

1 A bill to be entitled
 2 An act relating to the state judicial system; amending s.
 3 318.14, F.S.; eliminating a percentage reduction in
 4 penalties for noncriminal traffic infractions provided for
 5 attending a basic driver improvement course; providing for
 6 the distribution of a specified portion of penalty
 7 revenues; amending s. 318.15, F.S.; conforming a provision
 8 to the elimination of the percentage deduction in s.
 9 318.14, F.S.; amending s. 318.18, F.S.; increasing certain
 10 fines for speeding; creating an assessment to be paid for
 11 noncriminal moving and nonmoving traffic infractions;
 12 providing for distribution of the assessment; amending s.
 13 318.21, F.S.; providing for the distribution of funds from
 14 certain penalties for traffic infractions; amending s.
 15 775.03, F.S.; providing for distribution of fines for
 16 certain violations; defining the terms "convicted" and
 17 "conviction" for purposes of liability for payment of
 18 criminal and noncriminal fines; amending s. 948.01, F.S.;
 19 providing that the imposition of probation in certain
 20 nonfelony cases is discretionary rather than mandatory;
 21 authorizing the court to impose a fine without placing a
 22 nonfelony offender on probation; providing an effective
 23 date.

24
 25 Be It Enacted by the Legislature of the State of Florida:

26
 27 Section 1. Subsection (9) of section 318.14, Florida
 28 Statutes, is amended to read:

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29 318.14 Noncriminal traffic infractions; exception;
 30 procedures.--
 31 (9) Any person who does not hold a commercial driver's
 32 license and who is cited for an infraction under this section
 33 other than a violation of s. 316.183(2), s. 316.187, or s.
 34 316.189 when the driver exceeds the posted limit by 30 miles per
 35 hour or more, s. 320.0605, s. 320.07(3)(a) or (b), s. 322.065,
 36 s. 322.15(1), s. 322.61, or s. 322.62 may, in lieu of a court
 37 appearance, elect to attend in the location of his or her choice
 38 within this state a basic driver improvement course approved by
 39 the Department of Highway Safety and Motor Vehicles. In such a
 40 case, adjudication must be withheld, and points, as provided by
 41 s. 322.27, may not be assessed. ~~and the civil penalty that is~~
 42 ~~imposed by s. 318.18(3) must be reduced by 18 percent.~~ However,
 43 a person may not make an election under this subsection if the
 44 person has made an election under this subsection in the
 45 preceding 12 months. A person may make no more than five
 46 elections within 10 years under this subsection. The requirement
 47 for community service under s. 318.18(8) is not waived by a plea
 48 of nolo contendere or by the withholding of adjudication of
 49 guilt by a court. If a person makes an election to attend a
 50 basic driver improvement course under this subsection, 18
 51 percent of the civil penalty imposed under s. 318.18(3) shall be
 52 deposited in the Operating Trust Fund within the state courts
 53 system; however, that portion shall not be considered revenue
 54 under s. 28.36 and shall not be used in establishing the budget
 55 of the clerk of the court under that section or s. 28.35.

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56 Section 2. Paragraph (b) of subsection (1) of section
 57 318.15, Florida Statutes, is amended to read:

58 318.15 Failure to comply with civil penalty or to appear;
 59 penalty.--

60 (1)

61 (b) However, a person who elects to attend driver
 62 improvement school and has paid the civil penalty as provided in
 63 s. 318.14(9), but who subsequently fails to attend the driver
 64 improvement school within the time specified by the court shall
 65 be deemed to have admitted the infraction and shall be
 66 adjudicated guilty. In such a case in which there was an 18-
 67 percent reduction pursuant to s. 318.14(9) as it existed prior
 68 to February 1, 2009, the person must pay the clerk of the court
 69 that amount ~~the 18 percent deducted pursuant to s. 318.14(9),~~
 70 and a processing fee of up to \$18, after which no additional
 71 penalties, court costs, or surcharges shall be imposed for the
 72 violation. The clerk of the court shall notify the department of
 73 the person's failure to attend driver improvement school and
 74 points shall be assessed pursuant to s. 322.27.

75 Section 3. Subsection (3) of section 318.18, Florida
 76 Statutes, is amended, and subsection (19) is added to that
 77 section to read:

78 318.18 Amount of penalties.--The penalties required for a
 79 noncriminal disposition pursuant to s. 318.14 or a criminal
 80 offense listed in s. 318.17 are as follows:

81 (3) (a) Except as otherwise provided in this section, \$60
 82 for all moving violations not requiring a mandatory appearance.

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83 (b) For moving violations involving unlawful speed, the
 84 fines are as follows:

For speed exceeding the limit by:	Fine:
86 1-5 m.p.h.	Warning
87 6-9 m.p.h.....	\$25
88 10-14 m.p.h.....	\$100
89 15-19 m.p.h.....	<u>\$150</u> \$125
90 20-29 m.p.h.....	<u>\$175</u> \$150
91 30 m.p.h. and above.....	\$250

93 (c) Notwithstanding paragraph (b), a person cited for
 94 exceeding the speed limit by up to 5 m.p.h. in a legally posted
 95 school zone will be fined \$50. A person exceeding the speed
 96 limit in a school zone shall pay a fine double the amount listed
 97 in paragraph (b).

