

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 Transportation

BILL: SB 588

INTRODUCER: Senator Rodriguez

SUBJECT: Enforcement of School Zone Speed Limits

DATE: March 13, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Vickers	TR	Pre-meeting
2.			ATD	
3.			FP	

I. Summary:

SB 588 authorizes a local government to place or install an automated speed detection system on a street or highway under its jurisdiction or a state road if permitted by the Florida Department of Transportation (FDOT) to be used solely to enforce speed limits in school zones. Such placement or installation must be in accordance with specification developed by FDOT, which must be established by August 1, 2023.

Under the bill, a local government may appoint local traffic infraction enforcement officers to issue citations to persons detected as exceeding the speed limit by at least 10 miles per hour over the speed limit in force at the time in an area designated as a school zone. Specifically, a county or municipality may enforce speed limits in school zones within 30 minutes before, during the entirety of, and within 30 minutes after school.

In order to use a speed detection system to enforce speed limits in school zones, the bill requires:

- The speed detection system to be permitted, placed, and installed in accordance with regulations developed by FDOT;
- The local government to notify the public of the speed detection system through a 30-day public awareness campaign; and
- The speed detection system to perform self-tests to detect accuracy at least every 30 days, and law enforcement to perform calibration tests of the system at least every 12 months.

The bill authorizes a traffic infraction enforcement officer employed by a sheriff's department or municipal police department to issue a fine or a traffic citation for unlawful speeds in school zones as detected by a speed detection system. The initial fine for a violation enforced by a speed detection system is \$100, which is less than the speeding fines incurred if a law enforcement officer enforced the same offense in a school zone.

The bill authorizes a notice of violation to be mailed to the registered owner of the motor vehicle alleged to be in violation of unlawful speed in a school zone enforced by a speed detection system within 30 days following the violation, and include information regarding the right to pay a \$100 fine, review the evidence, request a hearing, or submit an affidavit submitting a defense to the 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. These provisions are similar to those in current law for the use of traffic infraction detectors (red-light cameras).

The bill may have an indeterminate fiscal impact. Local governments that choose to implement speed detection systems may incur costs to implement the systems. Additionally, the FDOT, the Department of Highway Safety and Motor Vehicles, the Department of Revenue, and the Clerks of Court may incur costs associated with updates required by the bill. However, collection of fines will positively impact general revenue, state trust funds, public school districts and local governments, and may offset costs incurred by the state and local governments.

The bill takes effect July 1, 2023.

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 jurisdictions. This authority includes establishing speed limits and regulating traffic by means of police officers or official traffic control devices.²

Traffic Infraction Enforcement Officers

The DHSMV, a county, or a municipality are authorized to employ or designate traffic infraction enforcement officers. A traffic infraction enforcement officer must successfully complete instruction in traffic enforcement procedures and court presentation through the Selective Traffic Enforcement Program as approved by the Division of Criminal Justice Standards and Training of the Department of Law Enforcement, or through a similar program, but may not necessarily otherwise meet the uniform minimum standards established by the Criminal Justice Standards and Training Commission for law enforcement officers or auxiliary law enforcement officers.³

¹ Section 316.640(1)(a), F.S.

² Section 316.008(1), F.S.

³ Section 316.640(1)(b)3. and (5), F.S.

A DHSMV traffic infraction enforcement officer may issue traffic citations to persons who violate properly placed official traffic control devices or who do not stop at steady red lights.⁴ A sheriff's department or a municipal police department traffic infraction enforcement officer is authorized to issue traffic citations for noncriminal traffic infractions, or parking infractions, that he or she observes as well as issue traffic citations to persons who violate properly placed official traffic control devices or who do not stop at steady red lights.⁵

Speed-Measuring Devices

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), F.S.
- 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

Whenever any peace officer engaged in the enforcement of the motor vehicle laws uses any device to determine the speed of a motor vehicle on a public road, the device must be approved by the DHSMV and must have been tested to determine that it is operating accurately. Tests for this purpose must be made at least once each six 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

School Zones

The Manual for Uniform Traffic Control Devices (MUTCD) defines a school zone as “a designated roadway segment approaching, adjacent to, and beyond school buildings or grounds, or along which school related activities occur.”¹⁰ The location of a school zone is determined

⁴ Section 316.640(1)(b)3., F.S., authorizing enforcement of s. 316.0083, F.S.

