

1  
2 An act relating to child passenger restraint;  
3 amending s. 316.613, F.S.; removing an obsolete  
4 reference; amending s. 316.614, F.S.; providing  
5 for primary enforcement of violations of child  
6 restraint requirements; requiring that buses  
7 purchased after a specified date and used in  
8 transporting certain students be equipped with  
9 safety belts or other restraint system that  
10 comply with specified standards; providing an  
11 exemption for certain school buses; providing a  
12 definition for "school bus" used in the  
13 section; requiring passengers to wear safety  
14 belts or restraint system; providing immunity  
15 of a school district, bus operator, and others  
16 for injuries to a passenger caused solely  
17 because the passenger was not wearing a safety  
18 belt or restraint system; providing immunity to  
19 such persons for injury caused by a passenger's  
20 dangerous or unsafe use of a safety belt or  
21 restraint system; providing certain provisions  
22 for implementation; providing an exception to  
23 the operation of the act; providing an  
24 effective date.

25  
26 Be It Enacted by the Legislature of the State of Florida:

27  
28 Section 1. Section 316.613, Florida Statutes, is  
29 amended to read:

30 316.613 Child restraint requirements.--

31

1           (1)(a) Every operator of a motor vehicle as defined  
2 herein, while transporting a child in a motor vehicle operated  
3 on the roadways, streets, or highways of this state, shall, if  
4 the child is 5 years of age or younger, provide for protection  
5 of the child by properly using a crash-tested, federally  
6 approved child restraint device. For children aged through 3  
7 years, such restraint device must be a separate carrier or a  
8 vehicle manufacturer's integrated child seat. For children  
9 aged 4 through 5 years, a separate carrier, an integrated  
10 child seat, or a seat belt may be used.

11           (b) The Division of Motor Vehicles shall provide  
12 notice of the requirement for child restraint devices, which  
13 notice shall accompany the delivery of each motor vehicle  
14 license tag.

15           (2) As used in this section, the term "motor vehicle"  
16 means a motor vehicle as defined in s. 316.003 that is  
17 operated on the roadways, streets, and highways of the state.  
18 The term does not include:

19           (a) A school bus as defined in s. 316.003(45).

20           (b) A bus used for the transportation of persons for  
21 compensation, other than a bus regularly used to transport  
22 children to or from school, as defined in s. 316.615(1)(b), or  
23 in conjunction with school activities.

24           (c) A farm tractor or implement of husbandry.

25           (d) A truck of net weight of more than 5,000 pounds.

26           (e) A motorcycle, moped, or bicycle.

27           (3) The failure to provide and use a child passenger  
28 restraint shall not be considered comparative negligence, nor  
29 shall such failure be admissible as evidence in the trial of  
30 any civil action with regard to negligence.

31

1           (4) It is the legislative intent that all state,  
2 county, and local law enforcement agencies, and safety  
3 councils, in recognition of the problems with child death and  
4 injury from unrestrained occupancy in motor vehicles, conduct  
5 a continuing safety and public awareness campaign as to the  
6 magnitude of the problem.

7           (5) Any person who violates the provisions of this  
8 section commits a moving violation, punishable as provided in  
9 chapter 318 and shall have 3 points assessed against his or  
10 her driver's license as set forth in s. 322.27. In lieu of the  
11 penalty specified in s. 318.18 and the assessment of points, a  
12 person who violates the provisions of this section may elect,  
13 with the court's approval, to participate in a child restraint  
14 safety program approved by the chief judge of the circuit in  
15 which the violation occurs, and upon completing such program,  
16 the penalty specified in chapter 318 and associated costs may  
17 be waived at the court's discretion and the assessment of  
18 points shall be waived. The child restraint safety program  
19 must use a course approved by the Department of Highway Safety  
20 and Motor Vehicles ~~Health and Rehabilitative Services~~, and the  
21 fee for the course must bear a reasonable relationship to the  
22 cost of providing the course.

23           Section 2. Section 316.614, Florida Statutes, is  
24 amended to read:

25           316.614 Safety belt usage.--

26           (1) This section may be cited as the "Florida Safety  
27 Belt Law."

28           (2) It is the policy of this state that enactment of  
29 this section is intended to be compatible with the continued  
30 support by the state for federal safety standards requiring  
31 automatic crash protection, and the enactment of this section

1 should not be used in any manner to rescind or delay the  
2 implementation of the federal automatic crash protection  
3 system requirements of Federal Motor Safety Standard 208 as  
4 set forth in S4.1.2.1 thereof, as entered on July 17, 1984,  
5 for new cars.

6 (3) As used in this section:

7 (a) "Motor vehicle" means a motor vehicle as defined  
8 in s. 316.003 that is operated on the roadways, streets, and  
9 highways of this state. The term does not include:

10 1. A school bus.

11 2. A bus used for the transportation of persons for  
12 compensation.

13 3. A farm tractor or implement of husbandry.

14 4. A truck of a net weight of more than 5,000 pounds.

15 5. A motorcycle, moped, or bicycle.

