

STORAGE NAME: h0075.tr.doc
DATE: January 28, 2002

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
TRANSPORTATION
ANALYSIS**

BILL #: HB 75
RELATING TO: The Florida Safety Belt Law
SPONSOR(S): Representative(s) Slosberg
TIED BILL(S): None

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

- (1) TRANSPORTATION
 - (2) CRIME PREVENTION, CORRECTIONS & SAFETY
 - (3) FISCAL POLICY & RESOURCES
 - (4) READY INFRASTRUCTURE COUNCIL
 - (5)
-

I. SUMMARY:

Current law requires a motor vehicle operator, front seat passengers, and all passengers under 18 years of age to wear safety belts. The "Florida Safety Belt Law" is enforced as a secondary offense; that is, law enforcement officers cannot stop motorists solely for not using safety belts. Instead, an officer must first stop a motorist for a suspected violation of state traffic, motor vehicle, or driver license laws before issuing a uniform traffic citation for failure to wear a safety belt.

The "Florida Safety Belt Law" would be amended to provide for primary enforcement of the safety belt law. Law enforcement officers would be authorized to stop motorists and issue citations for a safety belt violation. A person violating this provision would be cited for a nonmoving violation, punishable by a \$30 fine.

All passengers in the front seat of a motor vehicle would be required to wear a safety belt when the vehicle is in motion. The number of passengers required to wear safety belts would equal the number of safety belts installed by the manufacturer.

Law enforcement officers would be prohibited from searching or inspecting the vehicle, its contents, or the driver based solely upon a violation of the safety belt law.

Primary enforcement of safety belt violations could result in an increase of citations. However, the potential fiscal impacts are unknown because the number of additional citations issued cannot be determined.

The effective date of this bill is July 1, 2002.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

Less Government

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.

Individual Freedom

See above.

B. PRESENT SITUATION:

In 1986, the Legislature enacted the "Florida Safety Belt Law." Section 316.614, F.S., requires a motor vehicle operator, front seat passengers, and all passengers under 18 years of age to wear safety 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 safety 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 safety belt.

The penalty for failure to wear a safety belt is \$30, plus administrative and court costs. Revenues collected from citations issued for safety belt violations are distributed like other traffic citation revenues, pursuant to s. 318.21, F.S., except that \$5 of each citation paid is directed to the Epilepsy Services Trust Fund. According to the Department of Highway Safety and Motor Vehicles, there were 313,684 citations issued for safety belt violations during calendar year 1999.

Those not subject to the safety belt law include:

- Persons certified by physicians as having a medical condition that would cause the use of a safety belt to be inappropriate or dangerous;
- Persons delivering newspapers on home delivery routes during the course of their employment;
- Front seat passengers of a pickup truck in excess of the number of safety belts installed; and
- The living quarters of a recreational vehicle or the space within a truck body that is used for storage or merchandise.

The "Florida Safety Belt Law" does not qualify the authority of law enforcement officers to search and inspect a motor vehicle, its contents, or the driver by a law enforcement officer for traffic stops resulting in a secondary violation of s. 316.614, F.S.

According to the National Highway Traffic Safety Administration (NHTSA), as of March 1999, the average rate of safety belt use in the 19 states (including the District of Columbia and Puerto Rico) permitting primary enforcement of the safety belt law was 73 percent and the average use rate among states with secondary enforcement was 61 percent. In Florida, according to the NHTSA, the average rate of safety belt use was 57 percent during that same period.

C. EFFECT OF PROPOSED CHANGES:

Under the bill, the "Florida Safety Belt Law" provides for primary enforcement. Law enforcement officers are authorized to stop motorists and issue citations for a safety belt violation. A person violating this provision will be cited for a nonmoving violation, punishable by a \$30 fine.

All passengers in the front seat of a motor vehicle are required to wear a safety belt when the vehicle is in motion. The number of passengers in the motor vehicle required to wear safety belts equals the number of safety belts installed by the manufacturer.

Law enforcement officers are prohibited from searching or inspecting the vehicle, its contents, or the driver based solely upon a violation of the safety belt law.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Provides the short title – the "Dori Slosberg Act of 2002."

Section 2. Provides passengers in a motor vehicle in addition to the number for which there are manufacturer installed safety belts are not required to wear safety belts. Prohibits searches by law enforcement based solely on a violation of the safety belt law. Provides for primary enforcement of the safety belt law.

Section 3. Provides an effective date of July 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS section.

2. Expenditures:

See FISCAL COMMENTS section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See FISCAL COMMENTS section.

D. FISCAL COMMENTS:

Primary enforcement of safety belt violations may result in an increased number of citations being issued; however, the number is indeterminate and therefore the fiscal impact is unknown.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require cities or counties to expend funds or to take actions requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that cities or counties have to raise revenues in the aggregate.

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

This bill does not reduce the percentage of a state tax shared with cities or counties.

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:

Current law requires a motor vehicle operator, front seat passengers, and all passengers under 18 years of age to be restrained by a safety belt or child restraint device. Passengers under 18 years of age are required to wear a safety belt no matter where in the car they are sitting. Currently, front seat passengers of a pickup truck in excess of the number of seat belts installed in the truck are not required to wear a seat belt

The bill provides an exception for seat belt usage for those passengers of a motor vehicle in excess of the number of seat belts installed in the vehicle, which broadens the exemptions under current

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law. In a situation where more children are passengers in a vehicle than there are available seatbelts, this provision of the bill creates a potential conflict with the requirement in existing law that all children be restrained by a safety belt or child restraint device.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON TRANSPORTATION:

Prepared by:

Staff Director:

William C. Garner

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