

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 334

SPONSOR: Senator Sebesta

SUBJECT: Child Passenger Restraints

DATE: February 15, 1999 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Johnson	JU	Favorable/CS
2.				
3.				
4.				
5.				

I. Summary:

The committee substitute allows law enforcement officers to stop and detain a motor vehicle operator for failure to use a child restraint device. The fine for a violation of this section is increased from \$60 to \$310 and directs that the \$250 increased fine be deposited into the Brain and Spinal Cord Injury Rehabilitation Trust Fund. .

This bill substantially amends section 316.613, of the Florida Statutes.

II. Present Situation:

Section 316.613, Florida Statutes, requires that a child under the age of six must be restrained wherever they are seated in a motor vehicle and a child under the age of 4 must be restrained in a separate carrier or a vehicle manufacturer's integrated child seat. The section does provide certain specific exceptions to this requirement. A person who violates the requirements of this section commits a moving violation and is subject to a fine of \$60 plus court costs of up to \$30 and three points on their license. In lieu of the fine, court costs and the assessment of points a person may elect to attend a child restraint safety program. The program must be approved by the chief judge of the circuit where the violation occurred and the court must approve participation in the program. The child restraint safety program must be approved by the Department of Health and Rehabilitative Services.

Subsection 3 of section 316.613, Florida Statutes, specifically provides that the failure to provide or use the required child restraint device may not be considered comparative negligence and may not be admitted at any civil trial for negligence.

The courts have upheld this prohibition on the admissibility in a civil trial of the failure to use the child restraint, even when such evidence was admitted to show that the parent failed to mitigate damages and not to show negligence. *Parker v. Montgomery*, 529 so.2d 1145 (Fla. App. 1 Dist. 1988).

Section 316.614, F.S., is the Florida Safety Belt Law and establishes when a safety restraint must be used, who must use a safety restraint, and the penalties for failure to comply with the law. The section also provides that enforcement of a violation of the section must be a secondary offense charged only when a driver has been detained for some other suspected violation of traffic or driver's license laws.

Section 318.18, F.S., sets out the fines for violations of the traffic laws of this state including the \$60 fine for failure to use a child safety restraint.

The fines collected by counties for violations of traffic laws are distributed in accordance with the directions in s. 318.21, F.S. One dollar of each fine collected is to be deposited to the Child Welfare training Trust Fund. One dollar is to be deposited into the Juvenile Justice Training Trust Fund. Five dollars of every fine for a violation of the child safety restraint law or the seat belt law is to be deposited into the Epilepsy Services Trust Fund. The remaining funds collected are to be distributed by formula to the Emergency Medical Services Trust Fund, Additional Court Cost Clearing Trust Fund, Brain and Spinal Cord Injury Rehabilitation Trust Fund, Florida Endowment Foundation for vocational rehabilitation, the clerk of the court, County Article V Trust Fund, and to the county and municipality where the offense occurred.

III. Effect of Proposed Changes:

This bill would clearly state that law enforcement may stop and detain a driver for a violation of the child restraint laws in s. 316.613, F.S. The fine for failure to comply with the child restraint laws will be increased by \$250 to \$310 plus court costs. The \$250 increase in the fine is to be deposited into the Brain and Spinal Cord Injury Rehabilitation Trust Fund.

The bill will become effective July 1, 1999.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The fine for failure to properly use a child safety restraint is increased from \$60 per violation to \$250. However, this fine may still be waived if the court approves participation in an approved child restraint safety program. The amount of fines collected can not be estimated as it is dependant on the number of citations written by law enforcement officers.

C. Government Sector Impact:

The Brain and Spinal Cord Injury Rehabilitation Trust Fund will receive some increased funding as a result of any \$250 fines imposed.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.