

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1 Safety Belt Law Enforcement

SPONSOR(S): Glorioso and others

TIED BILLS: IDEN./SIM. BILLS: SB 344

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Roads, Bridges & Ports Policy Committee	17 Y, 2 N, As CS	Brown	Miller
2)	Economic Development & Community Affairs Policy Council			
3)	Policy Council			
4)				
5)				

SUMMARY ANALYSIS

Current law requires a motor vehicle operator, front seat passengers, and all passengers and operators less than 18 years of age to wear safety belts. The "Florida Safety Belt Law" is enforced as a secondary offense for operators and passengers 18 and older; that is, law enforcement officers cannot stop motorists 18 and older solely for not using safety belts. Instead, an officer must first stop a motorist who is 18 or older for a suspected violation of state traffic, motor vehicle, or driver license laws before issuing a uniform traffic citation for failure to wear a safety belt. It is a primary offense to operate a motor vehicle in this state unless each passenger and the operator of the vehicle under the age of 18 are restrained by a safety belt or by a child restraint device.

CS/HB 1 gives the act a popular name, the "Dori Slosberg and Katie Marchetti Safety Belt Law" and amends the Florida Safety Belt Law to provide for primary enforcement for all motorists. A law enforcement officer would be authorized to stop a motorist and issue a citation for a safety belt violation upon reasonable suspicion that the driver, any passenger under the age of 18 years, or any passenger in the front seat who is 18 years of age or older, is not restrained. A person violating this provision would be cited for a nonmoving violation, punishable by a \$30 fine plus applicable fees and court costs. The fees and court costs vary from county to county, but the total paid for each citation would range from \$93 to \$119.

The bill also eliminates the pick-up truck exemption in s. 316.613(6)(b), F.S., and inserts a provision stating that the requirements of the safety-belt laws of Florida do not apply to any vehicle which is not federally required to have safety belts.

Primary enforcement of safety belt violations could result in an increase in the number of citations issued. However, the potential fiscal impacts to state and local governments resulting from penalty revenues are unknown because it is impossible to forecast how many additional citations may be issued. Crash-related injuries and deaths could be reduced thereby decreasing associated medical and insurance costs. The National Highway Traffic Safety Administration claims that "Florida will save an estimated 124 lives, 1,733 serious injuries, and \$408 million in costs each year."¹

This bill will take effect June 30, 2009.

¹ Letter from Ronald L. Medford, NHTSA Acting Deputy Administrator, to Governor Crist, January 27, 2009. A copy of this document is on file with the committee.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

In 1986, the Legislature enacted the "Florida Safety Belt Law." Section 316.614, F.S., requires a motor vehicle operator, front seat passengers, and all passengers less than 18 years of age to wear safety belts. The law is enforced against any adult driver or adult front seat passenger who is not restrained by a safety belt. If a person under 18 years of age is unrestrained, the law is enforced against the driver. The "Florida Safety Belt Law" is enforced as a secondary offense; that is, law enforcement officers cannot stop motorists solely for not using their safety belts unless the operator or passengers are under 18. Instead, the officer must first stop the motorist for a suspected violation of Chapters 316, 320, or 322, F.S., before the officer can issue a uniform traffic citation for failure to wear a safety belt. In 2005, HB 1697 was passed to amend s. 316.614, F.S., making it a primary offense to operate a motor vehicle in this state unless each passenger and the operator of the vehicle under the age of 18 years is restrained by a safety belt or by a child restraint device.²

The penalty for failure to wear a safety belt is \$30, plus administrative and court costs. The fees and court costs vary from county to county, but the total paid for each citation would range from \$93 to \$119. Revenues collected from citations issued for safety belt violations are distributed like other traffic citation revenues, pursuant to s. 318.21, F.S., except that \$5 of each citation paid is directed to the Epilepsy Services Trust Fund.³

According to the Uniform Traffic Citation Statistics compiled by the Department of Highway Safety and Motor Vehicles (DHSMV), there were 254,154 safety belt violations during the 2008 calendar year.⁴

Those not subject to the safety belt law include:

- Persons certified by a physician as having a medical condition that would cause the use of a safety belt to be inappropriate or dangerous;
- Persons delivering newspapers on home delivery routes during the course of their employment;

² This act also amended section 316.614, F.S. to provide that, by January 1, 2006, each law enforcement agency must adopt departmental policies to prohibit the practice of racial profiling. Further, the section requires law enforcement officers to record the race and ethnicity of a violator of the safety belt law and requires DHSMV to annually report this information to the legislature and the Governor.

