

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 614

SPONSOR: Senator Miller

SUBJECT: Bus Transportation

DATE: April 8, 2003

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Meyer</u>	<u>TR</u>	<u>Favorable</u>
2.	<u>deMarsh-Mathues</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable</u>
3.	_____	_____	<u>AED</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill requires driving records of drivers of nonpublic sector buses to be checked by their employers at least once a year to ascertain whether the driver has a suspended or revoked driver's license. In addition, private school students may ride on a public school bus and public school students may ride on a private school bus, subject to the specified terms of an agreement between the local school board and the private school.

This bill substantially amends s. 316.70, F.S., creates an undesignated section of law, and provides an effective date of July 1, 2003.

II. Present Situation:

Standards for Nonpublic Sector Buses

Section 316.70, F.S., specifies the Department of Transportation (FDOT) must establish and revise standards to assure the safe operation of nonpublic sector buses to assure:

- Nonpublic sector buses are safely maintained, equipped, and operated.
- Nonpublic sector buses are carrying the insurance required by law, and carrying liability insurance on the checked baggage of passengers not to exceed the standard adopted by the United States Department of Transportation.
- Florida license tags are purchased for nonpublic sector buses.

A nonpublic bus is any bus used for the transportation of persons for compensation and which is not owned, leased, operated, or controlled by a municipal, county, or state government or a governmentally owned or managed nonprofit corporation. School buses subject to the provisions of chapter 1006, F.S., or s. 316.615, F.S., are exempt from the provisions of s. 316.70, F.S.

Currently, this section authorizes FDOT to assess a civil penalty of up to \$5,000 per infraction against anyone who violates any of the above listed provisions or who violates any rule or order of FDOT.

School Buses and Liability

Section 316.615, F.S., provides requirements for school buses and school bus drivers. For purposes of this section, a “school” includes all public and private nursery, pre-elementary, elementary, and secondary level schools. The section further requires all motor vehicles with a seating capacity of 24 or more pupils, regularly used to transport pupils to and from school or school activities, comply with the requirements of chapter 1006, F.S. Also, the law specifies the requirements for motor vehicles (other than privately owned passenger motor vehicles and those owned or operated by governmental entities) with a seating capacity of less than 24 pupils used for transportation of pupils to and from the school or school activities.

Within chapter 1006, F.S., are provisions relating to the transportation of school children. In section 1006.25, F.S., “school bus” is defined as a motor vehicle regularly used for the transportation of pre-K through grade 12 public school students to and from school or school activities. The definition applies to motor vehicles owned, operated, rented, contracted, or leased by the school board. Exceptions to the definition are: passenger cars, multipurpose passenger vehicles, and trucks as defined in federal regulations (49 CFR 571); and motor vehicles subject to and meeting specific federal regulations (the Federal Motor Carrier Safety Regulations in 49 CFR), but not used exclusively for the transportation of public school students.

Section 1006.24, F.S., specifies each district school board is liable for tort claims arising out of any incident or occurrence involving a school bus or other motor vehicle owned, maintained, operated, or used by the school board to transport persons. The school board is liable to the same extent and in the same manner as the state or any of its subdivisions is liable under s. 768.28, F.S. However, the total liability to persons being transported for all claims and judgments arising out of the same incident is limited to an amount equal to \$5,000 multiplied by the rated seating capacity, as determined by rules of the State Board of Education, or \$100,000, whichever is greater.

The provisions of s. 768.28, F.S., apply to all claims or actions brought against district school boards, as authorized in s. 1006.24, F.S. Each district school board may secure and maintain a medical payments plan or medical payments insurance on school buses and other vehicles. If used, these options are subject to a threshold of \$500 per person. The law allows expenses, costs, or premiums to protect against liability to be paid from any available funds of the district school board. District school boards may require owners of vehicles used for transportation not owned by the board to provide evidence of adequate insurance.

Section 768.28(9)(a), F.S., provides no officer, employee, or agent of the state or of any of its subdivisions shall be held personally liable in tort for any injury or damage suffered as a result of any act, event, or omission of action in the scope of her or his employment or function, unless such officer, employee, or agent acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

School buses which are rented, leased, purchased, or contracted for must meet applicable federal motor carrier vehicle safety standards and other specifications as may be required by the rules of the State Board of Education. Students may be transported only in designated seating positions, except as otherwise provided, and must use the occupant crash protection system provided by the manufacturer. This system must meet federal requirements (49 CFR 571) or comply with the State Board of Education's specifications.

