

STORAGE NAME: h0033.tr.doc
DATE: November 20, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON TRANSPORTATION
ANALYSIS**

BILL #: HB 33
RELATING TO: Child Restraint Requirements
SPONSOR(S): Representative(s) Allen
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMITTEE ON TRANSPORTATION
- (2) COMMITTEE ON FISCAL POLICY & RESOURCES
- (3) COUNCIL FOR READY INFRASTRUCTURE
- (4)
- (5)

I. SUMMARY:

Current law requires every motor vehicle operator who transports a child 5 years old or younger to protect the child by use of an approved child restraint device. Children up to 3 years old must be restrained by a separate carrier or an integrated child safety seat. For children aged 4 and 5 years old, these devices or a seat belt may be used. The fine for a violation is \$60 plus court costs and add-ons, and the motorist is subject to 3 points toward the suspension of his or her driver's license.

The bill provides that, effective January 1, 2003, a motorist transporting a child who is 8 years old or younger and is less than 4 feet, 9 inches tall must use an approved child restraint device to protect the child. The existing requirement that children 3 years old or younger must be restrained using a separate carrier or an integrated child safety seat remains in effect. For those children aged 4 through 8 years old who are less than 4 feet, 9 inches tall, the bill provides that the motorist must use a separate carrier, an integrated child safety seat, or a child booster seat. Seat belts alone would no longer be legal restraints for children who are aged 4 through 8 years and less than 4 feet, 9 inches tall. In addition, the bill provides that a court must dismiss the charges if a first-time violator provides proof of purchase of an approved child restraint device. Beginning July 1, 2002, law enforcement officers may give warnings and educational materials to those motorists who violate the provisions of this bill that take effect in 2003.

The bill does not appear to have a fiscal impact on state or local government.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |

For any principle that received a "no" above, please explain:

Less Government

The bill tends to increase government regulation in that it requires certain motorists carrying child passengers to use a child restraint device in cases where existing law makes no such requirement.

Lower Taxes

With regard to the principle of lower taxes, the bill does not increase taxes or fees. The bill would require that some additional motorists become subject to the possibility of fines under the Uniform Traffic Law. If these fines are viewed as a source of money for state government, then they may also be viewed as a form of burden and an assessment that is placed on individuals.

Individual Freedom

The bill does not tend to increase opportunities for individuals or families to decide, without hindrance or coercion from government, how to conduct their lives and make personal choices in that it renders unlawful certain activity that was previously lawful, and subjects motorists who violate its provisions to monetary sanctions.

Family Empowerment

By requiring motorists to use a child restraint device to transport certain children not covered under existing law, the bill tends to reduce the power of a family to choose how to transport its children.

B. 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. A driver who violates this requirement is subject to

a \$60 fine, court costs and add-ons, and having 3 points assessed against his or her driver's license. No provision is made in the law for the use of booster seats. In some cases, a child passenger may be too heavy to fit properly into a separate carrier or integrated child seat, but too small to safely wear adult restraints.

A driver who violates this requirement may elect, with the court's approval, to participate in a child restraint safety program. Upon completion of 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, and the fee for the course must bear a reasonable relationship to the cost of providing the course.

The National Highway Transportation Safety Administration (NHTSA) recommends that all children aged 12 and under should ride in motor vehicles only while properly restrained in the back seat. A number of different varieties of restraints are available for children, depending on the child's stage of development. Infants and smaller children should be restrained in child restraint seats, while certain larger children should be restrained using a child booster seat.

NHTSA recommends for infants less than one year old, and up to about 20 pounds, that a convertible seat be used in the rear-facing position. Some models of this type of restraint may also be used for heavier infants (30-35 pounds) that are less than one year old. Like forward-facing-only seats, convertible seats, when used facing forward, are also "rated" for children who are between 20 and 40 pounds, and over one year of age. Some of the newer model forward-facing-only seats are built for use by children up to 60 pounds.

