

## CHAPTER 2015-101

### Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 41

An act relating to hazardous walking conditions; providing a short title; amending s. 1006.23, F.S.; revising criteria that determine a hazardous walking condition for public school students; revising procedures for inspection and identification of hazardous walking conditions; authorizing a district school superintendent to initiate a formal request for correction of a hazardous walking condition; authorizing a district school board to initiate a declaratory judgment proceeding under certain circumstances and providing requirements therefor; requiring a district school board to provide transportation to students who would be subjected to hazardous walking conditions; requiring state or local governmental entities with jurisdiction over a road with a hazardous walking condition to correct the condition within a reasonable period of time; providing requirements for a governmental entity relating to its transportation work program; providing requirements relating to a civil action for damages; providing that certain interlocal agreements that meet specified criteria are not prohibited under this section; amending s. 1012.45, F.S.; providing that a district school board may implement a safe driver toll-free telephone hotline for specified purposes; providing an effective date.

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

Section 1. This act may be cited as “Gabby’s Law for Student Safety.”

Section 2. Section 1006.23, Florida Statutes, is reordered and amended to read:

1006.23 Hazardous walking conditions.—

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

~~(2)(4) STATE CRITERIA FOR DETERMINING HAZARDOUS WALKING CONDITIONS.—~~

(a) Walkways parallel to the road.—

1. It shall be considered a hazardous walking condition with respect to any road along which students must walk in order to walk to and from school if there is not an area at least 4 feet wide adjacent to the road, not including drainage ditches, sluiceways, swales, or channels, having a surface upon which students may walk without being required to walk on the road surface. In addition, whenever the road along which students must walk is uncurbed and has a posted speed limit of 50 ~~55~~ miles per hour or greater, the area as

described above for students to walk upon shall be set off the road by no less than 3 feet from the edge of the road.

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

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

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

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

(b) Walkways perpendicular to the road.—It shall be considered a hazardous walking condition with respect to any road across which students must walk in order to walk to and from school if:

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

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

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

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

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

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

(3) IDENTIFICATION OF HAZARDOUS CONDITIONS.—

(a) When a request for review is made by ~~to~~ the district school superintendent with respect to a road over which a state or local governmental entity has jurisdiction ~~or the district school superintendent’s designee~~ concerning a condition perceived to be hazardous to students in that district who live within the 2-mile limit and who walk to school, such condition shall

be inspected jointly by a representative of the school district, ~~and a representative of the state or local governmental entity with that has jurisdiction over the perceived hazardous location, and a representative of the municipal police department for a municipal road, a representative of the sheriff's office for a county road, or a representative of the Department of Transportation for a state road.~~ If the jurisdiction is within an area for which there is a metropolitan planning organization, a representative of that organization shall also be included. The governmental representatives shall determine whether the condition constitutes a hazardous walking condition as provided in subsection (2). If the governmental representatives concur that a condition constitutes a hazardous walking condition as provided in subsection (2), the governmental entity with jurisdiction shall report that determination in writing to the district school superintendent, who shall initiate a formal request for correction as provided in subsection (4).

(b) If the governmental representatives are unable to reach a consensus, the reasons for lack of consensus shall be reported to the district school superintendent, who shall provide a report and recommendation to the district school board. The district school board may initiate a proceeding under chapter 86 seeking a determination as to whether the condition constitutes a hazardous walking condition as provided in subsection (2) after providing at least 30 days' notice in writing to the state or local governmental entity having jurisdiction over the road of its intent to do so unless, within 30 days after such notice is provided, the state or local governmental entity concurs in writing that the condition is a hazardous walking condition as provided in subsection (2) and provides the position statement pursuant to subsection (4). If a proceeding is initiated under this paragraph, the district school board has the burden of proving such condition by the greater weight of evidence. If the district school board prevails, the district school superintendent shall report the outcome to the Department of Education and initiate a formal request for correction of the hazardous walking condition as provided in subsection (4). The district school superintendent or his or her designee and the state or local governmental entity or its representative shall then make a final determination that is mutually agreed upon regarding whether the hazardous condition meets the state criteria pursuant to this section. The district school superintendent or his or her designee shall report this final determination to the Department.

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

(a) A district school board ~~It is intended that district school boards and other governmental entities shall work cooperatively to identify conditions that are hazardous along student walking routes to school, and a district school board shall that district school boards provide transportation to students who would be subjected to such conditions. Additionally, It is further intended that state or local governmental entities with having jurisdiction over a road along which a hazardous walking condition is determined to exist shall correct the condition such hazardous conditions within a reasonable period of time.~~

(b) Upon a determination pursuant to subsection (3) this section that a hazardous walking condition exists is hazardous to students, the district school superintendent board shall request a position statement with respect to correction of such condition determination from the state or local governmental entity with having jurisdiction over the road. Within 90 days after receiving such request, the state or local governmental entity shall inform the district school superintendent regarding whether the entity will include correction of the hazardous walking condition in its next annual 5-year transportation work program hazard will be corrected and, if so, when correction of the condition will be completed. If the hazardous walking condition will not be included in the state or local governmental entity's next annual 5-year transportation work program, the factors justifying such conclusion must be stated in writing to the district school superintendent and the Department of Education regarding a projected completion date.

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

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

(6) INTERLOCAL AGREEMENTS.—This section does not prohibit a district school board and other governmental entities from entering into an interlocal agreement pursuant to s. 163.31777 that addresses the identification and correction of hazardous walking conditions, if such agreement:

(a) Implements the Safe Paths to Schools Program as provided in s. 335.066; or

(b) Establishes standards for the safety of students walking to school and procedures for identifying and correcting hazardous walking conditions that meet or exceed the standards and procedures provided in subsections (2), (3), and (4).

Section 3. Subsection (5) is added to section 1012.45, Florida Statutes, to read:

1012.45 School bus drivers; requirements and duties.—

(5) Each district school board may implement a safe driver toll-free telephone hotline for motorists or others who observe improper driving or operation by a school bus driver to report such violations to the district school board for investigation and corrective or disciplinary action by the school board.

Section 4. This act shall take effect July 1, 2015.

Approved by the Governor June 10, 2015.

Filed in Office Secretary of State June 10, 2015.