³ Section 316.21(6), F.S.

⁴ *Seat Belt Violation Data Collection 316.614(9), F.S. Annual Report*, Department of Highway Safety and Motor Vehicles, March 5, 2009.

- Front seat passengers of a pickup truck in excess of the number of safety belts installed;⁵
- Employees of a solid waste or recyclable collection service on designated routes during the course of their employment;
- Persons occupying the living quarters of a recreational vehicle or the space within the body of a truck used for the storage of merchandise.

According to the National Highway Traffic Safety Administration (NHTSA), as of June 30, 2008, there are 26 primary states (and the District of Columbia), 23 secondary states, and 1 state (New Hampshire) that effectively has no belt use law.⁶ The National Occupant Protection Use Survey (NOPUS) is an observational survey of safety belt use that began in 1994 and has been used by NHTSA to measure the nation's safety belt use. NOPUS has consistently found higher usage rates in the presence of primary laws, with collective statistically different rates of 87% in primary states compared to 75% in secondary ones from 2007-2008.⁷ Through statewide enforcement/education efforts such as the Buckle Up Florida/Click It or Ticket campaign, Florida has shown an overall increase in seat belt usage rates from 59% in 1999 to 81.7% in 2007-2008.⁸

Research has found that lap/shoulder belts, when used properly, reduce the risk of fatal injury to front seat passenger car occupants by 45 percent and the risk of moderate-to-critical injury by 50 percent (for occupants of light trucks, 60 percent and 65 percent, respectively).⁹

Effect of Proposed Changes

CS/HB 11 gives the act the popular name the "Dori Slosberg and Katie Marchetti Safety Belt Law" and amends the Florida Safety Belt Law to provide for primary enforcement for all drivers. A law enforcement officer would be authorized to stop a motorist and issue a citation for a safety belt violation upon reasonable suspicion that the driver, any passenger under the age of 18 years, or any passenger in the front seat who is 18 years of age or older, is not restrained.

A person violating this provision would be cited for a nonmoving violation, punishable by a \$30 fine plus applicable fees and court costs. The fees and court costs vary from county to county, but the total paid for each citation would range from \$93 to \$119.

The bill also eliminates the pick-up truck exemption in s. 316.613(6)(b), F.S., and inserts a provision stating that the requirements of the safety-belt laws of Florida do not apply to any vehicle which is not federally required to have safety belts.

B. SECTION DIRECTORY:

Section 1. Gives the act the popular name the "Dori Slosberg and Katie Marchetti Safety Belt Law."

Section 2. Amends s. 316.614, F.S., removing an exemption for certain pick-up truck passengers from the safety belt law; providing that the law does not apply to certain vehicles; providing for primary enforcement of the safety belt law.

Section 3. Provides that the act shall take effect June 30, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

⁵ Section 316.613(6)(b), F.S., allows an exemption from the safety belt requirements for passengers in certain pick-up trucks. Under the current statute, if the truck is originally manufactured with two safety belts, only two persons are legally required to wear safety belts. In this scenario, a third passenger in the front seat would be exempt from wearing a safety belt.

⁶ *Traffic Safety Facts: Research Note #DOT-HS-811-036*, NHTSA, September 2008.

⁷ Id.

⁸ *2007-2008 Annual Report of the Department of Highway Safety and Motor Vehicles*, DHSMV, July 2008.

⁹ *Safety Alert 005*, National Transportation Safety Board (NTSB), October 2008.

1. Revenues:
See Fiscal Comments, below.

2. Expenditures:
N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
N/A

2. Expenditures:
N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Enforcement Impacts

Primary enforcement of some safety belt violations may result in the issuance of an increased number of citations, and the assessment of additional traffic penalties and court costs. The fees and court costs vary from county to county, but the total paid by the offender for each citation would range from \$93 to \$119. However, because it is impossible to forecast how many additional violations will occur and be cited, the fiscal impact on state and local government is unknown.

