

By the Committee on Judiciary and Senators Sebesta and Lee

308-1893A-99

1                                   A bill to be entitled  
2           An act relating to child passenger restraint;  
3           amending s. 316.613, F.S.; amending an obsolete  
4           reference to the Department of Health and  
5           Rehabilitative Services; amending s. 316.614,  
6           F.S.; providing for primary enforcement of  
7           violations of child-restraint requirements;  
8           amending s. 318.18, F.S.; providing a fine for  
9           such violations; amending s. 318.21, F.S.;  
10          requiring the proceeds of the fine to be  
11          deposited into the Brain and Spinal Cord Injury  
12          Rehabilitation Trust Fund and used as  
13          specified; providing an effective date.

14  
15 Be It Enacted by the Legislature of the State of Florida:

16  
17           Section 1. Section 316.613, Florida Statutes, is  
18 amended to read:

19           316.613 Child restraint requirements.--

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

30           (b) The Division of Motor Vehicles shall provide  
31 notice of the requirement for child restraint devices, which

1 notice shall accompany the delivery of each motor vehicle  
2 license tag.

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

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

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

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

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

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

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

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

25 (5) Any person who violates the provisions of this  
26 section commits a moving violation, punishable as provided in  
27 chapter 318 and shall have 3 points assessed against his or  
28 her driver's license as set forth in s. 322.27. In lieu of the  
29 penalty specified in s. 318.18 and the assessment of points, a  
30 person who violates the provisions of this section may elect,  
31 with the court's approval, to participate in a child restraint

1 safety program approved by the chief judge of the circuit in  
2 which the violation occurs, and upon completing such program,  
3 the penalty specified in chapter 318 and associated costs may  
4 be waived at the court's discretion and the assessment of  
5 points shall be waived. The child restraint safety program  
6 must use a course approved by the Department of Children and  
7 Family ~~Health and Rehabilitative~~ Services, and the fee for the  
8 course must bear a reasonable relationship to the cost of  
9 providing the course.

10 Section 2. Section 316.614, Florida Statutes, is  
11 amended to read:

12 316.614 Safety belt usage.--

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

15 (2) It is the policy of this state that enactment of  
16 this section is intended to be compatible with the continued  
17 support by the state for federal safety standards requiring  
18 automatic crash protection, and the enactment of this section  
19 should not be used in any manner to rescind or delay the  
20 implementation of the federal automatic crash protection  
21 system requirements of Federal Motor Safety Standard 208 as  
22 set forth in S4.1.2.1 thereof, as entered on July 17, 1984,  
23 for new cars.

24 (3) As used in this section:

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

28 1. A school bus.

29 2. A bus used for the transportation of persons for  
30 compensation.

31 3. A farm tractor or implement of husbandry.

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

2           5. A motorcycle, moped, or bicycle.

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

6           (c) "Restrained by a safety belt" means being  
7 restricted by an appropriately adjusted safety belt which is  
8 properly fastened at all times when a motor vehicle is in  
9 motion.

10          (4) It is unlawful for any person:

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

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

17          (5) It is unlawful for any person 16 years of age or  
18 older to be a passenger in the front seat of a motor vehicle  
19 unless such person is restrained by a safety belt when the  
20 vehicle is in motion.

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

27           (b) The number of front seat passengers of a pickup  
28 truck required to wear a safety belt pursuant to this section  
29 shall not exceed the number of safety belts which were  
30 installed in the front seat of such pickup truck by the  
31 manufacturer.

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

5 (d) The requirements of this section shall not apply  
6 to the living quarters of a recreational vehicle or a space  
7 within a truck body primarily intended for merchandise or  
8 property.

9 (7) It is the intent of the Legislature that all  
10 state, county, and local law enforcement agencies, safety  
11 councils, and public school systems, in recognition of the  
12 fatalities and injuries attributed to unrestrained occupancy  
13 of motor vehicles, shall conduct a continuing safety and  
14 public awareness campaign as to the magnitude of the problem  
15 and adopt programs designed to encourage compliance with the  
16 safety belt usage requirements of this section.

17 (8) Any person who violates the provisions of this  
18 section commits a nonmoving violation, punishable as provided  
19 in chapter 318. However, except for violations of s. 316.613,  
20 enforcement of this section by state or local law enforcement  
21 agencies must be accomplished only as a secondary action when  
22 a driver of a motor vehicle has been detained for a suspected  
23 violation of another section of this chapter, chapter 320, or  
24 chapter 322.

25 (9) A violation of the provisions of this section  
26 shall not constitute negligence per se, nor shall such  
27 violation be used as prima facie evidence of negligence or be  
28 considered in mitigation of damages, but such violation may be  
29 considered as evidence of comparative negligence, in any civil  
30 action.

31

1 Section 3. Subsection (12) is added to section 318.18,  
2 Florida Statutes, 1998 Supplement, to read:

3 318.18 Amount of civil penalties.--The penalties  
4 required for a noncriminal disposition pursuant to s. 318.14  
5 are as follows:

6 (12) In addition to any other fines, a fine of \$250  
7 for a violation of s. 316.613.

8 Section 4. Subsection (13) is added to section 318.21,  
9 Florida Statutes, 1998 Supplement, to read:

10 318.21 Disposition of civil penalties by county  
11 courts.--All civil penalties received by a county court  
12 pursuant to the provisions of this chapter shall be  
13 distributed and paid monthly as follows:

14 (13) Of the additional fine assessed under s.  
15 318.18(12) for a violation of s. 316.613, all of the proceeds,  
16 without any deductions otherwise provided in this section,  
17 must be deposited into the Brain and Spinal Cord Injury  
18 Rehabilitation Trust Fund and used for the purposes set forth  
19 in s. 413.613.

20 Section 5. This act shall take effect July 1, 1999.

21  
22 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
23 COMMITTEE SUBSTITUTE FOR  
24 SB 334

25 The committee substitute clarifies that law enforcement may  
26 stop and detain a driver for a violation of the child  
restraint law in s. 316.613, F.S.

27 The fine for failure to comply with the child restraint laws  
28 is increased by \$250 to \$310 plus court costs.

29 The \$250 increase in the fine is to be deposited into the  
Brain and Spinal Cord Injury Rehabilitation Trust Fund.

30 The agency approving the child restraint safety program is  
31 changed from the Department of Health and Rehabilitative  
Services, which no longer exists, to the Department of  
Children and Families.