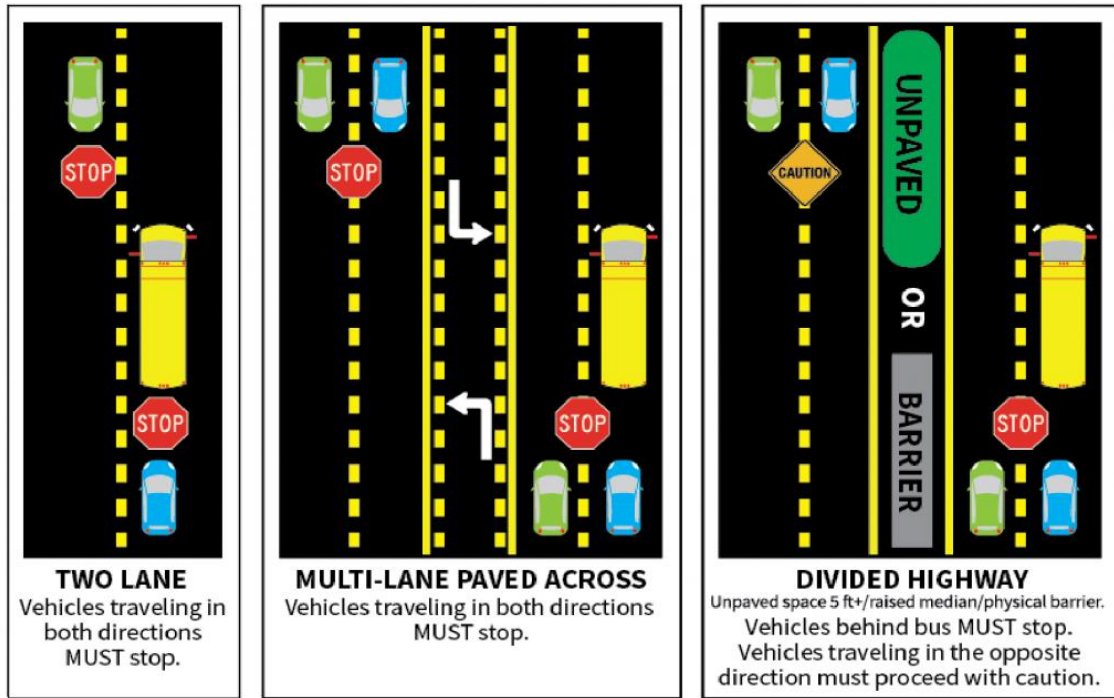
When approaching a stopped school bus displaying a stop signal, a driver must bring his or her vehicle to a full stop until the bus's signal is withdrawn.³ However, a driver is not required to stop if his or her vehicle is traveling in the opposite direction of a stopped school bus on a divided highway with an unpaved space of at least five feet, a raised median, or a physical barrier.⁴

¹ Section 316.172(3), F.S.

² *Id.*

³ Section 316.172(1)(a), F.S.

⁴ Section 316.172(2), F.S.



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A person cited for failing to stop for a school bus displaying a stop signal commits a moving traffic violation⁶ and is subject to a \$200 civil penalty.⁷ A person cited for a moving violation may either pay the civil penalty or request a hearing to contest the citation.⁸ A driver who passes a school bus on the side that children enter and exit while the school bus displays a stop signal also commits a moving violation; however, he or she is subject to a \$400 civil penalty⁹ and must attend a mandatory hearing at a specified time and location.¹⁰ A driver who illegally passes a stopped school bus and:

- Does not cause serious bodily injury or death to another, will receive four points on his or her driver license record.¹¹
- Causes serious bodily injury or death to another, will receive six points on his or her driver license record and must:¹²
 - Serve 120 community service hours in a trauma center or hospital that regularly receives victims of vehicle accidents;

⁵ Florida Department of Highway Safety and Motor Vehicles, *Child Safety: School Bus Safety*, <https://www.flhsmv.gov/safety-center/child-safety/school-bus-safety/> (last visited January 27, 2022).