98 (d) A person cited for exceeding the speed limit in a
 99 posted construction zone, which posting must include
 100 notification of the speed limit and the doubling of fines, shall
 101 pay a fine double the amount listed in paragraph (b). The fine
 102 shall be doubled for construction zone violations only if
 103 construction personnel are present or operating equipment on the
 104 road or immediately adjacent to the road under construction.

105 (e) A person cited for exceeding the speed limit in an
 106 enhanced penalty zone shall pay a fine amount of \$50 plus the
 107 amount listed in paragraph (b). Notwithstanding paragraph (b), a
 108 person cited for exceeding the speed limit by up to 5 m.p.h. in
 109 a legally posted enhanced penalty zone shall pay a fine amount
 110 of \$50.

111 (f) If a violation of s. 316.1301 or s. 316.1303 results
 112 in an injury to the pedestrian or damage to the property of the
 113 pedestrian, an additional fine of up to \$250 shall be paid. This
 114 amount must be distributed pursuant to s. 318.21.

115 (g) A person cited for exceeding the speed limit within a
 116 zone posted for any electronic or manual toll collection
 117 facility shall pay a fine double the amount listed in paragraph
 118 (b). However, no person cited for exceeding the speed limit in
 119 any toll collection zone shall be subject to a doubled fine
 120 unless the governmental entity or authority controlling the toll
 121 collection zone first installs a traffic control device
 122 providing warning that speeding fines are doubled. Any such
 123 traffic control device must meet the requirements of the uniform
 124 system of traffic control devices.

125 (h) A person cited for a second or subsequent conviction
 126 of speed exceeding the limit by 30 miles per hour and above
 127 within a 12-month period shall pay a fine that is double the
 128 amount listed in paragraph (b). For purposes of this paragraph,
 129 the term "conviction" means a finding of guilt as a result of a
 130 jury verdict, nonjury trial, or entry of a plea of guilty.
 131 Moneys received from the increased fine imposed by this
 132 paragraph shall be remitted to the Department of Revenue and
 133 deposited into the Department of Health Administrative Trust
 134 Fund to provide financial support to certified trauma centers to
 135 assure the availability and accessibility of trauma services
 136 throughout the state. Funds deposited into the Administrative
 137 Trust Fund under this section shall be allocated as follows:

138 1. Fifty percent shall be allocated equally among all
 139 Level I, Level II, and pediatric trauma centers in recognition
 140 of readiness costs for maintaining trauma services.

141 2. Fifty percent shall be allocated among Level I, Level
 142 II, and pediatric trauma centers based on each center's relative
 143 volume of trauma cases as reported in the Department of Health
 144 Trauma Registry.

145 (19) In addition to any penalties imposed, an Article V
 146 assessment of \$10 must be paid for all noncriminal moving and
 147 nonmoving traffic violations under chapter 316. The assessment
 148 shall not be considered revenue under s. 28.36 and shall not be
 149 used in establishing the budget of the clerk of the court under
 150 that section or s. 28.35. Of each assessment collected under
 151 this subsection:

152 (a) The amount of \$5 shall be deposited in the Operating
 153 Trust Fund within the state courts system;

154 (b) The amount of \$3.33 shall be deposited in the Grants
 155 and Donations Trust Fund within the Justice Administrative
 156 Commission for use by the state attorneys; and

157 (c) The amount of \$1.67 shall be deposited in the Grants
 158 and Donations Trust Fund within the Justice Administrative
 159 Commission for use by the public defenders.

160 Section 4. Subsections (18), (19), and (20) are added to
 161 section 318.21, Florida Statutes, to read:

162 318.21 Disposition of civil penalties by county
 163 courts.--All civil penalties received by a county court pursuant
 164 to the provisions of this chapter shall be distributed and paid
 165 monthly as follows:

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166 (18) Notwithstanding subsections (1) and (2), the proceeds
167 from the administrative fee imposed under s. 318.18(18) shall be
168 distributed as provided in that subsection.

169 (19) Notwithstanding subsections (1) and (2), the proceeds
170 from the Article V assessment imposed under s. 318.18(19) shall
171 be distributed as provided in that subsection.

