

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 Criminal Justice Committee

BILL: SB 238

INTRODUCER: Senators Altman, Benacquisto, and Latvala

SUBJECT: Child Safety Devices in Motor Vehicles

DATE: February 8, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Spalla	TR	Favorable
2.	Dugger	Cannon	CJ	Favorable
3.			BC	
4.				
5.				
6.				

I. Summary:

The bill revises child restraint requirements for children passengers in motor vehicles. Current law requires certain child restraint devices for children through age 5 years, although for ages 4 through 5 years, a seat belt may be used in lieu of a specialized device. Under the bill's provisions, the upper age is raised to 7 years if the child is less than 4 feet 9 inches in height. A seat belt alone will no longer legally provide sufficient protection for children aged 4 through 7 years if they are less than 4 feet 9 inches in height. The infraction is a moving violation punishable by a fine of \$60 plus court costs and add-ons and by the assessment of 3 points against the driver's license of the motor vehicle operator.

The bill provides exceptions to the new child restraint requirements for children aged 4 through 7 who are less than 4 feet 9 inches in height when a person is:

- Transporting the child gratuitously and in good faith in response to a declared emergency situation or an immediate emergency involving the child; or
- Transporting a child whose medical condition necessitates an exception as evidenced by appropriate documentation from a health professional.

The court may dismiss a first violation if the operator produces proof of purchase of a federally approved child restraint device. The revised provisions take effect January 1, 2012. Beginning July 1, 2011, law enforcement officers may issue verbal warnings and educational literature to those persons who are in compliance with existing law, but who are violating the provisions which take effect in 2012.

This bill substantially amends s. 316.613 of the Florida Statutes.

II. Present Situation:

Currently, s. 316.613, F.S., requires every motor vehicle operator to properly use a crash-tested, federally approved child restraint device when transporting a child 5 years of age or younger. For children 3 years of age or younger, such restraint device must be a separate carrier or a vehicle manufacturer's integrated child seat. For children aged 4 through 5 years, a separate carrier, an integrated child seat, or a seat belt may be used. These requirements apply to motor vehicles operated on the roadways, streets, and highways of this state. The requirements do not apply to a school bus; a bus used to transport persons for compensation; a farm tractor; a truck of net weight of more than 26,000 pounds; or a motorcycle, moped, or bicycle.¹ A driver who violates this requirement is subject to a \$60 fine, court costs and add-ons, and having 3 points assessed against their driver's license.

A driver who violates this requirement may elect, with the court's approval, to participate in a child restraint safety program. Upon completing such program the above penalties may be waived at the court's discretion and the assessment of points waived. The child restraint safety program must use a course approved by the Department of Highway Safety and Motor Vehicles (DHSMV), and the fee for the course must bear a reasonable relationship to the cost of providing the course.

Section 316.613(4), F.S., provides it is legislative intent that all state, county, and local law enforcement agencies, and safety councils, conduct a continuing safety and public awareness campaign as to the magnitude of the problem with child death and injury from unrestrained occupancy in motor vehicles.

Florida's "\$2 Difference Child Safety Seat Program"

The 1995 Legislature enacted legislation allowing vehicle owners to donate money to help purchase child safety seats for other Floridians who cannot afford them for their children. Vehicle owners have the opportunity to donate \$2 or more to the Highway Safety Operating Trust Fund's \$2 Difference Child Safety Seat Program to help needy residents living in their own county obtain car seats for their children. All monies donated to and collected in a given county are returned to that county in the form of child safety seats. The child safety seats are then distributed in a manner determined by the local tax collector's office.

According to the DHSMV, during the first year of the \$2 Difference Program in 1996, a total of \$37,760 in donations was collected. By early 1999, \$175,000 had been collected for the growing program. The donations for this program have remained steady each year. As of January 2010, the \$2 Difference Child Safety Seat Program has collected a total of \$877,015 in donations from which 19,779 car seats have been purchased for distribution to low-income children and needy families across the state.

¹ s. 316.613(2)(a-e), F.S.