⁶ A moving violation is a classification of a type of traffic citation. The most common moving violations include speeding, running a red light, and driving while intoxicated. However, some moving violations may not actually require the vehicle to be in motion, as the name infers.

⁷ In addition to this penalty, for a second or subsequent offense within a period of five years, the DHSMV shall suspend the driver license of the person for not less than 180 days and not more than one year. Section 318.18(5)(a), F.S.

⁸ Section 318.14, F.S.

⁹ In addition to this penalty, for a second or subsequent offense within a period of five years, the DHSMV shall suspend the driver license of the person for not less than 360 days and not more than two years. Section 318.18(5)(b), F.S.

¹⁰ Sections 316.172(1)(b) and 318.19(3), F.S.

¹¹ Section 322.27(3)(d)4.a., F.S.

¹² Section 322.27(3)(d)4.b., F.S.

- Participate in a victim's impact panel session; if such panel does not exist, the driver must attend a DHSMV approved driver improvement course relating to the rights of vulnerable road users relative to vehicles on the roadway;¹³ and
- Pay a \$1,500 fine and have his or her driver license suspended by DHSMV for at least one year.¹⁴

When a driver accumulates a certain number of points on his or her driving record within a certain time period, his or her license is suspended, as follows:

- 12 points in 12 months = 30 day suspension.
- 18 points in 18 months = 3 month suspension.
- 24 points in 36 months = 12 month suspension.¹⁵

Traffic Infraction Detectors

A traffic infraction detector is a vehicle sensor installed to work in conjunction with a traffic control signal and a camera or cameras synchronized to automatically record two or more sequenced photographs or electronic images or streaming video of only the rear of a motor vehicle at the time the vehicle fails to stop behind the stop bar or clearly marked stop line when facing a traffic control signal steady red light.¹⁶

In 2010, the Legislature authorized the DHSMV, counties, and municipalities to issue a traffic citation for a driver's failure to stop at a traffic control signal when such violation was identified by a traffic infraction detector.¹⁷ The state is responsible for regulating the use of such cameras.¹⁸

A municipality may install or authorize installation of traffic infraction detectors on streets and highways in accordance with the Florida Department of Transportation (FDOT) standards, and on state roads within the incorporated area when permitted by FDOT.¹⁹ A county may install or authorize installation of traffic infraction detectors on streets and highways in unincorporated areas of the county in accordance with FDOT standards, and on state roads in unincorporated areas of the county when permitted by the FDOT.²⁰ The DHSMV may install or authorize installation of traffic infraction detectors on any state road under the original jurisdiction of the FDOT, when permitted by the FDOT.²¹

If the DHSMV, a county, or a municipality installs a traffic infraction detector at an intersection, the respective governmental entity must install signage notifying the public that a traffic infraction device may be in use at that intersection, including specific notification of enforcement

¹³ Section 316.027(4)(b), F.S.

¹⁴ Section 318.18(5)(d), F.S.

¹⁵ Section 322.27(3), F.S.

¹⁶ Section 316.003(95), F.S.

¹⁷ *See generally* ss. 316.0083, and 316.0776, F.S.; Ch. 2010-80, Laws of Fla.; Any notification or traffic citation issued by using a traffic infraction detector must include a photograph or other recorded image showing both the license tag of the offending vehicle and the traffic control device being violated. Section 316.003(95), F.S.

¹⁸ Section 316.0076, F.S.

¹⁹ Sections 316.008(8) and 316.0776(1), F.S.