16 (b) "Safety belt" means a seat belt assembly that  
17 meets the requirements established under Federal Motor Vehicle  
18 Safety Standard No. 208, 49 C.F.R. s. 571.208.

19 (c) "Restrained by a safety belt" means being  
20 restricted by an appropriately adjusted safety belt which is  
21 properly fastened at all times when a motor vehicle is in  
22 motion.

23 (4) It is unlawful for any person:

24 (a) To operate a motor vehicle in this state unless  
25 each passenger of the vehicle under the age of 16 years is  
26 restrained by a safety belt or by a child restraint device  
27 pursuant to s. 316.613, if applicable; or

28 (b) To operate a motor vehicle in this state unless  
29 the person is restrained by a safety belt.

30 (5) It is unlawful for any person 16 years of age or  
31 older to be a passenger in the front seat of a motor vehicle

1 unless such person is restrained by a safety belt when the  
2 vehicle is in motion.

3 (6)(a) Neither a person who is certified by a  
4 physician as having a medical condition that causes the use of  
5 a safety belt to be inappropriate or dangerous nor an employee  
6 of a newspaper home delivery service while in the course of  
7 his or her employment delivering newspapers on home delivery  
8 routes is required to be restrained by a safety belt.

9 (b) The number of front seat passengers of a pickup  
10 truck required to wear a safety belt pursuant to this section  
11 shall not exceed the number of safety belts which were  
12 installed in the front seat of such pickup truck by the  
13 manufacturer.

14 (c) An employee of a solid waste or recyclable  
15 collection service is not required to be restrained by a  
16 safety belt while in the course of employment collecting solid  
17 waste or recyclables on designated routes.

18 (d) The requirements of this section shall not apply  
19 to the living quarters of a recreational vehicle or a space  
20 within a truck body primarily intended for merchandise or  
21 property.

22 (7) It is the intent of the Legislature that all  
23 state, county, and local law enforcement agencies, safety  
24 councils, and public school systems, in recognition of the  
25 fatalities and injuries attributed to unrestrained occupancy  
26 of motor vehicles, shall conduct a continuing safety and  
27 public awareness campaign as to the magnitude of the problem  
28 and adopt programs designed to encourage compliance with the  
29 safety belt usage requirements of this section.

30 (8) Any person who violates the provisions of this  
31 section commits a nonmoving violation, punishable as provided

1 in chapter 318. However, except for violations of s. 316.613,  
2 enforcement of this section by state or local law enforcement  
3 agencies must be accomplished only as a secondary action when  
4 a driver of a motor vehicle has been detained for a suspected  
5 violation of another section of this chapter, chapter 320, or  
6 chapter 322.

7 (9) A violation of the provisions of this section  
8 shall not constitute negligence per se, nor shall such  
9 violation be used as prima facie evidence of negligence or be  
10 considered in mitigation of damages, but such violation may be  
11 considered as evidence of comparative negligence, in any civil  
12 action.

13 Section 3. (1)(a) Each school bus that is purchased  
14 after December 31, 2000, and used to transport students in  
15 grades pre-K through 12 must be equipped with safety belts or  
16 with any other restraint system approved by the Federal  
17 Government in a number sufficient to allow each student who is  
18 being transported to use a separate safety belt or restraint  
19 system. These safety belts must meet the standards required  
20 under s. 316.614, Florida Statutes. A school bus that was  
21 purchased prior to December 31, 2000, is not required to be  
22 equipped with safety belts.

23 (b) As used in this section, "school bus" means a  
24 school bus that is owned, leased, operated, or contracted by a  
25 school district.

26 (2) Each passenger on a school bus that is equipped  
27 with safety belts or restraint system shall wear a properly  
28 adjusted and fastened safety belt at all times while the bus  
29 is in operation. The state, the county, a school district,  
30 school bus operator under contract with a school district, or  
31 an agent or employee of a school district or operator,

1 including a teacher or volunteer serving as a chaperone, is  
2 not liable in an action for personal injury by a school bus  
3 passenger solely because the injured party was not wearing a  
4 safety belt.

5 (3) The state, the county, a school district, school  
6 bus operator under contract with a school district, or an  
7 agent or employee of a school district or operator, including  
8 a teacher or volunteer serving as a chaperone, is not liable  
9 in an action for personal injury by a school bus passenger for  
10 an injury caused solely by another passenger's use or non-use  
11 of a safety belt or restraint system in a dangerous or unsafe  
12 manner.

13 (4) In implementing the provisions of this section,  
14 each school district must prioritize the allocation of buses  
15 equipped with safety belts or restraint system to ensure that  
16 elementary schools within the district receive first priority.  
17 A school district may enter into agreements to provide  
18 transportation pursuant to this section only if the point of  
19 origin or termination of the trip is within the district's  
20 boundaries.

21 (5) The provisions of this section shall not apply to  
22 vehicles as defined in s. 234.051(1)(b), Florida Statutes.

23 Section 4. This act shall take effect July 1, 1999.  
24  
25  
26  
27  
28  
29  
30  
31