Other States

As of February 2011, 47 States and the District of Columbia have enacted provisions in their child restraint laws mandating booster seat or other appropriate restraint use by children who have outgrown their forward-facing child safety seats, but who are still too small to be appropriately restrained by an adult safety belt system.² Only Arizona, Florida, and South Dakota have yet to enact booster seat use requirements.

III. Effect of Proposed Changes:

The bill amends s. 316.613, F.S., requiring an operator of a motor vehicle who is transporting a child 7 years of age or younger when that child is less than 4 feet 9 inches in height, to provide for the protection of the child by properly using a crash-tested, federally approved child restraint device. The bill specifies the device must be appropriate for the height and weight of the child, and provides such devices may include:

- A vehicle manufacturer's integrated child seat;
- A separate child safety seat; or
- A child booster seat that displays the child's weight and height specifications for the seat on the attached manufacturer's label as required by Federal Motor Vehicle Safety Standard No. 213.

Any such device must comply with the standards of the United States Department of Transportation and be secured in the vehicle in accordance with instructions of the manufacturer.

Children through 3 years of age must be transported in an integrated or separate child safety seat, and children aged 4 through 7 years who are less than 4 feet 9 inches in height must be transported in a separate carrier, integrated child seat, or booster seat. Under the provisions of this bill, motorists will no longer be permitted to transport children aged 4 to 7 years who are less than 4 feet 9 inches in height with only a safety belt used as protection.

The bill also provides the term "motor vehicle" as used in s. 316.613, F.S., does not include a passenger vehicle designed to accommodate ten or more persons used for the transportation of persons for compensation, and therefore, exempts such vehicle from the child-restraint requirements for children ages 4 through 7 years.

The infraction is a moving violation punishable by a fine of \$60 plus court costs and add-ons, and by assessment of 3 points against the driver's license. The requirement to use a booster seat does not apply to a person who is transporting a child aged 4 to 7 years who is less than 4 feet 9 inches in height if the person is:

- Transporting the child gratuitously and in good faith in response to a declared emergency situation or an immediate emergency involving the child; or

² http://www.ghsa.org/html/stateinfo/laws/childsafety_laws.html (last visited February 3, 2011).

- Transporting a child whose medical condition necessitates an exception as evidenced by appropriate documentation from a health professional.

Courts may dismiss the charge against a driver for a first violation of the child restraint law upon proof of purchase of or otherwise obtained a federally approved child restraint device.

The new child restraint requirements as provided in the bill will not take effect until January 1, 2012. However, the bill authorizes law enforcement personnel to issue a warning and distribute educational literature beginning July 1, 2011, to a person who is in compliance with current law, but whose actions violate the provisions that take effect January 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Drivers of vehicles must use a separate carrier, an integrated child seat or a child booster seat to transport children through age 7 years if they are less than 4 feet 9 inches in height. Seat belts alone will not satisfy the legal requirements for child restraints for children between the ages of 4 and 7 years who are less than the required height when being transported in a motor vehicle on roadways, streets, or highways in Florida. This will have a fiscal impact to vehicle operators for the cost of acquiring the necessary restraint devices.

However, because the number of additional children who will need restraint devices other than seat belts is unknown, the amount of this impact cannot be determined. Violation of the law would be punishable by a fine of at least \$60 plus court costs and add-ons, and a 3 point assessment on the operator's driver license. The court may dismiss a first violation if the operator purchases an approved device. Furthermore, for six months prior to the new requirements becoming effective, a law enforcement officer may issue verbal

warning and provide informational material to drivers who would violate the requirements after the effective date.

C. Government Sector Impact:

Enactment of the bill may result in increased issuance of traffic citations, resulting in revenue increases to state and local governments. Since the number of additional citations that will be issued is unknown, any resulting positive fiscal impact on state and local governments is indeterminate. Also, the cost to DHSMV of providing educational literature is expected to be minimal and will be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The DHSMV recommends revising the effective date to October 1, 2011, to allow for the programmatic updates to be implemented.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.