

The Florida Senate
PROFESSIONAL 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: Criminal Justice Committee

BILL: SB 2048

INTRODUCER: Senator Posey

SUBJECT: Child Restraint Requirements

DATE: April 12, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Meyer	TR	Fav/1 amendment
2.	Dugger	Cannon	CJ	Pre-Meeting
3.			TA	
4.				
5.				
6.				

Please see last section for Summary of Amendments

- Technical amendments were recommended
- Amendments were recommended
- Significant amendments were recommended

I. Summary:

The bill revises child restraint requirements for children passengers in motor vehicles. Motor vehicle operators will be required to use child restraint devices for certain children through 7 years of age instead of the current 4 years of age. Under the bill's provisions, a safety belt alone is no longer sufficient protection for any child aged 4 through 7 years. In addition, the bill specifies certain child safety seats are appropriate restraint devices for children aged through 4 years, and certain child booster seats are appropriate restraint devices for children aged 4 through 7 years. The infraction is a moving violation punishable by a fine of \$60 plus court costs and add-ons, and by assessment of 3 points against the driver's license.

The bill provides exceptions to the child restraint law for persons who are:

- Visiting the state;
- Transporting the child gratuitously and in good faith in response to a declared emergency situation or an immediate emergency involving the child; or
- Acting generally as a Good Samaritan.

The court must dismiss a first violation if the operator produces proof of purchase of a federally approved child restraint device. The revised provisions take effect January 1, 2009. Beginning

July 1, 2008, law enforcement officers may issue verbal warnings and educational literature to those persons who are in compliance with existing law, but who are violating the provisions which take effect in 2009.

The bill does not appear to have a fiscal impact on state or local governments.

This bill substantially amends section 316.613 of the Florida Statutes.

II. Present Situation:

Currently, s. 316.613, F.S., requires every motor vehicle operator to properly use a crash-tested, federally approved child restraint device when transporting a child 5 years of age or younger. For children 3 years of age or younger, such restraint device must be a separate carrier or a vehicle manufacturer's integrated child seat. For children aged 4 through 5 years, a separate carrier, an integrated child seat or a seat belt may be used. These requirements apply to motor vehicles operated on the roadways, streets, and highways of this state. The requirements do not apply to a school bus; a bus used to transport persons for compensation; a farm tractor; a truck of net weight of more than 5,000 pounds; or a motorcycle, moped, or bicycle.¹ A driver who violates this requirement is subject to a \$60 fine, court costs and add-ons, and having 3 points assessed against their driver's license.

A driver who violates this requirement may elect, with the court's approval, to participate in a child restraint safety program. Upon completing such program the above penalties may be waived at the court's discretion and the assessment of points waived. The child restraint safety program must use a course approved by the Department of Highway Safety and Motor Vehicles (DHSMV), and the fee for the course must bear a reasonable relationship to the cost of providing the course.

Section 316.613(4), F.S., provides it is legislative intent that all state, county and local law enforcement agencies, and safety councils, conduct a continuing safety and public awareness campaign as to the magnitude of the problem with child death and injury from unrestrained occupancy in motor vehicles.

A study, published in a 2003 issue of the *Journal of the American Medical Association (JAMA)*, was conducted to assess the relative effectiveness of belt-positioning booster seats compared with seat belts alone in reducing risk of injury to children 4 to 7 years of age. The study found the odds of injury were 59 percent lower for children aged 4 to 7 years in belt-positioning boosters than in seat belts. Children in belt-positioning booster seats had no injuries to the abdomen, neck/spine/back, or lower extremities, while children in seat belts alone had injuries to all body regions. The AMA concluded state child restraint laws should be revised to include the use of booster seats for children through age 7.²

In "Car Safety Seats: A Guide for Families 2007," the American Academy of Pediatrics (AAP) outlines its recommendations for child restraint use. AAP recommends an infant ride in a rear-

¹ s. 316.613(2)(a-e), F.S.

² Dennis R. Durbin, MD, "Belt-Positioning Booster Seats and Reduction in Risk of Injury Among Children in Vehicle Crashes", *JAMA* (June 4, 2003): 2835-2840.

facing seat until the child has reached at least one year of age *and* weighs at least 20 pounds. A rear-facing seat can be an infant-only seat or a convertible safety seat. Convertible seats can be used rear-facing for infants and then turned forward-facing once the child reaches the proper weight and age to do so safely.

The AAP recommends a child, who is at least one year of age and weighs at least 20 pounds, ride in a forward-facing safety seat. There are many types of forward-facing seats, including: convertible seats, built-in seats, and combination forward-facing/booster seats. A child should use a forward-facing safety seat until the child weighs up to 40 to 65 pounds (depending on the model).

Once the child reaches the height or weight limit for the forward-facing seat, the AAP recommends the use of a booster seat. Booster seats are designed to raise the child so that the lap and shoulder seat belt fit properly. The AAP recommends use of a booster seat until the adult seat belt fits the child correctly. This is usually when the child reaches about 4'9" (the height at which the National Highway Traffic Safety Administration (NHTSA) recognizes it is safe for a child to use the adult lap and shoulder restraints) and is between 8 and 12 years of age. A properly fitting seat belt means: the shoulder belt lies across the middle of the chest and shoulder, not the neck or throat; the lap belt is low and snug across the upper thighs, not the stomach; and the child is tall enough to sit against the vehicle seat back with his or her legs bent.