Safety Impacts

To the extent that the bill increases safety belt usage in Florida, crash-related injuries and deaths could be reduced thereby decreasing associated medical and insurance costs. DHSMV states that "primary seatbelt enforcement has been endorsed by virtually all Florida law enforcement and traffic safety organizations statewide. The Florida Highway Patrol strongly supports this bill."¹⁰

In a January 27, 2009 memorandum addressed to the Governor of Florida, encouraging the state to adopted a primary seatbelt enforcement law, NHTSA claims that "Florida will save an estimated 124 lives, 1,733 serious injuries, and \$408 million in costs each year."¹¹

Federal Funding

The federal government makes available certain funding for states that enact primary seat belt laws under a program colloquially called the "Section 406 grant program."¹² In recent years the state of Florida has engaged in discussions with the National Highway Traffic Safety Administration (NHTSA) regarding all the necessary changes that need to be made, in order for Florida to qualify for this funding.

¹⁰ DHSMV Agency Bill Analysis, HB 1, dated Nov. 21, 2008, delivered to committee staff Feb. 10, 2009. This document is on file with the committee.

¹¹ Letter from Ronald L. Medford, NHTSA Acting Deputy Administrator, to Governor Crist, January 27, 2009. A copy of this document is on file with the committee.

¹² The funds are administered under Section 406 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), signed by President George W. Bush on August 10, 2005. SAFETEA-LU authorizes the Federal surface transportation programs for highways, highway safety, and transit for the 5-year period from 2005-2009.

In 2007, NHTSA informed the Florida Department of Transportation (FDOT) that because the Florida definition of “motor vehicle” did not include trucks weighing more than 5,000 pounds,¹³ the state would not be eligible for Section 406 grant program funds even if the primary seatbelt enforcement bill passed. As a result, the 2008 Legislature amended the 5,000 pound weight limit for trucks, moving the limit up to 26,000 pounds.¹⁴ It did not, however, pass a primary seatbelt enforcement law.

In 2008, FDOT again submitted draft language to NHTSA seeking guidance on additional necessary steps to receive Section 406 grant program funding. NHTSA responded that the draft language submitted by FDOT would qualify Florida for \$35.5 million under the Section 406 grant program; however, the language must be effective *before* July 1, 2009.

HB 1 as originally filed eliminated the ‘secondary-enforcement only’ language found in s. 316.614(8), F.S. The committee substitute retained this section, included the elimination of the pickup truck exemption, and stated that the law does not apply to vehicles not required to have seatbelts. As a result, CS/HB 1 contains the all of the requirements noted by NHTSA in their correspondence with FDOT.

Federal rule requires that funds provided by the Section 406 grant program be used for “any safety purpose under title 23, United States Code, including behavioral and infrastructure safety programs, or for any project that corrects or improves a hazardous roadway location or feature or proactively addresses highway safety problems, including:

- Intersection improvements
- Pavement and shoulder widening
- Installation of rumble strips and other warning devices
- Improving skid resistance
- Improvements for pedestrian or bicyclist safety
- Railway-highway crossing safety
- Traffic calming
- The elimination of roadside obstacles
- Improving highway signage and pavement marking
- Installing priority control systems for emergency vehicles at signalized intersections
- Installing traffic control or warning devices at locations with high accident potential; safety conscious planning
- Improving crash data collection and analysis”¹⁵

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

N/A

B. RULE-MAKING AUTHORITY:

None.

¹³ See s. 316.613(2)(d), F.S. (2007), s. 316.614(3)(a)4., F.S. (2008).

¹⁴ Sec. 9 - 10, 2008-176 Laws of Florida. (Passed as 2008 HB 1992).

¹⁵ Federal Register, Jan. 25, 2006 (Vol. 71, No. 16), pg. 4199.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 4, 2009, the Roads, Bridges, and Ports Policy Committee reported the bill favorably with one amendment. The amendment removes the seat-belt exemption regarding the front seat of pick-up trucks, at s. 316.613(6)(b), F.S., and inserts a provision that requirements of the safety belt law shall not apply to “motor vehicles which are not required to be equipped with safety belts under federal law.”

These changes appear to address the issues discussed in the Federal Funding section of Fiscal Comments, above.