⁵ Section 316.640(1)(b)3., F.S., authorizing enforcement of ss. 318.14 and 316.0083, 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, and 2.014, F.A.C.

⁸ Section 316.1905(1), F.S.

⁹ Section 316.1905(2), F.S.

¹⁰ U.S. Department of Transportation, Federal Highway Administration, Manual for Uniform Traffic Control Devices (MUTCD), Section 1A.13(03)(185) (2009 ed.).

based on an engineering study that assesses where the need for reduced speed limits are necessary. School zones may be established at other locations when justified by an engineering study, but they cannot be applied in a blanket manner for all roads within a school's area.¹¹ FDOT advises, "School zones should be kept as short as practical and should not necessarily extend along the entire highway frontage of the school property."¹²

The FDOT is required to maintain school zones located on state roads, though it can enter into agreements with counties or municipalities for those local governmental entities to maintain the zones.¹³ 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.¹⁴

School Zone Speed Limits

Because a school zone is established based on the need for reduced speed limits due to children arriving at and leaving school, a reduced speed limit may be established in a school zone. For posted speeds of 35 mph or greater, a school zone speed limit of 20 mph must be used, and for posted speeds of less than 35 mph, a 15 mph school zone speed limit must be used, except if a local regulation allows for a lesser speed.¹⁵

A restricted school zone speed limit 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.¹⁶

School Speed Zone Signage

Pedestrian safety depends upon public understanding of accepted methods for efficient traffic control, and the uniform approach to school area traffic controls ensures that pedestrians, bicyclists, and other vehicles in the vicinity of schools will understand how to move safely in school areas. "Procedures and devices that are not uniform might cause confusion among pedestrians and other road users, prompt wrong decisions, and contribute to crashes."¹⁷

School area signs advise drivers of school zones and school crossings to help provide students with a safe zone when they cross the road to and from school. The school zone area beginning and end must be clearly designated on the road surface as required by the FDOT and identified by specific 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

¹¹ FDOT, *Speed Zoning for Highways, Roads, and Streets In Florida, Chapter 15. Establishing School Zones and School Crossings*, p. 38 (August 2018), available at https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/traffic/speedzone/2019-01-28_speed-zoning-manual_august-2018.pdf?sfvrsn=ac20bad7_0 (last visited March 9, 2023).

¹² *Id* at 15.4.2(15) p. 52-53.

¹³ Section 316.1895(3)(a) and (2), F.S. Upon request from the appropriate local government, the FDOT must install and maintain school zones on state roads for all prekindergarten early-intervention schools that receive federal funding through the Headstart program.

¹⁴ Section 316.1895(3)(b) and (c), F.S.

¹⁵ *Supra* note 12, FDOT at 15.4.2(3) p. 47.

¹⁶ Section 316.1895(5), F.S.

¹⁷ MUTCD, Chapter 7A (2009 ed.).

enforced clearly designated on them.¹⁸ Alternative to posting the times during which a restrictive speed limit is enforced, flashing beacons may be used indicating the restricted speed limit is being enforced.¹⁹ Depending on the posted speed of the road, advance warning signs for a school zone must be posed between 100 and 225 feet from the beginning of the school zone.²⁰

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 on the same pole as the flashing beacon assembly.²¹ The MUTCD requires the postage of signage where increased fines are imposed for traffic violations within a designated school zone as a supplement to the school zone sign to identify the beginning point of the higher fines zone.²²

School Zone Speeding Penalties

A person may not drive a vehicle in a school zone at a speed greater than that posted in the school zone.²³ A violation of the speed limits established under s. 316.1895, F.S., is cited as a moving violation, publishable as provided in ch. 318, F.S.

A person exceeding the legally posted 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 following statutory fines are enforced when exceeding the legally posted speed limit in a school zone:²⁴

MPH Over the Legally Posted Speed Limit	Fine
1-9 mph	\$50
10-14 mph	\$200
15-19 mph	\$300
20-29 mph	\$350
30 mph or more	\$500

Points assessed against the driver license of a person found speeding in a school zone are the same as those for violating regular speed limits.²⁵

Traffic Infraction Detectors

Traffic infraction detectors, commonly referred to as red-light cameras, may be used to enforce laws requiring drivers to stop at traffic signals.²⁶ A traffic infraction detector is a vehicle sensor installed to work in conjunction with a traffic control signal and a camera or cameras

¹⁸ Section 316.1895(6), F.S. and FDOT, *supra* note 12 at 15.5 p. 59.

