

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 443 Child Passenger Safety  
**SPONSOR(S):** Altman and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 956

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Infrastructure</u>	<u>8 Y, 0 N</u>	<u>Owen</u>	<u>Miller</u>
2) <u>Economic Expansion &amp; Infrastructure Council</u>	<u></u>	<u>Owen</u>	<u>Tinker</u>
3) <u>Policy &amp; Budget Council</u>	<u></u>	<u></u>	<u></u>
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### SUMMARY ANALYSIS

Currently, a child is required to be transported in a motor vehicle in a separate carrier or an integrated child seat from birth through 3 years of age. HB 443 extends that period to birth through 4 years of age. Currently, a child is required to be transported in a motor vehicle in a separate child safety seat, an integrated child seat, a child booster seat, or a seat belt from 4 to 5 years of age. HB 443 extends that period to 4 to 7 years of age. The bill also adds the requirement that children 8 to 17 years of age be transported with a lap belt and shoulder belt in use.

HB 443 also specifies the requirements for use of child restraint devices and seating positions, specifies driver responsibility with respect to passenger seating, and requires motor vehicle leasing businesses to provide notice of restraint device requirements. The Department of Highway Safety and Motor Vehicles (Department) is authorized to expend funds for a public awareness campaign. A six-month grace period is created for enforcement of the act.

The bill has a fiscal impact of \$200,000 to the Department for the first year of a public awareness campaign with a \$50,000 fiscal impact for years two and three. State and local governments will generate an indeterminate amount of additional fine revenues.

HB 443 is effective July 1, 2007, with the exception of the period from July 1, 2007 to January 1, 2008 being designated for verbal warnings and literature distribution by law enforcement officers.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Reduce Government: The bill increases government regulation in that it requires motorists carrying child passengers to use a child restraint device in cases where existing law makes no such requirement.

Expand Individual Freedom: The bill does not increase opportunities for individuals or families to make personal choices, in that it renders unlawful certain activity that was previously lawful, and subjects individuals who violate the provisions to monetary sanctions.

Empower Families: The bill requires motorists to use a child restraint device to transport certain children where it is not currently required in law. This reduces the power of the family to choose how to transport its children.

#### B. EFFECT OF PROPOSED CHANGES:

##### Present Situation:

Current statutes require operators of motor vehicles to provide “a crash-tested, federally approved child restraint device” for children they are transporting who are under the age of 5. For children under the age of 3 the device must be “a separate carrier or a vehicle manufacturer’s integrated child seat”. For children aged 4 through 5, “a separate carrier, an integrated child seat, or a seat belt may be used”.<sup>1</sup> These requirements apply to motor vehicles operated on the roadways, streets, and highways of this state. They 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.<sup>2</sup>

The current law is subject to primary enforcement and a violation is considered a moving violation, punishable by a \$60 fine and 3 points assessed against the operator’s license. However, according to s. 316.613(5), F.S., with the court’s approval, a person may elect to participate in a child restraint safety program. Upon completion of the program, the fine and points are waived.

It is also stated that 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 that the odds of injury were 59% 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 that state child restraint laws should be revised to include the use of booster seats for children through age 7.<sup>3</sup>

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<sup>1</sup> s. 316.613(1)(a), F.S.

<sup>2</sup> s. 316.613(2)(a-e), F.S.

<sup>3</sup> 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.

In “Car Safety Seats: A Guide for Families 2007”, the American Academy of Pediatrics (AAP) outlines their recommendations for child restraint use. They recommend an infant ride in a rear-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 June 7, 2006, 37 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. (see *table below*)

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

Since 1993, the Department, through its *Saferiders* program, has provided more than 15,000 child safety seats to needy Floridians throughout the state. Recently, more than 2,200 additional seats were provided through *The \$2 Difference* program. Floridians can make a donation of \$2 each time they register a vehicle or renew their registration at their local tax collector’s office. The program provides safety seats for children in the county in which the donation is given. The purchase, distribution and training for the installation of the seats are coordinated through the Florida Highway Patrol. There are also two child safety seat manufacturers and one non-profit safety agency that offer child safety seats at greatly reduced prices.