As children outgrow child safety seats, NHTSA recommends the use of booster seats. There are two types of booster seats. The first is a high-back booster with a built in harness. The second is a belt positioning booster seat. According to NHTSA, high-back boosters should be used by children approximately 30 to 40 pounds when used with a harness. Once a child reaches 40 pounds the harness should be removed and the booster should be used as a belt positioning device. Belt positioning booster seats are recommended for use by children who are 40-80 pounds, and are less than 4 feet, 9 inches tall – the height at which NHTSA recognizes that it is safe for a child to use the adult lap and shoulder restraints. It is generally considered safe for a child to use adult restraints at 4 feet, 9 inches tall because he or she can usually sit with his or her back against the vehicle seat back cushion with knees bent over the seat cushion edge and feet on the floor.

C. EFFECT OF PROPOSED CHANGES:

The bill requires that all children 8 years old or younger and less than 4 feet, 9 inches in height be restrained by a crash-tested, federally approved child restraint device. Current law requiring that children 3 years old or younger must be restrained using a separate carrier or an integrated child safety seat remains in effect, however, the bill also provides that children 4 through 8 years of age, who are less than 4 feet, 9 inches in height, must be restrained by a separate carrier, an integrated child seat, or a child booster seat. Seat belts alone would no longer be legal restraints for children who are aged 4 through 8 years and less than 4 feet, 9 inches tall. This change is intended to address the use of a booster seat for a child who is too large for a separate carrier or integrated child seat, but who is too small to be safely restrained by lap and shoulder belts. These changes take effect January 1, 2003.

In addition, the bill provides that a court must dismiss the charge against a motor vehicle operator who violates its requirements for the first time upon proof of purchase of a federally approved child restraint device. In cases where a first-time violator fails to show proof of purchase, or where the violator has committed the violation more than once, the penalties are the same as those set out above. (A driver who violates this requirement is subject to a \$60 fine, court costs and add-ons, and

having 3 points assessed against his or her driver's license, or upon court approval, may participate in a child restraint safety program.)

The bill also provides that, effective July 1, 2002, a law enforcement officer may issue a verbal warning and distribute educational literature to those motorists who are found in violation of the provisions of this bill that take effect January 1, 2003.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates a short title – the “Child Safety Booster Seat Act of 2002.”

Section 2. The bill provides that, effective January 1, 2003, a motorist transporting a child who is 8 years old or younger and is less than 4 feet, 9 inches tall must use an approved child restraint device to protect the child. The existing requirement that children 3 years old or younger must be restrained using a separate carrier or an integrated child safety seat remains in effect. For those children aged 4 through 8 years old who are less than 4 feet, 9 inches tall, the bill provides that the motorist must use a separate carrier, an integrated child safety seat, or a child booster seat. Seat belts alone would no longer be legal restraints for children who are aged 4 through 8 years and less than 4 feet, 9 inches tall. In addition, the bill provides that a court must dismiss the charges if a first-time violator provides proof of purchase of an approved child restraint device.

Section 3. Provides that, beginning July 1, 2002, law enforcement officers may give warnings and educational materials to those persons in violation of the provisions of the bill that take effect on January 1, 2003.

Section 4. Provides that, except as otherwise provided, the bill takes effect July 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Motorists must use a separate carrier, an integrated child seat or a child booster seat to transport certain children that are required by the bill to be restrained. Seat belts alone would no longer be legal restraints for children not meeting the age and height criteria in the bill. This change will fiscally impact motorists in the amount that it costs to acquire the necessary restraint devices. 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.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require a city or county to expend funds or to take any action requiring the expenditure of any funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the revenue raising authority of any city or county.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the amount of state tax shared with a county or city.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill does not expand or contract the rule-making authority of any state agency.

C. OTHER COMMENTS:

Currently, only four states -- Arkansas, California, South Carolina, and Washington -- have some form of mandatory booster seat law. According to highway and motor vehicle safety advocates, approximately 15-20 additional states are currently considering some form of booster seat law. NHTSA and the National Safety Council recommend the use of booster seats for children through age eight, about 80 pounds, and up to 4 feet, 9 inches tall. None of the states with booster seat laws meet these standards.

Booster seats range widely in price from certain backless belt-positioning boosters that cost about \$20 to customized high-back harness boosters that approach \$750. However, the majority of boosters, both of the belt-positioning and harness variety, generally cost from about \$50 to \$120.

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON COMMITTEE ON TRANSPORTATION:

Prepared by:

Staff Director:

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Phillip B. Miller