172 (20) For fines assessed under s. 318.18(3) for unlawful
173 speed, effective for violations occurring on or after February
174 1, 2009, the following amounts must be remitted to the
175 Department of Revenue for deposit in the Operating Trust Fund
176 within the state courts system; however, these collections shall
177 not be considered revenue under s. 28.36 and shall not be used
178 in establishing the budget of the clerk of the court under that
179 section or s. 28.35:

180	
181	<u>For speed exceeding the limit by:.....Fine:</u>
182	<u>1-5 m.p.h.\$.00</u>
183	<u>6-9 m.p.h.\$.00</u>
184	<u>10-14 m.p.h.\$.00</u>
185	<u>15-19 m.p.h.....\$25.00</u>
186	<u>20-29 m.p.h.....\$25.00</u>
187	<u>30 m.p.h. and above.....\$.00</u>
188	

189 The remaining amount must be distributed pursuant to subsections
190 (1) and (2).

191 Section 5. Section 775.083, Florida Statutes, is amended
192 to read:

193 775.083 Fines.--

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194 (1) A person who has been convicted of an offense other
 195 than a capital felony may be sentenced to pay a fine in addition
 196 to any punishment described in s. 775.082; when specifically
 197 authorized by statute, he or she may be sentenced to pay a fine
 198 in lieu of any punishment described in s. 775.082. A person who
 199 has been convicted of a noncriminal violation may be sentenced
 200 to pay a fine. Fines for designated crimes and for noncriminal
 201 violations shall not exceed:

202 (a) \$15,000, when the conviction is of a life felony.

203 (b) \$10,000, when the conviction is of a felony of the
 204 first or second degree.

205 (c) \$5,000, when the conviction is of a felony of the
 206 third degree.

207 (d) \$1,000, when the conviction is of a misdemeanor of the
 208 first degree.

209 (e) \$500, when the conviction is of a misdemeanor of the
 210 second degree or a noncriminal violation.

211 (f) Any higher amount equal to double the pecuniary gain
 212 derived from the offense by the offender or double the pecuniary
 213 loss suffered by the victim.

214 (g) Any higher amount specifically authorized by statute.

215
 216 Fines imposed in this subsection shall be deposited by the clerk
 217 of the court in the fine and forfeiture fund established
 218 pursuant to s. 142.01, except that fines imposed when
 219 adjudication is withheld shall be deposited in the Operating
 220 Trust Fund within the state courts system and shall not be
 221 considered revenue under s. 28.36 and shall not be used in

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222 establishing the budget of the clerk of the court under that
 223 section or s. 28.35. If a defendant is unable to pay a fine, the
 224 court may defer payment of the fine to a date certain. As used
 225 in this subsection, the term "convicted" or "conviction" means a
 226 determination of guilt that is the result of a trial or the
 227 entry of a plea of guilty or nolo contendere, regardless of
 228 whether adjudication is withheld.

229 (2) In addition to the fines set forth in subsection (1),
 230 court costs shall be assessed and collected in each instance a
 231 defendant pleads nolo contendere to, or is convicted of, or
 232 adjudicated delinquent for, a felony, a misdemeanor, or a
 233 criminal traffic offense under state law, or a violation of any
 234 municipal or county ordinance if the violation constitutes a
 235 misdemeanor under state law. The court costs imposed by this
 236 section shall be \$50 for a felony and \$20 for any other offense
 237 and shall be deposited by the clerk of the court into an
 238 appropriate county account for disbursement for the purposes
 239 provided in this subsection. A county shall account for the
 240 funds separately from other county funds as crime prevention
 241 funds. The county, in consultation with the sheriff, must expend
 242 such funds for crime prevention programs in the county,
 243 including safe neighborhood programs under ss. 163.501-163.523.

244 (3) The purpose of this section is to provide uniform
 245 penalty authorization for criminal offenses and, to this end, a
 246 reference to this section constitutes a general reference under
 247 the doctrine of incorporation by reference.

248 Section 6. Subsection (2) of section 948.01, Florida
 249 Statutes, is amended to read:

250 948.01 When court may place defendant on probation or into
 251 community control.--

252 (2) If it appears to the court upon a hearing of the
 253 matter that the defendant is not likely again to engage in a
 254 criminal course of conduct and that the ends of justice and the
 255 welfare of society do not require that the defendant presently
 256 suffer the penalty imposed by law, the court, in its discretion,
 257 may either adjudge the defendant to be guilty or stay and
 258 withhold the adjudication of guilt.~~;~~ ~~and,~~ In either case, the
 259 court ~~it~~ shall stay and withhold the imposition of sentence upon
 260 the ~~such~~ defendant ~~and shall place the defendant upon probation.~~
 261 If the defendant is determined guilty of a felony as the result
 262 of trial or the entry of a plea of guilty or nolo contendere,
 263 regardless of whether adjudication is withheld, the court shall
 264 place the defendant upon probation. If the defendant is
 265 determined guilty of a nonfelony offense as the result of trial
 266 or the entry of a plea of guilty or nolo contendere, regardless
 267 of whether adjudication is withheld, the court may place the
 268 defendant on probation. In the court's discretion, in addition
 269 to court costs and fees, a fine authorized by law may be imposed
 270 upon a nonfelony offender who has neither been adjudged guilty
 271 nor first placed on probation, notwithstanding any law to the
 272 contrary. However, no defendant placed on probation for a
 273 misdemeanor may be placed under the supervision of the
 274 department unless the circuit court was the court of original
 275 jurisdiction.

276 Section 7. This act shall take effect February 1, 2009.