

STORAGE NAME: h1653a.tr

DATE: April 7, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
TRANSPORTATION
ANALYSIS**

BILL #: HB 1653

RELATING TO: Passengers of Vehicles/Trucks

SPONSOR(S): Representative Kosmas

COMPANION BILL(S): SB 2316 (s)

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

- (1) TRANSPORTATION YEAS 4 NAYS 7
 - (2) AGRICULTURE
 - (3) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

It is unlawful for a driver of a passenger vehicle to permit someone to ride on the exterior of a vehicle, except when the passenger occupies a seat that is securely attached to the exterior of the vehicle.

It is also unlawful for a person to ride on any portion of a vehicle not designed or intended for the use of passengers. This prohibition does not apply to employees while performing their duties or to a person riding within truck bodies in the space intended for merchandise. (This is the provision that authorizes persons to be transported in the bed area of a pickup truck.)

This bill would make it unlawful to ride on any portion of a vehicle not designed or intended for the use of passengers, including the bed area of a pickup truck.

The bill exempts the following persons from this passenger seating restriction:

- ▶ An employee of a fire department and a volunteer firefighter;
- ▶ A governmentally operated solid waste disposal department and a waste disposal service operating pursuant to a contract with a governmental entity; and
- ▶ A person being transported in response to an emergency by a public agency or pursuant to the direction or authority of a public agency.

The bill also specifies that no person 16-years of age or younger shall ride on the public roads of the state within the body of an open pickup truck or flatbed truck unless the minor is restrained within the back of a truck that has been modified to include secure seating and safety restraints. The seating and restraint requirement would not apply during a medical emergency if the child is accompanied within the truck by an adult or when the truck is being operated on a farm or off the public roads.

The bill authorizes counties and municipalities to adopt ordinances which would allow persons to ride in the body of an open pickup or flatbed truck.

The bill has no fiscal impact to the state. Motor vehicle passengers would be responsible for complying with the bill's seating and restraint requirements.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Currently, it is unlawful for a driver of a passenger vehicle to permit someone to ride on the exterior of a vehicle, except when the passenger occupies a seat that is securely attached to the exterior of the vehicle (s. 316.2015(1), F.S.). A driver who violates this subsection is subject to a \$60 fine, plus court costs and add-ons.

It is also unlawful for a person to ride on any portion of a vehicle not designed or intended for the use of passengers (s. 316.2015(2), F.S.). This prohibition does not apply to an employee while performing their duties or to a person riding within the space of a truck that is intended for merchandise. (This is the provision that authorizes persons to be transported in the bed area of a pickup truck.) In addition, this section does not apply to a performer engaged in a professional exhibition, parade, or any person preparing to participate in such an activity. A person who rides on a vehicle in violation of this subsection is subject to a \$30 fine, plus court costs and add-ons.

Passengers Riding in Body of Light (Pickup) Trucks Calendar Years 1996 and 1997						
	1996			1997		
Age	In Crashes	Injured	Killed	In Crashes	Injured	Killed
0 to 4	24	15	0	21	7	0
5 to 9	90	45	3	67	22	0
10 to 14	162	72	3	129	62	1
15 to 19	273	157	1	244	124	0
20 to 24	110	60	2	94	40	2
25 to 29	50	28	0	43	23	1
30 to 34	50	27	1	48	27	1
35 to 39	37	19	1	34	13	1
40 to 44	22	8	0	23	12	0
45 to 49	15	9	1	14	8	1
50 to 54	9	8	0	8	4	0
55 to 59	7	5	0	5	3	0
60 to 64	4	2	0	3	1	1
65 to 69	3	3	0	0	0	0
70 to 74	3	1	0	1	0	0
75 to 79	1	0	0	1	1	0
80 to 84	2	2	0	0	0	0
85 and over	0	0	0	0	0	0
Not Stated	38	9	0	18	5	0
Total	900	470	12	753	352	8

Source: Florida Traffic Crash Facts 1996 and 1997 prepared by the Department of Highway Safety and Motor Vehicles

B. EFFECT OF PROPOSED CHANGES:

This bill amends s. 316.2015, F.S., to make it unlawful for a person to ride on any portion of a vehicle not designed or intended for the use of passengers, including the bed area of a pickup truck.

