

By Senators Sebesta and Lee

20-490-99

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A bill to be entitled
An act relating to child passenger restraint;
amending s. 316.613, F.S.; deleting the
provision that failure to provide and use a
child passenger restraint is not considered
comparative negligence and that such failure is
not admissible as evidence in a civil action
for negligence; providing an effective date.

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

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

316.613 Child restraint requirements.--

(1)(a) Every operator of a motor vehicle as defined
herein, while transporting a child in a motor vehicle operated
on the roadways, streets, or highways of this state, shall, if
the child is 5 years of age or younger, provide for protection
of the child by properly using a crash-tested, 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
aged 4 through 5 years, a separate carrier, an integrated
child seat, or a seat belt may be used.

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

(2) As used in this section, the term "motor vehicle"
means a motor vehicle as defined in s. 316.003 that is

1 operated on the roadways, streets, and highways of the state.

2 The term does not include:

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

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

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

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

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

11 ~~(3) The failure to provide and use a child passenger~~
12 ~~restraint shall not be considered comparative negligence, nor~~
13 ~~shall such failure be admissible as evidence in the trial of~~
14 ~~any civil action with regard to negligence.~~

15 (3)(4) It is the legislative intent that all state,
16 county, and local law enforcement agencies, and safety
17 councils, in recognition of the problems with child death and
18 injury from unrestrained occupancy in motor vehicles, conduct
19 a continuing safety and public awareness campaign as to the
20 magnitude of the problem.

21 (4)(5) Any person who violates the provisions of this
22 section commits a moving violation, punishable as provided in
23 chapter 318 and shall have 3 points assessed against his or
24 her driver's license as set forth in s. 322.27. In lieu of the
25 penalty specified in s. 318.18 and the assessment of points, a
26 person who violates the provisions of this section may elect,
27 with the court's approval, to participate in a child restraint
28 safety program approved by the chief judge of the circuit in
29 which the violation occurs, and upon completing such program,
30 the penalty specified in chapter 318 and associated costs may
31 be waived at the court's discretion and the assessment of

1 points shall be waived. The child restraint safety program
2 must use a course approved by the Department of Children and
3 Family Health and Rehabilitative Services, and the fee for the
4 course must bear a reasonable relationship to the cost of
5 providing the course.

6 Section 2. This act shall take effect July 1, 1999.

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SENATE SUMMARY

10 Deletes the provision that the failure to provide and use
11 a child passenger restraint is not considered comparative
12 negligence and that such failure is not admissible as
13 evidence in a civil trial for negligence.

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