### **Proposed Changes:**

HB 443 applies to any operator of a motor vehicle in this state when transporting a child under the age of 18. It restricts transportation of a minor unless the child is restrained in an appropriate child restraint that is correctly installed and meets or exceeds the requirements of 49 C.F.R s. 571.213.

The bill directs businesses that lease motor vehicles to the public to provide notice in the leasing agreement of the requirement for child restraint devices.

The bill also provides definitions for: appropriate child restraint, child restraint or child restraint system, child restraint anchorage system, correctly installed, driver, lap belt, motor vehicle, properly restrained,

and seat belt. The term "motor vehicle" currently exempts school buses; farm tractors; trucks of net weight more than 5,000 pounds; and motorcycles, mopeds, or bicycles. The bill revises the term "motor vehicle" to also exempt 10 passenger vehicles and to clarify that buses used for "commercial transportation" rather than buses used for "compensation" or in "conjunction with school activities" are exempt.

Legislative intent for a safety and public awareness campaign by state, county and local law enforcement agencies and safety councils is presently in statute. HB 443 authorizes the Department to expend funds as part of the campaign.

The bill extends the amount of time a child is to be restrained in a child safety device, which mirrors the AAP's recommendations outlined in the "Present Situation" of this analysis. Currently, a child is required to be transported in a separate carrier or an integrated child seat from birth through 3 years of age, and HB 443 extends that period to birth through 4 years of age. Currently, a child is required to be transported in a separate child safety seat, an integrated child seat, or a child booster seat from 4 to 5 years of age, and HB 443 extends that period to 4 to 7 years of age. The bill also specifies that children 8 to 17 years of age are to be transported with a lap belt and shoulder belt in use.

HB 443 also specifies that a child in a rear-facing child restraint device may not ride in the front seat of a vehicle, unless the front passenger-side airbag is deactivated and only the front seat is available or the special health care needs of the child require the child to ride in the front seat. Those special health care needs must be in writing and the documentation available in the vehicle.

The bill requires the front passenger-side airbag to be deactivated when a child under the age of 13 is riding in the front seat. The bill recommends that a child under the age of 13 should ride in the back seat of a vehicle, unless there is no backseat or it is being occupied by other children under the age of 13.

The bill also directs all drivers to ensure that no more than one child occupies each seat equipped with a seat belt.

The law is subject to primary enforcement. There is a provision for drivers to be issued a verbal warning and given educational literature until January 1, 2008. Also, any person who violates the section is given the opportunity, with the court's approval, to provide a proof of purchase of an appropriate child restraint, in addition to the current option of participating in a child restraint safety program, to have the fine and points waived. A violation of the provisions is considered a moving violation with a penalty of \$60 and 3 points assessed against the operator's driver's license.

### C. SECTION DIRECTORY:

Section 1. Amends s. 316.613, F.S., by revising requirements for safety restraints to be used by motor vehicle passengers under a certain age; providing a short title; providing for application; requiring motor vehicle leasing companies to provide notice of restraint device requirements; providing definitions; revising the definition of "motor vehicle"; authorizing the Department of Highway Safety and Motor Vehicles to expend funds for certain educational purposes; prohibiting a driver from transporting a child who has not attained a certain age unless the child is properly restrained; providing requirements for use of restraint devices and seating positions; providing for exceptions; providing driver responsibility with respect to passenger seating positions; providing penalties; providing for disposition by the court

Section 2. Provides an effective date of July 1, 2007.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

According to the Department, the bill may generate additional fine revenues for state and local governments, the amount of which is indeterminate.

