

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1901                      Child Restraint Requirements  
**SPONSOR(S):** Gelber  
**TIED BILLS:**                              **IDEN./SIM. BILLS:** SB 2708

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation		Garner	Miller
2) Public Safety & Crime Prevention			
3) Appropriations			
4)			
5)			

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### SUMMARY ANALYSIS

HB 1901 revises child restraint requirements for children passengers in motor vehicles. Motor vehicle operators will be required to use child restraint devices for certain children through 7 years of age instead of the current 4 years of age. Under the bill's provisions, a safety belt alone is no longer sufficient protection for any child aged 4 through 7 years. In addition, the bill specifies that certain child safety seats are appropriate restraint devices for children aged through 4 years, and that certain child booster seats are appropriate restraint devices for children aged 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 bill provides exceptions to the child restraint law for persons who are:

- Visiting the state;
- Not the parent or guardian of the child and who are not transporting the child in a vehicle owned by the child's parent or guardian;
- Transporting the child gratuitously and in good faith in response to a declared emergency situation or an immediate emergency involving the child; or
- Acting generally as a Good Samaritan.

The court must 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, 2006. Beginning July 1, 2005, 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 2006.

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

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

**STORAGE NAME:** h1901.tr.doc  
**DATE:** April 13, 2004

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |  |   |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

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

#### Reduce Government?

This bill revises child restraint requirements for children passengers in motor vehicles. Motor vehicle operators will be required to use child restraint devices for certain children through 7 years of age instead of the current 4 years of age.

#### B. EFFECT OF PROPOSED CHANGES:

##### Current 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 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, and the fee for the course must bear a reasonable relationship to the cost of providing the course.

##### Effect of Proposed Changes

HB 1901 amends s. 316.613, F.S., requiring an operator of a motor vehicle who is transporting a child who is 7 years of age or younger, to provide for the protection of the child by properly using a crash-tested, federally approved child restraint device. The bill specifies that the device must be appropriate for the height and weight of the child, and provides that 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 Standards FMVSS213.

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 must be transported in a booster seat. Under the provisions of this bill, motorists will no longer be permitted to transport children aged 4-7 years with only a safety belt used as protection.

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 provisions of the bill do not apply to a person who is transporting a child aged 4-7 years if the person is:

- Visiting in this state;
- Not the parent or guardian of the child and is transporting the child in a vehicle that is not owned by the child's parent or guardian;
- Transporting the child gratuitously and in good faith in response to a declared emergency situation or an immediate emergency involving the child; or
- Acting generally as a Good Samaritan.

Courts are required to dismiss the charge against a driver for a first violation of the child restraint law upon proof of purchase of a federally approved child restraint device.

The new child restraint requirements as provided in the bill will not take effect until January 1, 2006. However, the bill authorizes law enforcement personnel to issue a warning and distribute educational literature beginning July 1, 2005 to a person who is in compliance with current law, but whose actions violate the provisions that take effect January 1, 2006.

#### C. SECTION DIRECTORY:

**Section 1.** Amends s. 316.613, F.S., to provide, effective January 1, 2006, that all children through 7 years of age who are transported in a motor vehicle must be restrained in an approved child restraint device that is appropriate for the height and weight of the child; to describe which devices are appropriate for children of specified ages; and to require the court to dismiss charges for violation of the child restraint law upon proof of purchase of an approved child restraint device.

**Section 2.** Provides for phased-in enforcement with a grace period when law enforcement may issue verbal warnings and distribute educational literature.

**Section 3.** Provides exceptions to the child restraint law.

**Section 4.** Provides that the act shall take effect July 1, 2004.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS section below.

2. Expenditures:

None.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS section below.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Drivers of vehicles must use a separate carrier, an integrated child seat or a child booster seat to transport children required by the bill to be restrained. Seat belts alone would no longer be legal restraints for children not meeting the age criteria in the bill. This will have a fiscal impact to vehicle operators for the cost of acquiring 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:

Enactment of HB 1901 may result in increased issuance of traffic citations, which would result in revenue increases to state and local governments. Since the number of additional citations that would be issued is unknown, any resulting positive fiscal impact on state and local governments is indeterminate.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions 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:

None.

B. RULE-MAKING AUTHORITY:

No exercise of rule-making authority is necessary to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES