

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 3 CS Safety Belt Law Enforcement
SPONSOR(S): Slosberg and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 216

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Transportation Committee</u>	<u>10 Y, 4 N</u>	<u>Thompson</u>	<u>Miller</u>
2) <u>Criminal Justice Committee</u>	<u>6 Y, 1 N</u>	<u>Kramer</u>	<u>Kramer</u>
3) <u>Transportation & Economic Development Appropriations Committee</u>	<u>16 Y, 3 N, w/CS</u>	<u>McAuliffe</u>	<u>Gordon</u>
4) <u>State Infrastructure Council</u>	<u></u>	<u>Thompson</u>	<u>Havlicak</u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

Current law requires all motor vehicle operators, front seat passengers, and all passengers less than 18 years of age to wear safety belts. This requirement 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.

HB 3 amends section 316.614, F.S., changing the popular name of the section from the Florida Safety Belt Law to the Dori Slosberg Safety Belt Law, and to provide for primary enforcement. A law enforcement officer would be authorized to stop a motorist and issue a citation for a safety belt violation upon reasonable suspicion that the driver, any passenger under the age of 18 years, or any passenger in the front seat, is not restrained by a safety belt. A person violating this provision would be cited for a nonmoving violation, punishable by a \$30 fine plus applicable fees and court costs. The fees and court costs vary from county to county, but the total paid for each citation would range from \$68.50 to \$74.50.

Primary enforcement of safety belt violations could result in an increase in the number of citations issued. However, the potential fiscal impacts to state and local governments are unknown because it is impossible to forecast how many additional citations may be issued. (See FISCAL COMMENTS section for additional details.)

Further, the bill requires each law enforcement agency in Florida to adopt a departmental policy to prohibit racial profiling. The bill also requires law enforcement officers to record the race and ethnicity of the violator when a citation is issued for not wearing a safety belt. This data must be forwarded to the Department of Highway Safety and Motor Vehicles, and the Department of Highway Safety and Motor Vehicles must report this information annually to the Governor and the Legislature.

According to the Department of Highway Safety and Motor Vehicles, the cost for it to gather and report the data collected by law enforcement officers for issuing a citation for not wearing a safety belt, as required in the bill, would be approximately \$150,000. The cost to law enforcement agencies to collect and transmit this data is not known at this time (see CONSTITUTIONAL ISSUES section of additional details).

The bill takes effect upon becoming law.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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DATE: 4/14/2005

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government—The bill expands the authority of a law enforcement officer to detain motor vehicle operators arguably increasing the scope of government rather than decreasing it.

Safeguard individual liberty—Although the bill does not impose any new regulation upon motor vehicle operators, it does authorize law enforcement officials to detain an individual operating a motor vehicle in circumstances that under current law would not be reasonable grounds for stopping the motorist.

B. EFFECT OF PROPOSED CHANGES:

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 less than 18 years of age to wear safety belts. The law is enforced against any adult driver or adult passenger who is not restrained by a safety belt. If a person under 18 years of age is unrestrained, the law is enforced against the driver. The safety belt requirement 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 state traffic, motor vehicle, or drivers license laws (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 Uniform Traffic Citation Statistics compiled by the Department of Highway Safety and Motor Vehicles, there were 361,155 safety belt violations during the 2003 calendar year, more than for any other non-moving violation in the State of Florida.

Those not subject to the safety belt law include:

- Persons certified by a physician 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;
- Employees of a solid waste or recyclable collection service on designated routes during the course of their employment;
- Persons occupying the living quarters of a recreational vehicle or the space within the body of a truck used for the storage of merchandise.

According to the National Highway Traffic Safety Administration (NHTSA) there are 21 primary enforcement states, 29 secondary enforcement states, and 1 state (New Hampshire) that effectively has no belt use law. The National Occupant Protection Use Survey (NOPUS) is an observational survey of safety belt use that began in 1994 and has been used by NHTSA to measure the nation's belt use. NOPUS found safety belt use rates of 83 percent in primary enforcement states compared to 75 percent in secondary enforcement states in 2003. Through statewide enforcement and education efforts such as the Buckle Up Florida/Click It or Ticket campaign, Florida has shown an overall increase in seat belt usage rates from 59 percent in 1999 to 76.3 percent in 2004.

Research has found that safety belts, when used properly, reduce the risk of fatal injury to front seat passenger car occupants by 45 percent and the risk of moderate-to-critical injury by 50 percent (for occupants of light trucks, 60 percent and 65 percent, respectively).¹

Effect of Proposed Changes

HB 3 gives the act the popular name the "Dori Slosberg Safety Belt Law" and amends the Florida Safety Belt Law to provide for primary enforcement. A law enforcement officer would be authorized to stop a motorist and issue a citation for a safety belt violation upon reasonable suspicion that the driver, any passenger under the age of 18 years, or any passenger in the front seat who is 18 years of age or older, is not restrained by a safety belt. A person violating this provision would be cited for a nonmoving violation, punishable by a \$30 fine plus applicable fees and court costs. The fees and court costs vary from county to county, but the total paid for each citation would range from \$68.50 to \$74.50.