¹⁹ *Id.*

²⁰ FDOT, *supra* note 12 at 15.4.2, p. 55-58.

²¹ Section 316.1895(6), F.S.

²² MUTCD, Chapter 7B.10 (2009 ed.).

²³ Section 316.1895(10), F.S.

²⁴ Section 318.18(3)(b) and (c), F.S.

²⁵ See s. 322.27(3)(d)5., F.S. and DHSMV, *Points and Point Suspensions*, <https://www.flhsmv.gov/driver-licenses-id-cards/driver-license-suspensions-revocations/points-point-suspensions/> (last visited March 10, 2023).

²⁶ See s. 316.008(8), F.S.

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.²⁷ Regulation of the use of cameras to enforce provisions of the Florida Uniform Traffic Control Law²⁸ is expressly preempted to the state.²⁹

Counties and municipalities may install or authorize installation of traffic infraction detectors on streets and highways under its jurisdiction in accordance with FDOT standards.³⁰ Furthermore, a county may install or authorize installation of such devices within unincorporated areas of the county.³¹ 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.³²

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 of violations concerning right turns.³³ Such signage must meet the specifications for uniform signals and devices adopted by the FDOT under s. 316.0745, F.S.³⁴

If the governmental entity has never used a traffic infraction detector program, it 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.³⁵ A county or municipality that operates a traffic infraction detector must also report annually in October to the DHSMV on statistical data of usage of the detector and procedures for enforcement. The DHSMV compiles these reports annually for submittal to the Governor and the Legislature.³⁶

Failure to Stop at a Traffic Signal and Traffic Infraction Detectors

If a traffic infraction detector identifies a vehicle disobeying a properly placed official traffic control device or red light, the visual information is captured and reviewed by either a traffic infraction enforcement officer or an authorized employee or agent of the enforcing entity before issuance of the traffic citation by the traffic infraction enforcement officer.³⁷

A notification must be sent to the registered owner³⁸ 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 which shows both the license tag of the vehicle and the traffic control device being

²⁷ Section 316.003(98), F.S.

²⁸ Chapter 316, F.S.

²⁹ Section 316.0076, F.S.

³⁰ Sections 316.008(8) and 316.0776(1), F.S.

³¹ *Id.*

³² Section 321.50, F.S.

³³ Section 316.0776(2), F.S.

³⁴ *Ibid.*

³⁵ Section 316.0776(2), F.S.

³⁶ Section 316.0083(4), F.S.

³⁷ Section 316.0083(1)(a), F.S.

³⁸ 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.

violated, 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.³⁹

In order to avoid court fees, costs, and the issuance of a traffic citation, the law requires a person who receives a notification of violation to, within 60 days after the notification, either:

- Pay to the DHSMV, county, or municipality the penalty of \$158.
- Furnish an affidavit and supporting documentation establishing defenses discussed below.
- Request a hearing.

A person may not receive a commission or per-ticket fee for any revenue collected from violations detected through use of traffic infraction detectors and a manufacturer or vendor may also not receive a fee or remuneration based on the number of violations detected through use of the detector.⁴⁰

No points may be imposed against a person's driver license for violating an official traffic control signal device when enforced by a traffic infraction enforcement officer. Additionally, the violation may not be used for purposes of setting motor vehicle insurance rates.⁴¹

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. 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.⁴² If a person requests a hearing and the violation is upheld, then the local hearing officer may also order the payment of county or municipal costs, not to exceed \$250.⁴³

Issuance of a Uniform Traffic Citation

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.⁴⁴ 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.⁴⁵ 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.⁴⁶

³⁹ Sections 316.003(98) and 316.0083(1)(b), F.S.

⁴⁰ Sections 316.0083(1)(b)4. and 318.18(15)(d), F.S.

⁴¹ Section 322.27(3)(d)6., F.S.

⁴² Section 316.0083(1)(b)1.c., F.S.

⁴³ Section 318.18(22), F.S.

⁴⁴ Section 316.0083(1)(c), F.S.

⁴⁵ Section 316.0083(1)(e), F.S.

⁴⁶ Section 316.650(3)(c), F.S.