²⁰ *Id.*

²¹ Section 321.50, F.S.

of violations concerning right turns.²² Such signage must meet the specifications for uniform signals and devices adopted by the FDOT under to s. 316.0745, F.S.²³

Traffic Infraction Detector Litigation

In 2018, the Florida Supreme Court held that the review of red light camera images authorized by Florida law allows city's private third-party vendor, as its agent, to review and sort red light camera images to forward to a law enforcement officer when:

- The vendor's decisions are essentially ministerial and non-discretionary in that such decisions are strictly circumscribed by the contract language, guidelines promulgated by the city, and actual practices;
- Such ministerial decisions are additionally restricted by a broad policy that requires the vendor to automatically forward "close calls" to law enforcement for review;
- The law enforcement officer, not the vendor, makes the actual decision whether probable cause exists and whether a notice and citation should be issued; and
- The law enforcement officer's decision that probable cause exists and that the citation should be issued are supported by the responsible law enforcement officer's full, professional review which does not merely acquiesce to any decision by the vendor.²⁴

As such, s. 316.0083(1), F.S., authorizes a local government to contract with a third-party vendor to review and sort information and images from red light cameras before sending that information to a trained law enforcement officer. A law enforcement officer must then review the information and determine whether probable cause exists to issue a citation.

School Bus Stop Arm Traffic Citations

According to DHSMV, in fiscal year 2020-21, 2,051 traffic citations were issued for failing to stop for a school bus or passing a stopped school bus and 25 citations were issued for passing a school bus on the side children enter and exit.²⁵

The Department of Education (DOE) created a statewide survey for bus drivers to complete regarding the illegal passing of their school buses. The survey results from 2019 show that on a single day, 12,749 illegal passes were made based on the observations of 10,136 school bus drivers who completed the survey. Of these illegal passes, 526 were made on the right side of the bus where children generally enter and exit the vehicle, 11,316 were made on the left side, and for 907 instances, the side was unknown.²⁶

The National Highway Traffic Safety Administration indicates that from 2010 to 2019, 240 school-age children died in school-transportation-related crashes.²⁷ Half (50 percent) were

²² Section 316.0776(2), F.S.

²³ *Id.*

²⁴ *Jimenez v. State*, 246 So.3d 219 (Fla. 2018).

²⁵ E-mail from Kevin Jacobs, Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, (Jan. 13, 2022) (on file with the Senate Committee on Transportation and the Senate Committee on Judiciary).

²⁶ Florida Department of Education, *School Transportation, Illegal Passing of School Buses – Survey Results for 2019*, <http://www.fldoe.org/core/fileparse.php/18815/urlt/2019IllegalPassing.pdf> (last visited Jan. 27, 2022).

²⁷ National Highway Traffic Safety Administration, *2010-2019 Data: School Transportation-Related Crashes*, <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813209> (last visited Jan. 27, 2022).

struck by school buses or vehicles functioning as school buses, while the other half (50 percent) were struck by other vehicles involved in the crashes.²⁸

To increase student transportation safety, 23 states have school bus stop-arm camera laws.²⁹ These systems are typically equipped with multiple sensors and cameras affixed to a school bus. The sensor triggers a tag on the recording each time it senses a vehicle passing the stopped bus illegally.³⁰ When a vehicle illegally passes a stopped school bus, the sensor triggers two cameras to capture a high-definition digital video recording (DVR) from both directions. The cameras capture both oncoming traffic and vehicles passing the stopped bus on the driver side. The DVR recording is flagged as a violation and tags information for enforcement, including, but not limited to, the time, date, and location of the violation and images or film of the subject vehicle and license plate. The violation recordings captured are reviewed and processed by a third-party private manufacturer or vendor.³¹

Florida does not currently authorize the use of traffic infraction technology or school bus side stop signal arm enforcement systems to detect violations of school bus stop signals.

III. Effect of Proposed Changes:

The bill creates s. 316.616, F.S., which authorizes, but does not require, a school district to install and operate a side stop signal arm enforcement system. The system records violations when drivers fail to stop for a school bus displaying a stop signal.

Under the bill “school bus” means a school bus that is owned, leased, operated, or contracted by a school district.

A “side stop signal arm enforcement system” means a camera system affixed to a school bus with:

- Two or more camera sensors or computers that produce recorded video; and
- Two or more film or digital photographic still images that document a motor vehicle failing to stop for a school bus that displays a stop signal.