2. Expenditures:

	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY2009-10</u>
General Revenue Fund Awareness Campaign:	<u>\$200,000</u>	<u>\$50,000</u>	<u>\$50,000</u>
Total:	\$200,000	\$50,000	\$50,000

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

According to the Department, the bill may generate additional fine revenues for state and local governments, the amount of which is indeterminate.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Motor vehicle operators must use a separate carrier, an integrated child seat or a child booster seat to transport children within the age requirements. Seat belts alone will no longer be legal restraints for children ages 6 and 7. This change will fiscally impact motorists in the amount it costs to acquire necessary restraint devices. Child safety restraints range widely in price from models offered by non-profit agencies for low-income families that cost around \$20 to customized high-back harness boosters that approach \$350. However, the majority of child safety restraints generally cost from \$50 to \$120. Because the number of additional children who will need specific restraint devices is unknown, the amount of this impact cannot be determined. Violation of the law would be punishable by a fine of at least \$60 and a 3 point assessment on the operator's driver's license.

D. FISCAL COMMENTS:

The Department has estimated an initial cost of \$200,000 for the public awareness campaign outlined in the bill based on previous campaigns. There is an estimated continuation cost for the public awareness campaign of \$50,000 in years two and three to maintain public awareness of the new law. There is no funding associated with HB 443 for the public awareness campaign.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to: require counties or cities to spend funds or take action 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:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

##### **Past Legislation:**

In 2001 SB 1412, "Child Restraint Requirements", which is similar to HB 443, passed both chambers of the Legislature, but was vetoed by Governor Jeb Bush. In his veto message, Governor Bush cited enforceability, unintended consequences (such as a mandate on low-income families and shifting responsibility away from automobile manufacturers), how far the bill goes (at the time, the bill would place Florida far beyond other states in the level of requirements), and the appropriate role of state government (a "government-imposed regulatory solution at the outset rather than as a last resort", "we must place some trust in parents and recognize that almost every parent in our state, more so than government, wants their child to lead healthy, safe lives") as his concerns with the legislation and reasons for the veto.

##### **Other Comments:**

Advocates of the legislation argue that seatbelts designed to accommodate a large adult body frame do not fit or properly restrain a child ages 4 to 8, causing a group of injuries known as "seatbelt syndrome". They state that poverty-level parents may be less likely to have regular contact with a pediatrician who would tell them about the danger of inadequate child safety restraints and less able to afford long-term medical care if a motor vehicle accident seriously injures their child due to lack of appropriate restraint. In the case of age appropriate vehicle occupant restraints, advocates point to the fact that the state does not allow adults to choose for themselves.<sup>4</sup>

#### D. STATEMENT OF THE SPONSOR

Motor vehicle accidents are the leading cause of death, and one of the leading causes of injury, hospitalization and disability in Florida children. Research has conclusively shown that many of the deaths and injuries are preventable with age appropriate restraints, but Florida law lags behind 38 other states and only requires children 3 and under to have age appropriate restraints.

Medical research has shown that 4 to 7 year old children in booster seats are 59% less likely to be injured than children in seat belts alone. Research has also shown that 4 to 7 year old children in seatbelts alone are 4 to 5 times more likely to have head injuries, 3 times more likely to sustain abdominal injuries and 28% more likely to die than 4 to 7 year olds in booster seats. Studies show that restraint habits do not dramatically change until state laws change and that parents look to state law for appropriate standards.

Further, in a cost-outcome analysis, researchers concluded that if you include all of the costs of mandating booster seat usage, booster seat laws offer a return on investment for society of 8.6 to 1 due to injuries averted. No research has been published which refutes these findings.

#### **IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

On March 19, 2007, this bill was considered by the Committee on Infrastructure. An amendment was adopted which specifies that children under the age of 8 who are over 4 feet 9 inches in height may use an adult seat belt as their restraint device. A second amendment was adopted which allows children under the age of 12 to ride in the front seat of a motor vehicle if they are over 65 inches in height. The bill was reported favorably with two amendments.

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<sup>4</sup> <http://www.jlflspac.org/page5.html>