Defenses

The registered owner of the motor vehicle is responsible for payment of the fine unless the owner can establish that:⁴⁷

- The vehicle passed through the intersection to yield the right-of-way to an emergency vehicle or as part of a funeral procession;
- The vehicle passed through the intersection at the direction of a law enforcement officer;
- The vehicle was, at the time of the violation, in the care, custody, or control of another person; or
- The driver at the time 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.⁴⁸

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 the serial number 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 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 further proceeding regarding that person's alleged violation.⁴⁹ Submission of a false affidavit is a second degree misdemeanor.⁵⁰

If a vehicle is leased, the owner of the leased vehicle is neither responsible for paying the citation nor required to submit an affidavit if the motor vehicle is registered in the name of the lessee.⁵¹ Upon receipt of the affidavit and documentation of one of the above defenses, the governmental entity must dismiss the citation and provide proof of such dismissal to the person. 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.⁵²

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;

⁴⁷ Section 316.0083(d)(1)1., F.S.

⁴⁸ Section 316.0083(1)(d)1.e., F.S.

⁴⁹ Section 316.0083(1)(d)2., F.S.

⁵⁰ Section 316.0083(1)(d)5., F.S.

⁵¹ Section 316.0083(d)3., F.S.

⁵² Sections 316.0083(d)2. and 318.18(15)(c), F.S.

- 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.⁵³

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.

III. Effect of Proposed Changes:

The bill authorizes local governments to use speed detection systems to enforce speed limits within school zones during specified times.

Speed Detection Systems

The bill amends s. 316.0776, F.S., to authorize a county or municipality to place or install a speed detection system on a state road if permitted by the FDOT or on a street or highway under the local government's jurisdiction. The system 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, 2023.

The bill amends s. 316.003, F.S., to define "speed detection system" as:

A portable or fixed automated system used to record a vehicle's speed using radar and to capture a photograph or video of the rear of a vehicle that exceeds the speed limit in force at the time of violation.

The authority that installs a speed detection system is required to notify the public using uniform signage and devices adopted by the FDOT. Authorities that have never used a speed detection system program previously must make a public announcement and conduct a public awareness campaign on the proposed use of speed detection systems at least 30 days before commencing the enforcement program. During the 30-day public awareness campaign, the owner of a vehicle that is found to violate the speed limit in a school zone shall only be issued a warning and is not liable for any fines.

Speed Detection Systems Design Requirements

The bill amends s. 316.1906, F.S., to exempt a speed detection system 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:

⁵³ *Jimenez v. State*, 246 So.3d 219 (Fla. 2018).

- Maintain a log of the results of the system's self-tests; and
- Perform and log an independent calibration test on the speed detection system at least once every 12 months.

Traffic Infraction Enforcement Officers and Speed Detection Systems

The bill amends s. 316.1906, F.S., to modify the requirements related to evidence of speed of a vehicle as measured by a radar speed-measuring device. The bill authorizes evidence of a vehicle's speed as measured by a speed detection system and the determination by a traffic infraction enforcement officer that a vehicle is operating in excess of the applicable speed limit are admissible in court proceedings for a traffic citation issued for unlawful speed enforced by a speed detection system.

School Zones and Speed Detection Systems

The bill amends s. 316.008, F.S., to authorize a county or municipality to enforce speed limits in areas designated as school zones beginning 30 minutes before a regularly scheduled breakfast program or school session, during the day, and ending 30 minutes after the school session ends 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.

A local government may place or install, or contract with a vendor to install, a speed detection system within a school zone to enforce speed limits in areas designated as school zones.

The bill creates s. 316.1896, F.S., which specifies that speed detection systems supplement the enforcement of speed limits and do not prohibit law enforcement officers from issuing citations for violations of speed limits in areas designated as school zones.

School Zone Signage

Under the bill, in s. 316.008, F.S., compliance with the legal requirements for establishing, installing, maintaining, and providing notice of a school zone and school speed zone under current law 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 area must maintain such signage as required by the FDOT. For use of speed detection systems in school speed zones, the bill amends s. 316.0776, F.S., also to provide that the sign for notification that speeding fines are doubled in the zone is not required to enforce speed violations in the zone using a speed detection system.