The bill provides that a school district may install and operate a side stop signal arm enforcement system on a school bus for the purpose of enforcing traffic to stop for a school bus under s. 316.172, F.S. The school district must post a warning sign or sticker on all school buses in which a system is installed and operational indicating the use of such system.

The school district may contract with a private vendor or manufacturer to provide a side stop signal arm enforcement system on each bus within its fleet, whether owned, contracted, or leased, and for services including, but not limited to, the installation, operation, and maintenance

²⁸ *Id.* at 2.

²⁹ National Conference of State Legislatures, *State School Bus Stop-Arm Camera Laws*, (July 13, 2021) <https://www.ncsl.org/research/transportation/state-school-bus-stop-arm-camera-laws.aspx> (last visited Jan. 27, 2022).

³⁰ Seon Automated Stop-Arm Camera Solution, <https://www.seon.com/school-bus-safety/school-bus-camera-systems/stop-arm-system> (last visited Jan. 27, 2022).

³¹ *Id.*

of the system. The school district's decision to establish a side stop signal arm enforcement system must be based solely on the need to increase public safety.

A school district must ensure that the side stop signal arm enforcement system meets specifications established by the State Board of Education and must be tested at regular intervals according to specifications prescribed by state board rule. The state board must establish such specifications by rule on or before December 31, 2022. However, any equipment acquired by purchase, lease, or other arrangement under an agreement entered into by a school district on or before July 1, 2023, or equipment used to enforce violations of s. 316.172, F.S., on or before July 1, 2023, is not required to meet the specifications established by the state board until July 1, 2023.

Enforcement Process

Each private manufacturer or vendor must, within 30 days after an alleged violation is captured, submit the following information to a law enforcement agency authorized to enforce violations of s. 316.172, F.S.:

- A copy of the recorded image showing the motor vehicle;
- The license plate number and state of issuance of the motor vehicle; and
- The date, time, and place of the alleged violation.

The bill requires a law enforcement agency that receives the required information from a private vendor to review the information and determine if there is sufficient evidence that a violation occurred. If the evidence shows that a violation occurred, the agency must electronically certify a notice of violation. Under the bill, a certificate of violation which is based on images produced by a bus stop enforcement system and sworn to by a law enforcement officer is considered prima facie evidence of the facts contained in it, and any image recorded by the system is admissible in any judicial or administrative proceeding to determine liability for the violation.

A rebuttable presumption will exist that the registered owner of the motor vehicle was the driver at the time of the alleged violation. The owner of the motor vehicle involved in a violation may admit responsibility for the violation and pay the fine as indicated on the notice of violation. Payment of the fine operates as a final disposition of the civil penalty.

Within 30 days after receiving information provided from a private manufacturer or vendor for an alleged violation, a law enforcement agency, or an agent authorized by such law enforcement agency must send by first-class mail a notice of violation to the registered owner of the motor vehicle involved in the violation. Mailing the notice of violation constitutes notification. In the case of joint ownership of a motor vehicle, the notice of violation will be mailed to the first name appearing on the registration. However, if the first name appearing on the registration is a business entity, the second name appearing on the registration may be used. The notice of violation must include all of the following:

- A copy of the recorded image showing the motor vehicle involved in the violation.
- A citation for the violation indicating the date, time, and location of the alleged violation.
- The amount of the civil penalty and the date by which such penalty must be paid.
- A copy of the law enforcement certificate and a statement of the inference therein.
- Instructions on how to request a hearing to contest liability or notice.

- A warning that failure to pay the civil penalty or to contest liability within 30 days after the notice is mailed shall waive the right to contest liability.

The registered owner of a motor vehicle who is found in violation of s. 316.172, F.S., by a side stop signal arm enforcement system is subject to a civil penalty of either \$200 for passing a school bus while the school bus displays a stop signal, or \$400 for passing a school bus on the side that children enter and exit while the school bus displays a stop signal. The fine must be paid to the school district in which the violation occurred and must be used for the installation or maintenance of side stop signal arm enforcement systems on school buses or for any other technology that increases the safety of the transportation of students.

