

STORAGE NAME: h0067.cpcs.doc

DATE: January 23, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CRIME PREVENTION, CORRECTIONS & SAFETY
ANALYSIS**

BILL #: HB 67

RELATING TO: Florida Safety Belt Law

SPONSOR(S): Representatives Slosberg and Cantens

TIED BILL(S):

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

- (1) CRIME PREVENTION, CORRECTIONS & SAFETY
 - (2) INSURANCE
 - (3) TRANSPORTATION
 - (4) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
 - (5) COUNCIL FOR HEALTHY COMMUNITIES
-

I. SUMMARY:

Current law requires a motor vehicle operator, front seat passengers, and all passengers under 18 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, 2001.

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 authorized 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 18 years of age to wear seat belts. This section also provides that the number of front seat passengers in a pickup 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:

See Effect of Proposed Changes.

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:

The bill does not reduce the amount of state tax shared with 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:

None.

C. OTHER COMMENTS:

According to the National Highway Traffic Safety Administration (NHTSA), as of March 1999, the average seat belt use rate in the 19 states (including the District of Columbia and Puerto Rico) which have laws that permit primary enforcement is 12 percentage points higher than the average of those states which permit only secondary enforcement. The average use rate among primary law enforcement states in 1999 was 73 percent and the average use rate among secondary law enforcement states in 1999 was 61 percent. In Florida, the NHTSA reported that the average safety belt use rate was 57 percent for the same period in 1999.

According to the Department of Highway Safety and Motor Vehicles (DHSMV), 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. DHSMV's records indicate that 313,684 citations were issued in Florida for seat belt violations during calendar year 1999.

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. In addition, because of the conflicting provision of s. 316.614(5), F.S., back seat adult passengers would still not be required to wear seat belts. This provision would also conflict with current law that requires each passenger under the age of 18 to be restrained by a safety belt or child restraint 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.

It is anticipated that these conflicts will be corrected by a strike-everything amendment to be presented to the committee. The proposed amendment provides for primary enforcement of the safety belt law and provides that all persons in a motor vehicle must wear a seat belt while the vehicle is in motion. The amendment also prohibits a law enforcement officer from searching or inspecting a vehicle, its contents, the driver or a passenger based solely upon this violation.

This amendment further provides that the number of passengers in a pickup truck required to wear a safety belt shall not exceed the number of safety belts which were installed in the truck by the manufacturer. The amendment, however, does not conflict with current law under Paragraph (d) of subsection (6) of 316.614, F.S., which excludes the living quarters of a recreational vehicle or a space within a truck body primarily intended for merchandise or property. Section 316.2015, F.S.

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provides regulations for persons riding on the exterior of a vehicle and also provides an exclusion for persons riding within truck bodies in space intended for merchandise.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON CRIME PREVENTION, CORRECTIONS & SAFETY:

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