Liability and Agreements

The law (s. 1006.261, F.S.) also provides for school districts to enter into agreements with state agencies or the governing body of a county or municipality for the use of school buses for public purposes. The law (s. 1006.261(2)(a), F.S.) provides various entities must indemnify and hold harmless the school district from any and all liability of the school district by virtue of the use of the buses under an agreement authorized under this section of law. The law provides that for purposes of liability for negligence, state agencies or subdivisions as defined in s. 768.28(2), F.S., are covered by s. 768.28, F.S., relating to sovereign immunity. Every other corporation or organization must provide specified liability insurance coverage for claims and judgments. Except as provided in this section, the school board, under s. 1006.22(9), F.S., is not responsible for transportation to events and activities that are not offered, sponsored or required by the district, nor is it liable for the transportation arranged and provided by parents or others to these activities.

School Buses, Safety Belts or Other Restraint Systems, Liability, and Agreements

Section 316.6145, F.S., defines a school bus as one owned, leased, operated, or contracted by a school district. All school buses purchased after December 31, 2000, and used to transport students in grades pre-K through 12 is subject to the requirements for safety belts or any other restraint system approved by the federal government sufficient to provide each student a separate belt or restraint system. There is an exception for a school bus purchased prior to December 31, 2000. Also, passengers on school buses equipped with safety belts or federally approved restraint systems must wear properly adjusted and fastened belts at all times the bus is in operation.

Specific parties are exempt from liability:

- In an action for personal injury by a school bus passenger solely because the injured party was not wearing a safety belt, the following are not liable: the state, the county, a school district, school bus operator under contract with a school district, or an agent or employee of a school district or operator, including a teacher or volunteer serving as a chaperone.
- In an action for personal injury by a school bus passenger for an injury caused solely by another passenger's use or nonuse of a safety belt or restraint system in a dangerous or unsafe manner, the following are not liable: the state, the county, a school district, school bus operator under contract with a school district, or an agent or employee of a school district or operator, including a teacher or volunteer serving as a chaperone.

Districts may enter into agreements to provide transportation only if the point of origin or termination of the trip is within the district's boundaries.

The Department of Education, in a recent preliminary report, discussed some school districts' current practices for contracting with private entities to transport public school students. For example, the Duval County School Board contracts with the private sector for transporting all public school students.¹

III. Effect of Proposed Changes:

The bill amends s. 316.70, F.S., adding a provision requiring the employers of nonpublic sector bus drivers to check the driving records of each nonpublic sector bus driver at least once a year to ascertain whether the driver has a suspended or revoked driver's license.

Private school students may ride on a public school bus and public school students may ride on a private school bus, subject to the specified terms of a mutual agreement between the local school board and the private school. For private school students to be transported on public school buses, the agreement must be in accordance with ss. 768.28(9)(a) and 316.6145, F.S., relating respectively to sovereign immunity and safety belts or other restraint systems. Alternatively, the agreement for public school students to be transported on private school buses must be contingent upon the private school bus driver's possession of adequate liability insurance through his or her employer.

According to the Department of Highway Safety and Motor Vehicles, although it is not required by current law for employers of nonpublic sector bus drivers to annually obtain driving records of their bus drivers, the insurance companies who insure the vehicles require drivers license checks on all drivers. Generally, the driving records are checked when the driver is initially employed and on each renewal of the policy.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

¹ Florida Department of Education, School Choice Transportation Funding Workgroup, *Funding Transportation to Florida's Schools of Choice: Findings and Recommendations, Preliminary Report*, March 1, 2003, p. 22.

B. Private Sector Impact:

The fiscal impact of the bill on nonpublic sector bus operators will be minimal since such entities are generally required by their insurers to conduct periodic driver license checks. The fiscal impact on private schools is dependent upon the extent to which they possess adequate liability insurance for their bus drivers.

C. Government Sector Impact:

The Department of Highway Safety and Motor Vehicles indicated that while it is not required by current law for employers of nonpublic sector bus drivers to annually obtain driving records of their bus drivers, the insurance companies who insure the vehicles require driver license checks on all drivers. Driving records are generally checked when the driver is initially employed and on each renewal of the policy. School districts that choose to enter into a mutual agreement with a private school, as specified in the bill, will be required to meet the existing requirements in s. 316.6145, F.S.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.