The bill provides that a violation issued is not a moving violation, does not add points to a person's license, and is not part of a person's driving record. The violation may not be used for any purpose relating to motor vehicle insurance.

If a violation has not been contested and the civil penalty has not been paid within 30 days after a notice is mailed, the law enforcement agency or an agent authorized by the law enforcement agency must send by first-class mail a final notice of the unpaid civil penalty. The final notice must inform the owner that the law enforcement agency or the agent authorized by the law enforcement agency will send a referral to the DHSMV if the civil penalty is not paid within 30 days after the final notice was mailed. The referral will result in the nonrenewal of the registration of the vehicle and prohibit the title transfer of the vehicle within this state. A referral sent to the DHSMV must include all of the following:

- Any information known or available to the law enforcement agency or an authorized agent concerning the motor vehicle's license plate number and year of registration and the name of the registered owner of the motor vehicle.
- The date on which the violation occurred.
- The dates on which the required notice and final notice were mailed.
- The seal, logo, emblem, or electronic seal of the law enforcement agency.

Within five days after receipt of a referral the DHSMV must enter the referral into the DHSMV's motor vehicle database and must refuse to renew the registration of the vehicle and prohibit the title transfer of the vehicle within this state until the civil penalty is paid. The DHSMV must send the registered owner of the motor vehicle by first-class mail a notice stating:

- That the registration of the motor vehicle involved in the violation cannot be renewed within this state.
- That the title of the motor vehicle involved in the violation cannot be transferred within this state.
- That the penalties are being imposed due to failure to pay the civil penalty for a violation of s. 316.172, F.S.
- The procedure for removing the penalties.

The DHSMV must remove the penalties imposed when the registered owner of the motor vehicle or any other person presents the DHSMV with adequate proof that the civil penalty has been paid.

Side Stop Signal Arm Enforcement System Operation

The bill provides that notwithstanding any other law, equipment deployed as part of a side stop signal arm enforcement system must be incapable of automated or user-controlled remote surveillance by means of recorded video or still images. The bill requires the use of technology ensuring that the recordings or images captured by the system do not identify the driver, any passenger, or the contents of the vehicle. However, a violation may not be dismissed because the video or still images allow for the identification of the driver, any passenger, or the contents of a motor vehicle as long as a reasonable effort has been made to comply with the prohibition.

The bill provides that:

- All recordings and images captured must be destroyed within 90 days after the final disposition of the recorded event.
- The vendor of a side stop signal arm enforcement system must provide the school district with written notice by December 31 of each year that such records have been destroyed.
- Notwithstanding any other law, registered motor vehicle owner information obtained as a result of the operation of a side stop signal arm enforcement system is not the property of the manufacturer or vendor of the system and may be used only for the purposes of this section.
- The owner of a motor vehicle is not responsible for a violation if the vehicle involved was reported to a state or local law enforcement agency as stolen at the time the violation occurred.

State Board of Education and School District Responsibilities

The bill amends s. 1006.21, F.S., to provide that district school boards, after considering recommendations of the district school superintendent may install and operate, or enter into an agreement with a private vendor or manufacturer to provide, a side stop signal arm enforcement system for each school bus.

The State Board of Education may adopt rules to address student privacy concerns that may arise from the use of a side stop signal arm enforcement system.

By December 31, 2022, and annually thereafter, a school district operating a side stop signal arm enforcement system must provide a summary report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the DHSMV regarding the use and operation of the system under this section, including the number of citations issued and the amount of funds collected for the preceding state fiscal year.

The bill provides an effective date of July 1, 2022.

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 identified

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

SB 702 authorizes school districts to contract with a private vendor or manufacturer to provide a side stop signal arm enforcement system on each bus within its fleet, whether owned, contracted, or leased, and for services including, but not limited to, the installation, operation, and maintenance of the system. As such, the bill will have a positive fiscal impact on private vendors providing enforcement system installation, operation, and maintenance.

