

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.)

Prepared By: Transportation Committee

BILL: SB 734

SPONSOR: Senators Dockery and Baker

SUBJECT: School Buses/Safety Belts

DATE: March 22, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Meyer	TR	Pre-meeting
2.	_____	_____	ED	_____
3.	_____	_____	RC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill amends s. 316.6145, F.S., to make optional rather than mandatory for school districts to purchase and use school buses equipped with safety belts or other federally approved restraint systems. Specifically, school buses purchased new after December 31, 2004, and used to transport students in grades pre-K through 12 may be equipped with safety belts or approved restraint systems at the discretion of the school districts.

In addition, the bill clarifies a school bus passenger is required to wear a properly adjusted and fastened safety belt if such safety belt or restraint system is provided. The bill also provides circumstances under which certain parties are not liable for personal injuries to bus passengers regarding use or nonuse of a safety belt or restraint system if such safety belt or restraint system is provided.

Finally, the bill deletes the current requirement that elementary schools receive first priority in allocation of school buses equipped with safety belts or restraint systems.

This bill substantially amends section 316.6145 of the Florida Statutes.

II. Present Situation:

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

In 1999, HB 1837 (LOF 99-316) was enacted, which created a new section of law related to school buses equipped with seat belts. Section 316.6145, F.S., defines a school bus as one owned, leased, operated, or contracted by a school district. All school buses purchased new 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.

Each school district must prioritize to ensure elementary schools within the school district are given first priority in the allocation of buses equipped with safety belts or federally approved restraint systems and specified types of seats. Lastly, 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.

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.

The Debate Surrounding Seat Belts on School Buses

National statistics have consistently demonstrated school buses constitute one of the safest forms of transportation. Nationwide each school year, approximately 450,000 public school buses travel more than 4.3 billion miles to transport 23.3 million children to and from school and school related activities. The National Highway Traffic Safety Administration (NHTSA) has determined students are approximately eight times safer riding in a school bus than in private automobiles.¹ A number of factors, including the size, design, operation, and existing safety features account for the safety of school buses. Central to current school bus safety features is the concept of "compartmentalization" which relies on high-backed padded seats, spaced close together, to confine and cushion passengers in the event of a crash. Belt-type restraints, requiring active intervention by the passenger, are not federally required on large school buses (over 10,000 pounds gross vehicle weight rating.) The consensus is compartmentalization, which has been required on all school buses built since April 1977, has proven to be effective in reducing injuries and fatalities, especially in instances of front or rear impact crashes. However, after several studies, the National Traffic Safety Board (NTSB) found compartmentalization does not provide adequate protection for passengers in side impact collisions or roll-over crashes.²

¹United States Congressional Report, "School Bus Safety: Crashworthiness Research", April 2002, National Highway Traffic Safety Administration. Available at <http://www-nrd.nhtsa.dot.gov/departments/nrd-11/SchoolBus.html>

² *School Bus Safety Report*, Florida Department of Highway Safety and Motor Vehicles, August 2004.

Presently, only two-point lap belts are installed on certain school buses. The lap belt (two-point belt) fastens across the child's lower abdomen. Currently, there are 2,699 school buses in Florida with lap belts which constitute approximately 14 percent of the total school buses in the state.³

III. Effect of Proposed Changes:

The bill amends s. 316.6145, F.S., to make optional rather than mandatory for school districts to purchase and use school buses equipped with safety belts or other federally approved restraint systems. Specifically, school buses purchased new after December 31, 2004, and used to transport students in grades pre-K through 12 may be equipped with safety belts or approved restraint systems at the discretion of the school districts.

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IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

³ *Id.*

C. Government Sector Impact:

Assessing the effects of the bill on student safety, should school districts decide to discontinue use of current lap belt systems, as allowed by the bill, requires review of available school bus passenger crash protection systems, including an analysis of how students can be protected best within available fiscal resources.

According to the Florida Department of Education, under the provisions of the bill, if all school districts ordered buses without lap belts under the permissive authority of the bill, they would realize decreased statewide capital expenditures estimated at \$2,292,422 annually, due to the lower price of each bus. This figure is derived by multiplying the average manufacturer upcharge of \$1,884 per bus by 1,217, the average number of Florida school buses purchased by school districts during the previous three bid cycles.

Other decreased operating costs that cannot be determined at this time include reduced parts and labor costs for inspection of belts and replacement of damaged or vandalized belts.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

None.

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