As of January 1, 2007, 38 States and the District of Columbia have enacted provisions in their child restraint laws mandating booster seat or other appropriate restraint use by children who have outgrown their forward-facing child safety seats, but who are still too small to use an adult safety belt system correctly.³ (*see table below*)

Alabama	Georgia	Louisiana	New Hampshire	Oregon	Washington
Arkansas	Hawaii	Maine	New Jersey	Pennsylvania	West Virginia
California	Idaho	Maryland	New Mexico	Rhode Island	Wisconsin
Colorado	Iowa	Missouri	New York	South Carolina	Wyoming
Connecticut	Illinois	Montana	North Carolina	Tennessee	
Wash., D.C.	Indiana	Nebraska	North Dakota	Vermont	
Delaware	Kansas	Nevada	Oklahoma	Virginia	

Florida’s 1995 Legislature enacted legislation allowing vehicle owners to donate money to help purchase child safety seats for other Floridians who cannot afford them for their children. Vehicle owners have the opportunity to donate \$2 or more to the Highway Safety Operating Trust Fund’s \$2 Difference Child Safety Seat Program to help needy residents living in their own county obtain car seats for their children. All monies donated to and collected in a given county returns to that county in the form of child safety seats. The child safety seats are then distributed in a manner determined by the local tax collector’s office.

According to the DHSMV, during the first year of the \$2 Difference Program in 1996, a total of \$37,760 in donations were collected. By early 1999, \$175,000 had been collected for the

³ http://www.nhtsa.dot.gov/people/injury/childps/BoosterSeatLaws_OverviewMaps07.pdf

growing program. The donations for this program have continued to increase each year. As of January 2005, the program has collected a total of \$682,587 in donations from which nearly 16,000 child safety seats have been purchased for distribution to needy families across the state.

III. Effect of Proposed Changes:

The bill amends s. 316.613, F.S., requiring an operator of a motor vehicle who is transporting a child who is 7 years of age or younger, to provide for the protection of the child by properly using a crash-tested, federally approved child restraint device. The bill specifies the device must be appropriate for the height and weight of the child, and provides such devices may include:

- A vehicle manufacturer's integrated child seat;
- A separate child safety seat; or
- A child booster seat that displays the child's weight and height specifications for the seat on the attached manufacturer's label as required by Federal Motor Vehicle Safety Standards FMVSS213.

Any such device must comply with the standards of the United States Department of Transportation and be secured in the vehicle in accordance with instructions of the manufacturer. Children through 3 years of age must be transported in an integrated or separate child safety seat, and children aged 4 through 7 years must be transported in a booster seat. Under the provisions of this bill, motorists will no longer be permitted to transport children aged 4-7 years with only a safety belt used as protection.

The infraction is a moving violation punishable by a fine of \$60 plus court costs and add-ons, and by assessment of 3 points against the driver's license. The provisions of the bill do not apply to a person who is transporting a child aged 4-7 years if the person is:

- Visiting in this state;
- Transporting the child gratuitously and in good faith in response to a declared emergency situation or an immediate emergency involving the child; or
- Acting generally as a Good Samaritan.

Courts are required to dismiss the charge against a driver for a first violation of the child restraint law upon proof of purchase of a federally approved child restraint device.

The new child restraint requirements as provided in the bill will not take effect until January 1, 2009. However, the bill authorizes law enforcement personnel to issue a warning and distribute educational literature beginning July 1, 2008, to a person who is in compliance with current law, but whose actions violate the provisions that take effect January 1, 2009.

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:

Drivers of vehicles must use a separate carrier, an integrated child seat or a child booster seat to transport children required by the bill to be restrained. Seat belts alone would no longer be legal restraints for children not meeting the age criteria in the bill. This will have a fiscal impact to vehicle operators for the cost of acquiring the necessary restraint devices. Because the number of additional children who will need restraint devices other than seat belts is unknown the amount of this impact cannot be determined.

C. Government Sector Impact:

Enactment of the bill may result in increased issuance of traffic citations, which would result in revenue increases to state and local governments. Since the number of additional citations that would be issued is unknown, any resulting positive fiscal impact on state and local governments is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The DHSMV provided the following comment:

Section 3 of this proposed legislation provides this act does not apply to a person who is transporting a child aged 4 through 7 if the person is visiting this state, transporting the child gratuitously and in good faith in response to a declared emergency situation or an immediate emergency involving the child, or is acting generally as a Good Samaritan.

It should be noted the aforementioned exceptions only exempt a driver from using a separate carrier, an integrated child seat, or a child booster seat. It is suggested this proposed legislation also state children aged 4 through 7 should at least be protected by a regular seat belt if said driver does not have a separate carrier, an integrated child seat, or a child booster seat.

VIII. Summary of Amendments:

Barcode 880440 by Transportation:

Provides the term “motor vehicle” as used in s. 316.613, F.S., does not include a passenger vehicle designed to accommodate ten or more persons used for the transportation of persons for compensation, and therefore, exempts such vehicle from the child-restraint requirements for children ages four through seven as proposed in the bill.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
