

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 609 CS Traffic Safety
SPONSOR(S): Hukill and others
TIED BILLS: **IDEN./SIM. BILLS:** HB 165

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee	10 Y, 3 N, w/CS	Thompson	Miller
2) Local Government Council			
3) State Infrastructure Council			
4)			
5)			

SUMMARY ANALYSIS

Current law restricts persons from riding outside the passenger compartment of a motor vehicle, or on any portion not designed or intended for the use of passengers, unless occupying a seat securely affixed to the vehicle's exterior, or in a space within a truck body intended for carrying merchandise, except for employees acting in their employment duties.

HB 609 prohibits persons from riding on the exterior of a motor vehicle except employees of a fire department, a governmentally operated solid waste disposal department, a contracted waste disposal service, or volunteer firefighters acting in the line of duty, or persons being transported by a public agency in response to an emergency.

Furthermore, the bill prohibits a minor 18 years of age and under from riding on the bed of a pickup or flatbed truck unless the truck has been modified to include secure seating and safety restraints and the minor is properly restrained. This provision does not apply if the truck is operated on a farm or off public roads, or in the case of a medical emergency, if the minor is accompanied in the truck by an adult.

The bill allows local governments to adopt an ordinance authorizing persons to ride on the bed of a pickup or flatbed truck, notwithstanding the bill's provisions. The bill does not appear to have a substantial fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government—The bill increases the regulation of motor vehicle passengers traveling on public roads by further restricting who may ride on those portions of vehicles not specifically designed to carry passengers. Increased regulation of this kind is arguably an expansion of state government rather than a reduction.

Safeguard Individual Liberty—The bill reduces the freedom some passengers have in riding on the exterior of motor vehicles and in the beds of pickup and flatbed trucks.

Empower Families—The bill restricts certain minors from riding on the beds of pickup or flatbed trucks. To the extent that some families rely solely on pickup trucks for personal transportation, the bill arguably reduces the ability of some families to provide personal transportation for their children.

B. EFFECT OF PROPOSED CHANGES:

Pursuant to s. 316.2015, F.S., current law prohibits the operator of a passenger vehicle from allowing anyone to ride outside of the passenger compartment of the motor vehicle unless the passenger occupies a seat that has been securely affixed to the vehicle's exterior. This infraction is a moving violation punishable by a fine of \$60 plus applicable court costs and fees. The fees and court costs vary county by county, but the total paid for each citation would range from \$112.50 to \$118.50 and an assessment of 3 points against the driver's license.

In addition, the law prohibits a passenger from riding on any portion of a vehicle that is not designed or intended for the use of passengers, except for employees doing so as part of employment duties, or persons riding within truck bodies in space intended for merchandise. This infraction is a non-moving violation punishable by a fine of \$30 plus applicable court costs and fees. The fees and court costs vary county by county, but the total paid for each citation would range from \$68.50 to \$74.50.

These prohibitions do not apply to a performer engaging in, or preparing for, an exhibition or parade.

Under HB 609 w/CS, an operator of a passenger vehicle would no longer be able to allow a passenger to ride outside the compartment in a seat that has been securely affixed to the vehicle's exterior. The operator could be cited for a moving violation for violating this requirement.

In addition, HB 609 w/CS would no longer allow any employee engaged in the necessary discharge of his or her duty to ride on portions of a vehicle not intended for the use of passengers. Rather, the bill w/CS would specify that only an employee of a fire department or a volunteer firefighter when the firefighter is engaged in the necessary discharge of a duty, a person being transported in response to an emergency by a public agency or pursuant to the direction or authority of a public agency, or an employee of a solid waste or recyclable collection service while in the course of employment collecting solid waste or recyclables on designated routes to ride on the vehicle's exterior. A passenger would also no longer be allowed to ride within a truck body in the space intended for merchandise. Violation of these provisions would be a non-moving violation for which the passengers could be issued a citation.

Furthermore, the bill w/CS provides that a minor 18 years and under is prohibited from riding on public roads within the body of an open pickup truck or flatbed truck unless the truck has been modified to include secure seating and safety restraints and the minor is properly restrained. The truck's operator could be cited for a moving violation for violating this requirement. These provisions do not apply if the truck is operated on a farm or off public roads, or in the case of a medical emergency, if the minor is accompanied in the truck by an adult.

The bill amends s. 316.008, F.S., to allow local governments to adopt an ordinance authorizing persons to ride on the bed of a pickup or flatbed truck, notwithstanding the bill's provisions.

C. SECTION DIRECTORY:

Section 1. Amends s. 316.2015, F.S., to revise provisions regulating carrying motor vehicle passengers on the exterior of a vehicle and in the body of open pickup trucks or flatbed trucks.

Section 2. Amends s. 316.008, F.S., to give local governments the option of authorizing persons to ride on the bed of a pickup or flatbed truck.

Section 3. Provides an effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a substantial impact on state revenues.

2. Expenditures:

This bill does not appear to require any state expenditure.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a substantial impact on local government revenues.

2. Expenditures:

This bill does not appear to require any local government expenditure.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a significant direct economic impact on the private sector. However, to the extent that some families rely solely on pickup trucks for personal transportation of minor children, they may be impacted by the provisions of this bill.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No exercise of rule-making authority is required to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill provides an exemption from restrictions on minors riding in the back of pickup trucks when the vehicle is being operated off the “public roads of the state.” Because ch. 316, F.S., does not provide a definition for “public roads,” the use of the phrase may be ambiguous to law enforcement officials. For example, officials could construe the phrase to include only publicly maintained roads. On the other hand, officials could construe the phrase to include any road open to the public regardless of whether a public or private entity maintains it. Law enforcement officers and court officials would be required to interpret the scope of the phrase leading officials in different jurisdictions within the state to apply different interpretations. Differing interpretations could lead to uneven statewide application of the exemption. Likewise, “opt out” provisions in the bill could also lead to different enforcement requirements throughout the state, potentially causing confusion to both law enforcement and the public.

According to the Department of Highway Safety and Motor Vehicles and proponents of the bill, HB 609 would significantly enhance traffic safety, particularly for minors 17 years of age and under.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On February 22, 2005 the Committee on Transportation adopted 1 amendments to HB 609.

Amendment # 1 by Rep. Hukill—Clarifies exemptions related to riding on the exterior of vehicles. Includes fire fighters, persons transported in an emergency situation and solid waste workers.

The bill was reported favorably with a committee substitute.