

STORAGE NAME: h1837s1b.jud

DATE: April 9, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
JUDICIARY
ANALYSIS**

BILL #: CS/HB 1837

RELATING TO: Child Restraint Requirements/Comparative Negligence

SPONSOR(S): Committee on Judiciary and Rep. Bilirakis

COMPANION BILL(S): SB 334(i)

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

- (1) JUDICIARY YEAS 7 NAYS 0
 - (2) TRANSPORTATION
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

CS/HB 1837 requires the Department of Highway Safety and Motor Vehicles to approve child restraint safety courses. The bill provides for "primary action" enforcement of the child seat restraint law (s. 316.613, F.S.). The bill provides for a \$100 fine for violations, which fine shall be deposited into the Brain and Spinal Cord Injury Rehabilitation Trust Fund.

The bill has an effective date of July 1, 1999.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Section 316.613, F.S., requires operators of motor vehicles to use child restraint devices for children age 5 years and younger. This law allows violators to take a child restraint safety course in lieu of an assessment of points, such course to be approved by the Department of Health and Rehabilitative Services.

Section 316.614, F.S., provides for enforcement of the Florida Safety Belt Law (ss. 316.614 et seq., F.S.) by "secondary action," which requires detention of the operator of the motor vehicle for a suspected violation of another section of Chapter 216, Chapter 320, or Chapter 322, F.S., before a safety belt violation can be enforced.

B. EFFECT OF PROPOSED CHANGES:

The bill requires the Department of Highway Safety and Motor Vehicles to approve child restraint safety courses. The bill provides for "primary action" enforcement of the child seat restraint law (s. 316.613, F.S.).

In addition, the bill provides a \$100 fine for violations of the child restraint requirement, which fine shall be deposited into the Brain and Spinal Cord Injury Rehabilitation Trust Fund. The fine provided by the bill is cumulative to any other fines that may be levied for violations of s. 316.613, F.S.

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?

No.

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

No.

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

No.

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?

The bill does not eliminate or reduce any agency or program.

(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?
No.
- b. Does the bill require or authorize an increase in any fees?
No.
- c. Does the bill reduce total taxes, both rates and revenues?
No.
- d. Does the bill reduce total fees, both rates and revenues?
No.
- e. Does the bill authorize any fee or tax increase by any local government?
No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?
No.
- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?
N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?
No.
- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?
No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:
 - (1) Who evaluates the family's needs?
The bill does not purport to provide services to families or children.
 - (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?

No.

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?

The bill does not create or change a program providing services to families or children.

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections 316.613, 316.614, 318.18, and 318.21, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. The bill requires the Department of Highway Safety and Motor Vehicles to approve child restraint safety courses.

Section 2. Provides for "primary action" enforcement of the child seat restraint law (s. 316.613, F.S.). The bill provides for a \$100 fine for violations

Section 3. Creates a fine of \$100, in addition to any other fines that may be imposed, for violations of s. 316.613, F.S.

Section 4. Provides that the fine shall be deposited into the Brain and Spinal Cord Injury Rehabilitation Trust Fund.

Section 5. Provides an effective date of July 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

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

None.

D. FISCAL COMMENTS:

N/A

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 funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill will not affect the revenue raising authority of a city or county.

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

The bill will not affect the amount of state tax shared with counties and municipalities.

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Judiciary adopted an amendment and made the bill a committee substitute. The CS differs from the original bill by deleting the language that would have allowed a party to raise another party's failure to use a child restraint in comparative negligence cases. The CS also corrects a reference to the Department of Health and Rehabilitative Services, provides for a reduced fine for violations of the child restraint law (\$100 as opposed to \$250), and requires the fine to be deposited into the Brain and Spinal Cord Rehabilitative Trust Fund.

VII. SIGNATURES:

COMMITTEE ON JUDICIARY:

Prepared by:

Staff Director:

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