The bill exempts the following persons from the passenger seating restriction:

- ▶ An employee of a fire department and a volunteer firefighter;
- ▶ A governmentally operated solid waste disposal department and a waste disposal service operating pursuant to a contract with a governmental entity; and
- ▶ A person being transported in response to an emergency by a public agency or pursuant to the direction or authority of a public agency.

This bill also specifies that no person 16-years of age or younger may ride on the public roads of the state within the body of an open pickup truck or flatbed truck unless the minor is restrained within the back of a truck which has been modified to include secure seating and safety restraints that would prevent the minor from being thrown, falling, or jumping from the truck. The restraint restriction would not apply in a medical emergency if the child is accompanied within the truck by an adult or when the truck is being operated upon a farm or off public roads.

In addition, the bill would make it unlawful for a person to occupy a seat on the exterior of a passenger vehicle, even if the seat is secured.

The bill further authorizes counties and municipalities to adopt ordinances to allow a person to ride in the body of an open pickup or flatbed truck.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

- (1) any authority to make rules or adjudicate disputes?

N/A

- (2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Motor vehicle passengers 16 years of age or less are required to be properly restrained when riding in pickup truck beds.

- (3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

- (2) what is the cost of such responsibility at the new level/agency?

N/A

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

N/A

- b. Does the bill require or authorize an increase in any fees?

N/A

- c. Does the bill reduce total taxes, both rates and revenues?

N/A

- d. Does the bill reduce total fees, both rates and revenues?

N/A

- e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Motor vehicle passengers 16 years of age or less are required to be properly restrained when riding in pickup truck beds.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Motor vehicle passengers 16 years of age or less are required to be properly restrained when riding in pickup truck beds.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

ss. 316.2015 & 316.008, F.S.

E. SECTION-BY-SECTION ANALYSIS:

N/A

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Motor vehicle owners would be responsible for complying with the restraint requirement, which could include the expense of installing a camper top or installing secure seating with safety seats.

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

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

N/A

V. COMMENTS:

The bill prohibits *all* persons from riding in the area of a vehicle which is not intended for passenger use unless otherwise exempted. Exemptions specified in the bill include, but are not limited to: an employee of a fire department; a governmentally operated solid waste disposal department; a waste disposal service operating pursuant to a contract with a governmental entity; a volunteer firefighter; a person who

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PAGE 7

is being transported in response to an emergency by a public agency; or a person 16-years of age and younger if they meet applicable restraint requirements.

The sponsor intends to offer an amendment in the Committee on Transportation to authorize persons over 16 years of age to ride unrestrained in such areas of a vehicle.

According to DHS&MV, court opinions have been split concerning the applicability of child safety restraint requirements to children 5-years and under riding in the back of pickup trucks. Although s. 316.2015, F.S., authorizes persons to ride in the bed area of a pickup truck, Florida's child restraint requirements may also apply to the same area of the truck (s. 316.613, F.S.). Florida's child restraint law requires a motor vehicle operator, while transporting a child, shall, if the child is 5 years of age or younger, provide for protection of the child by properly using a federally approved child restraint device. For children aged through 3 years, such restraint device must be a separate carrier or a vehicle manufacturer's integrated child seat. For children 4 and 5 years old, a separate carrier, an integrated child seat, or a seat belt may be used. An operator of a vehicle who violates this section is subject to a \$60 fine, plus court costs and add-ons.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 7, 1999, the Committee on Transportation adopted 1 amendment to HB 1653. The amendment authorizes persons over 16 years of age to ride unrestrained in the back of a truck and would make it unlawful for a person 16 years of age and younger to ride in the bed of an open pickup truck unless they are restrained. The amendment also maintains a current exemption which authorizes an employee to ride on a vehicle in a non-passenger space in when in the discharge of his or her duties.

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

Staff Director:

Thomas E. Duncan

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