Unlawful Speed in Areas Maintained as School Zones

The bill creates s. 316.1896, F.S., to provide for enforcement of speed limits in school zones through the use of a speed detection system. If a speed detection system identifies a vehicle speeding, the visual information is captured and reviewed by either a traffic infraction enforcement officer of a sheriff's department or municipal police department or an authorized employee or agent of the enforcing entity before issuance of the traffic citation by the traffic infraction enforcement officer. Citations, for violations evidenced by a speed detection system,

may be issued when a person violates the speed limit in force in excess of 10 miles per hour over, for:

- A violation of s. 316.1895, F.S., of the restrictive speed limit in a school zone in place 30 minutes before and after the start of a regularly scheduled breakfast program or school session and in place 30 minutes before and after the end of a regularly scheduled school session; and
- A violation of s. 316.183, F.S., of the regular posted speed limit during the entirety of the regularly scheduled school session.

A notice of violation must be sent to the registered owner of the vehicle by first-class mail within 30 days of the alleged violation. As with the use of traffic infraction detectors, the notice must be accompanied by a photograph or other recorded image of the violation that shows both the license tag of the vehicle, the location and time, the vehicle’s speed, and the posted speed at the time of the violation. The notice also must include 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.

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 county or municipality the penalty of \$100;
- Furnish an affidavit and supporting documentation establishing defenses discussed below; or
- Request a hearing.

Penalties

The bill amends s. 318.18, F.S., to provide that a person cited for exceeding the speed limit in a school zone when enforced by a traffic infraction enforcement officer using evidence from a speed detection device must pay a fine of \$100. The bill provides, in created s. 316.1896, F.S., that funds collected for such violations are distributed as follows:

Distribution of Fines	
County or Municipality Where Violation Occurred	\$60
General Revenue Fund	\$20
Public School District Where Violation Occurred	\$12
Crossing Guard Recruitment and Retention Program ⁵⁴	\$5
Department of Law Enforcement Criminal Justice Standards and Training Trust Fund ⁵⁵	\$3

Funds retained by the county or municipality must be used to administer speed detection systems in school zones or other public safety initiatives. Funds distributed to the public school district where the violation occurred must be used for school security initiatives, to improve the safety of

⁵⁴ Created in s. 316.1894, F.S. (Section 4 of the bill).

⁵⁵ See s. 943.25, F.S.

student walking conditions, or for student transportation; these funds 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 to be used for the same purposes.

Similar to violations of law found through use of traffic infraction detectors, the bill amends s. 322.27, F.S., to provide that no points may be imposed against a person’s driver license for speeding violations evidenced by speed detection systems and the violation may not be used for purposes of setting motor vehicle insurance rates.

This bill allows for the application of different fines for speeding in an area marked as a school zone depending on whether enforced in person by a law enforcement officer or by a traffic infraction enforcement officer through use of a speed detection system.

MPH Over the Legally Posted Speed Limit	Current Law		Under the Bill as Evidenced by a Speed Detection System	
	Fine – Regular Posted Speed Limit	Fine – School Zone Speed Limit	Fine – Regular Posted Speed Limit	Fine – School Zone Speed Limit
10-14 mph	\$100	\$200	\$100	\$100
15-19 mph	\$150	\$300	\$100	\$100
20-29 mph	\$175	\$350	\$100	\$100
30 mph or more	\$250	\$500	\$100	\$100

Defense

The bill creates similar defenses to the traffic citation evidenced by a speed detection system as under current law for a traffic citation issued through use of a traffic infraction detector. The registered owner of the motor vehicle is responsible for payment of the fine unless the owner can establish that:⁵⁶

- The vehicle was, at the time of the violation, in the care, custody, or control of another person; or
- The driver at the time received a uniform traffic citation issued by a law enforcement officer for the alleged violation.

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

⁵⁶ Section 316.0083(d)(1)1., F.S.

- Documented proof that the registered license plate belonging to the deceased owner's vehicle was returned to the DHSMV or any branch office or authorized agent of the DHSMV 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.

Similar to defenses of traffic citations issued through use of a traffic infraction detector, the bill requires that in order 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 the serial number 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 license number of the driver. A notice of violation may be issued to this person, and the affidavit from the registered owner may be used as evidence in a further proceeding regarding that person's alleged violation. If a vehicle is leased, the owner of the leased vehicle is neither responsible for paying the citation nor required to submit an affidavit if the motor vehicle is registered in the name of the lessee.

The bill creates a second degree misdemeanor for submission of a false affidavit.⁵⁷

Upon receipt of the affidavit and documentation of one of the above defenses, the governmental entity must dismiss the citation and provide proof of such dismissal to the person.

Request for Hearing and Hearing Procedures

The hearing provisions created by the bill are similar to the hearing provisions in current law for traffic citations issued through use of a traffic infraction detector. 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 in s. 316.0083(5), F.S.

Notwithstanding any other law, a person who receives a notice of violation may request a hearing within *30 days* following such notification or pay the \$100 penalty pursuant to the notice. 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.

The bill provides that 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 zone speed limits 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.

⁵⁷ Punishable by a term of imprisonment not to exceed 60 days and a fine of up to \$500. Sections 775.082 and 775.083, F.S.

The bill amends s. 316.1906, F.S., to allow the self-test logs, as well as the results of the annual calibration test, of speed detection systems to be admitted in any court proceeding for a traffic citation issued for a violation of speed limits in a school zone as detected by a speed detection system. Evidence of measured speed by a speed detection system and the determination by the traffic enforcement officer of the vehicle's operation over the speed limit are admissible in any proceeding related to speeding violations.

Issuance of Uniform Traffic Citation

Under the bill, if the registered owner of the vehicle does not submit payment or otherwise contest the notice of violation within 30 days of being notified, then a uniform traffic citation must be sent to the registered owner. 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 unlawful speeding in areas designated as school zones 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 amends s. 316.650, F.S., to provide 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.

School Crossing Guard Recruitment and Retention Programs

The bill creates s. 316.1894, F.S., to require the law enforcement agency of a local government using the speed detection system program created by this bill to use a portion of funds generated from the program for a School Crossing Guard Recruitment and Retention Program. The law enforcement agency has discretion to design and manage crossing guard recruitment and retention programs within its jurisdiction. The bill specifies these programs may provide recruitment and retention stipends to crossing guards at public schools, including charter schools, or stipends to third parties for the recruitment of new crossing guards.

Effective Date

The bill takes effect July 1, 2023.

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:

The bill may generate an indeterminable amount of revenue for companies that manufacture and install speed detection systems.

Individuals speeding in areas designated as school zones may be subject to fines if found in violation by a traffic infraction enforcement officer reviewing the evidence of the speed detection system. Individuals that submit false affidavits defending the imposition of a traffic infraction may be subject to jail time and fines if found guilty of a second degree misdemeanor.

A portion of funds generated from such fines is provided for school crossing guard recruitment and retention programs, which may include stipends for crossing guards or stipends to third parties for the recruitment of new crossing guards.

C. Government Sector Impact:

The bill will have an indeterminate impact on state and local government.

The Department of Revenue and the clerks of court will need to update their systems in order to account for this new fine. The DHSMV will have to update the Uniform Traffic

Citation template as well as create a new violation code for UTC reporting. The FDOT is required to establish placement and installation specifications.

Local governments that elect to implement a speed detection system program and the state government may experience a positive fiscal impact on revenues related to increased enforcement of unlawful speed in school zones. Collection of fines benefit the General Revenue Fund, the Department of Law Enforcement Criminal Justice Standards and Training Trust Fund, public school districts, and local governments.

Fines may offset any costs the local government incurs to implement the system, as the portion of fines retained by the counties and municipalities must be used to administer speed detection systems in school zones or other public safety initiatives. Funds distributed to the public school district where the violation occurred must be used for school security initiatives, to improve the safety of student walking conditions, or for student transportation; these funds 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 to be used for the same purposes.

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.⁵⁸ Local governments will also incur costs to mail notices of violations and issue traffic citations (first-class mail and certified mail, respectively).

VI. Technical Deficiencies:

Several cross-references within the newly created s. 316.1896, F.S. appear to be incorrect.

VII. Related Issues:

Lines 171-175 of the bill provide:

During the 30-day public awareness campaign about the speed detection system program, only a warning may be issued to the registered owner for a violation of s. 316.183 or s. 316.1895, and liability may not be imposed for the civil penalty under s. 318.18(3)(d).

Staff recommends this language is amended to clarify that only a warning may be issued during this timeframe for violations captured by a speed detection system, and it does not prohibit law enforcement from issuing a citation for unlawful speed in a school zone as currently authorized by law.

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.

⁵⁸ See Department of Education, 2022 Agency Legislative Bill Analysis, SB 410, (October 13, 2021) p. 4.

This bill creates the following sections of the Florida Statutes: 316.1894 and 316.1896.

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.
