

STORAGE NAME: h0561a.jud

DATE: March 30, 2000

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
JUDICIARY
ANALYSIS**

BILL #: HB 561

RELATING TO: Florida Safety Belt Law

SPONSOR(S): Representative Cantens

TIED BILL(S): None

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

- (1) TRANSPORTATION YEAS 9 NAYS 1
 - (2) LAW ENFORCEMENT AND CRIME PREVENTION YEAS 5 NAYS 3
 - (3) JUDICIARY YEAS 6 NAYS 2
 - (4) CRIMINAL JUSTICE APPROPRIATIONS
 - (5)
-

I. SUMMARY:

Current law requires a motor vehicle operator, front seat passengers, and all passengers under 16 years of age to wear seat belts. The "Florida Safety Belt Law" is enforced as a secondary offense; that is, law enforcement officers cannot stop motorists solely for not using their seat belts. Instead, the officer must first stop the motorist for a suspected violation of state traffic, motor vehicle, or driver license laws before the officer can issue a uniform traffic citation for failure to wear a seat belt.

The bill amends the "Florida Safety Belt Law" to provide for primary enforcement of the seat belt law. Under this bill, law enforcement officers would be authorized to stop motorists and issue citations when an operator is not using a seat belt. A person who violates this provision would be cited for a nonmoving violation, punishable by a fine of \$30.

Furthermore, the bill provides that the number of passengers in a motor vehicle required to wear a seat belt shall not exceed the number of seat belts installed in the motor vehicle by the manufacturer.

The bill, however, prohibits a law enforcement officer from searching or inspecting the vehicle, its contents, or the driver based solely upon this violation.

The bill has an effective date of July 1, 2000.

Although the number of safety belt violations as a primary violation may result in an increase of citations, the potential fiscal impacts are unknown.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1. Less Government Yes No N/A

Law enforcement would be required to stop motor vehicles for a violation of the Florida Safety Belt Law as a primary, rather than a secondary, violation.

2. Lower Taxes Yes No N/A

3. Individual Freedom Yes No N/A

See above.

4. Personal Responsibility Yes No N/A

5. Family Empowerment Yes No N/A

B. PRESENT SITUATION:

Section 316.614, F.S., the "Florida Safety Belt Law", requires a motor vehicle operator, front seat passengers, and all passengers under 16 years of age to wear seat belts. This section also provides that the number of front seat passengers in a pick-up truck required to wear a seat belt shall not exceed the number of seat belts installed by the manufacturer. The "Florida Safety Belt Law" is enforced as a secondary offense; that is, law enforcement officers cannot stop motorists solely for not using their seat belts. Instead, the officer must first stop the motorist for a suspected violation of Chapters 316, 320, or 322, F.S., before the officer can issue a uniform traffic citation for failure to wear a seat belt.

Although the "Florida Safety Belt Law" is enforced as a secondary offense, the child restraint requirements of s. 316.613, F.S., are enforced as a primary offense. The law requires all children 5 years of age and younger being transported in a motor vehicle to be restrained in a carrier, integrated car seat, or seat belt. Motorists are subject to being stopped by a law enforcement officer for failure to comply with this requirement.

The penalty for failure to wear a seat belt is \$30, plus add-ons and court costs. Revenues collected from citations issued for seat belt violations are distributed like other citation revenues, pursuant to s. 318.21, F.S., except \$5 for each citation paid is directed to the Epilepsy Services Trust Fund.

There are, however, exceptions for when seat belts are required to be worn. For example, persons who deliver newspapers on home delivery routes are not required to wear seat belts during the course of their employment.

Currently, there is no language in the "Florida Safety Belt Law" statute which relates to searches and inspections of a motor vehicle, its contents, or the driver by a law enforcement officer for a traffic stop which results in a secondary violation of s. 316.614, F.S.

C. EFFECT OF PROPOSED CHANGES:

This bill amends the "Florida Safety Belt Law" to provide for primary enforcement of the seat belt law. Under this bill, law enforcement officers would be authorized to stop motorists and issue citations for not using a seat belt.

The bill provides that the number of passengers in a motor vehicle required to wear seat belts shall not exceed the number of safety belts which were installed in the motor vehicle by the manufacturer.

The bill, however, prohibits a law enforcement officer from searching or inspecting the vehicle, its contents, or the driver based solely upon this violation.

D. SECTION-BY-SECTION ANALYSIS:

N/A

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

Although the number of safety belt violations as a primary violation may result in an increase of citations, the potential fiscal impacts are unknown.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require the city or county to spend funds or to take any action requiring the expenditure of any funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the revenue raising authority of any city or county.

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

This bill does not reduce the amount of state tax shared with any city or county.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

The provision in this bill prohibiting an officer from searching or inspecting "a motor vehicle, its contents, the driver, or a passenger solely because of a violation of this section" is a restatement of existing law. A lawful stop by an officer to enforce the provisions of this section would still be subject to all of the protections of the Fourth Amendment to the United States Constitution and Article I, Section 12 of the Florida Constitution.

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

According to the National Highway Traffic Safety Administration, the average seat belt use rate in 1998 in the eleven states which have laws that permit primary enforcement is 17 percentage points higher than the average of those states which permit only secondary enforcement. The average use rate among primary law enforcement states in 1998 was 79 percent and the average use rate among secondary law enforcement states in 1998 was 62 percent. Furthermore, the National Highway Traffic Safety Administration reported that in 1998 the average seat belt use rate in Florida was 57 percent.

According to the Department of Highway Safety and Motor Vehicles, this bill would strengthen Florida's Safety Belt Law by increasing compliance and, thereby reducing the number of deaths and injuries associated with failure to wear a seat belt. DHS&MV's records indicate that 270,717 citations were issued in Florida for seat belt violations during calendar year 1998.

The language amending subsection (6)(b) would conflict with current law by not requiring all front seat passengers in all motor vehicles to wear safety belts. Passengers may now be able to "pack" the front seat but avoid a violation of this section because there were not enough seat belts installed by the manufacturer. This provision would also conflict with current law that requires each passenger under the age of 16 to be restrained by a safety belt or child restraint

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device no matter where in the car they are sitting. If there are more children than safety belts, then there may not be a violation of this section.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

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