Registered motor vehicle owners may be negatively impacted by any financial penalties imposed by the bill if their vehicle is identified by a side stop signal arm enforcement system to have not stopped for a school bus when required, even if the registered owner was not the driver of the motor vehicle at the time the event occurred, due to the fact the bill requires that to the extent practicable, a side stop signal arm enforcement system must use necessary technology to ensure that recorded video or still images produced by the system do not identify the driver, any passenger, or the contents of a motor vehicle.

C. Government Sector Impact:

Participating school districts may incur costs associated with installing a side stop signal arm enforcement system on its school buses.

The fiscal impact on school districts may be reduced as they receive funds from penalties imposed for school bus stop arm violations captured by an enforcement system. The penalties must be paid to the school district in which the violation occurred and must be used for the installation or maintenance of side stop signal arm enforcement systems on

school buses or for any other technology that increases the safety of the transportation of students.

It costs the DHSMV approximately \$0.43 to mail a first-class letter.³² The mailing of a notification that a title and registration stop has been placed on a motor vehicle may have an indeterminate negative fiscal impact on the DHSMV.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The DHSMV provided the following comments:

- The inability of a vehicle owner to transfer his or her title will affect insurance companies paying total loss claims if a vehicle is declared a total loss and impact licensed automobile dealers that accept the motor vehicle in trade and cannot negotiate the title. It will also affect tow companies that tow a vehicle from a crash scene at the request of law enforcement. If the owner does not pay the tow company, they will be unable to recoup their costs by selling the vehicle. For these reasons, the DHSMV suggests that consideration be given to eliminating the requirement to place a stop on the title, or alternatively, limiting the title stop to a period of 180 days.
- Due to the high volume of registration renewal stop transactions received by the DHSMV each year, the DHSMV requests the ability to prescribe an electronic manner in which the stops are received and removed. The DHSMV has an existing electronic stop process established with various municipalities, law enforcement agencies, and toll authorities for electronically placing and removing registration stops related to parking, toll, and red-light camera offenses, which could also be used for these violations.
- It costs the DHSMV approximately \$0.43 to mail a first-class letter. As the citation will not impact a driving record, the DHSMV suggests that the law enforcement agency or agent authorized by the law enforcement agency send the notification to the owner informing them that a title and registration stop has been placed on the vehicle. Alternatively, the DHSMV suggests that the bill be amended to remove the requirement for this notification. This notification is not required when other title and registration stops are placed on a motor vehicle.
- To have the registration and title stops removed, the bill as written requires the registered owner or any other person to provide proof the civil penalty has been paid. Since the registration and title stops are being placed by the law enforcement agency or an agent authorized by law enforcement, it is recommended that the entity placing the stops be required to also notify the DHSMV to remove the stops once the penalty has been paid. The DHSMV also requests the ability to prescribe an electronic manner in which the stops are received and removed. In addition, the DHSMV also recommends that the bill be amended to remove an owner's ability to clear stops by providing proof of payment; this will eliminate the possibility of the submission of fraudulent documentation by an owner.

³² Department of Highway Safety and Motor Vehicles, *Senate Bill 702 Agency Analysis* (Dec. 1, 2021), p. 7 <http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=32972>.

- The DHSMV recommends that the effective date of the bill be changed to October 1, 2022, to allow time for the DHSMV and stakeholders to implement the necessary technology changes.
- The bill requires the manufacturer or vendor to submit evidence of violation to “a law enforcement agency authorized to enforce violations” rather than directing the school district to enter into an agreement with specific law enforcement agencies that have jurisdiction with the district. This could cause potential confusion and duplication of effort if multiple agencies sharing jurisdiction receive evidence of violations from the same school district. The DHSMV recommends amending this language to reference a specific law enforcement agency (i.e., sheriff of the county, FHP, etc.).³³

VIII. Statutes Affected:

This bill substantially amends section 1006.21 of the Florida Statutes.

This bill creates section 316.616 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.

³³ *Ibid*, pp. 6-8.