Further, the bill requires each law enforcement agency in Florida to adopt a departmental policy to prohibit racial profiling. The bill also requires law enforcement officers to record the race and ethnicity of the violator when a citation is issued for not wearing a safety belt. This data must be forwarded to the Department of Highway Safety and Motor Vehicles, and the Department of Highway Safety and Motor Vehicles must report this information annually to the Governor and the Legislature.

C. SECTION DIRECTORY:

Section 1. Gives the act the popular name the "Dori Slosberg Safety Belt Law."

Section 2. Amends s. 316.614, F.S., to provide for primary enforcement of the safety belt law. Further, the section requires each law enforcement agency in Florida to adopt a departmental policy to prohibit racial profiling, and requires law enforcement officers to record the race and ethnicity of the violator when a citation is issued for not wearing a safety belt. This data must be forwarded to the Department of Highway Safety and Motor Vehicles, and the Department of Highway Safety and Motor Vehicles must report this information annually to the Governor and the Legislature.

Section 3. Provides that the act shall take effect upon becoming law.

II. 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:

See FISCAL COMMENTS section.

2. Expenditures:

See FISCAL COMMENTS and CONSTITUTIONAL ISSUES section.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

¹ <http://www-nrd.nhtsa.dot.gov/pdf/nrd-30/NCSA/TSF2002/2002occfacts.pdf>

See FISCAL COMMENTS section.

D. FISCAL COMMENTS:

Primary enforcement of safety belt violations may result in the issuance of an increased number of citations, and the assessment of additional traffic penalties and court costs. However, because it is impossible to forecast how many additional violations will be cited, the fiscal impact on state and local government is unknown.

To the extent that the bill increases safety belt usage in Florida, crash-related injuries and deaths could be reduced, thereby decreasing associated medical and insurance costs.

According to the Department of Highway Safety and Motor Vehicles, the cost for it to gather and report the data collected by law enforcement officers for issuing a citation for not wearing a safety belt, as required in the bill, would be approximately \$150,000. The cost to law enforcement agencies to collect and transmit this data is not known at this time (see CONSTITUTIONAL ISSUES).

Federal Funds Issues

Section 157 in Title 23, of the United States Code was established by the last federal transportation act and authorized incentive funds for Federal Fiscal Years (FFY) 1999 through 2003. These incentive funds were awarded annually to states whose seat belt use rates for a given year either exceeded the national average or exceeded the state's highest achieved seat belt usage rate during certain designated previous years. The allocations to states are based on savings in medical costs to the Federal Government resulting from these seat belt use rates. The federal transportation law expired in September 2003 and has been subsequently extended until May 31, 2005. Reauthorization of a multi-year federal transportation bill is an ongoing issue in Congress and it is important to note that the House, Senate and the President's administration have proposed different approaches to this issue.

Through strong statewide enforcement and education efforts under the Buckle Up Florida/Click It or Ticket campaign, administered by the Florida Department of Transportation (FDOT) Safety Office, Florida has shown an overall increase in seat belt usage rates from 59 percent in 1999 to 76.3 percent in 2004. This has enabled the state to receive these Section 157 incentive funds in FFY 2002 (\$1,255,600) and FFY 2003 (\$2,863,600). Changes in federal law and the state's seat belt use rate will determine whether Florida will receive more incentive funds in the next transportation bill.

Section 157 allows these funds to be used for any eligible project under Title 23 USC. FDOT has used these funds for enhancing the Buckle Up Florida/Click It or Ticket Campaign to help insure continued increases in seat belt usage.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision may apply because the bill requires the counties and cities to spend funds or take an action requiring the expenditure of funds. Currently information is not available to address whether the expenditure is insignificant. If the expenditure is insignificant, the bill is exempt from the mandates provision. If this bill does not qualify for this exemption, the mandates provision appears to apply. The bill will need to include a statement of important state interest and have a 2/3 vote of the membership of each house.

2. Other:

None

B. RULE-MAKING AUTHORITY:

HB 3 does not require any grant or exercise of rule-making authority to implement its provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

At its March 18, 2005, meeting the House Transportation and Economic Development Appropriations Committee adopted, without objection, one amendment requiring each law enforcement agency in Florida to adopt a departmental policy to prohibit racial profiling. The amendment also requires law enforcement officers to record the race and ethnicity of the violator when a citation is issued for not wearing a safety belt. This data must be forwarded to the Department of Highway Safety and Motor Vehicles, and the Department of Highway Safety and Motor Vehicles must report this information annually to the Governor and the Legislature. The Executive Director of the Department of Highway Safety and Motor vehicles testified before the Committee that the fiscal impact to the department would be approximately \$150,000. Law enforcement agencies may incur some costs for processing and transferring the data, as required by the amendment, but that cost is indeterminate at this time.