

A bill to be entitled

An act relating to child passenger safety; amending s. 316.613, F.S.; 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; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 316.613, Florida Statutes, is amended to read:

316.613 Child restraint requirements.--

(1) This section may be cited as the "Child Passenger Safety Act of Florida."

(2) (a) This section applies to any person operating a motor vehicle on a public roadway, street, or highway of this

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28 state when transporting a child who has not attained 18 years of
29 age.

30 ~~(1)(a) Every operator of a motor vehicle as defined~~
31 ~~herein, while transporting a child in a motor vehicle operated~~
32 ~~on the roadways, streets, or highways of this state, shall, if~~
33 ~~the child is 5 years of age or younger, provide for protection~~
34 ~~of the child by properly using a crash-tested, federally~~
35 ~~approved child restraint device. For children aged through 3~~
36 ~~years, such restraint device must be a separate carrier or a~~
37 ~~vehicle manufacturer's integrated child seat. For children aged~~
38 ~~4 through 5 years, a separate carrier, an integrated child seat,~~
39 ~~or a seat belt may be used.~~

40 (b)1. The Division of Motor Vehicles shall provide notice
41 of the requirement for child restraint devices, which notice
42 shall accompany the delivery of each motor vehicle license tag.

43 2. A business that leases motor vehicles to the public
44 shall provide notice in the leasing agreement of the requirement
45 for child restraint devices.

46 ~~(3)(2)~~ As used in this section:~~, the term~~

47 (a) "Appropriate child restraint" means a child restraint
48 that fits a child when used in accordance with the
49 recommendations of the child restraint manufacturer.

50 (b) "Child restraint" or "child restraint system" means
51 any portable or built-in device, except a seat belt, designed
52 for use in a motor vehicle to restrain, seat, or position a
53 child, which device meets or exceeds the requirements of 49
54 C.F.R. s. 571.213.

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55 (c) "Child restraint anchorage system" means the equipment
 56 in a vehicle, other than seat belts, that is specifically
 57 designed for attaching the child restraint to the vehicle seat.

58 (d) "Correctly installed" means that the child restraint,
 59 other than a built-in child restraint, is attached to the
 60 vehicle seat by means of the child restraint anchorage system or
 61 a seat belt in a manner that tightly secures the child restraint
 62 to the vehicle seat.

63 (e) "Driver" means an individual who operates and is in
 64 control of a motor vehicle.

65 (f) "Lap belt" means a restraint that consists of a single
 66 belt that provides only lower-body restraint.

67 (g) "Motor vehicle" means a motor vehicle as defined in s.
 68 316.003 that is operated on a roadway, street, or highway ~~the~~
 69 ~~roadways, streets, and highways~~ of the state. The term does not
 70 include:

71 1.(a) A school bus as defined in s. 316.003(45).

72 2.(b) A bus, or a passenger vehicle designed to
 73 accommodate ten or more persons, used for the commercial
 74 transportation of persons for compensation, other than a bus
 75 regularly used to transport children to or from school, as
 76 defined in s. 316.615(1)(b), or in conjunction with school
 77 activities.

78 3.(e) A farm tractor or implement of husbandry.

79 4.(d) A truck of net weight of more than 5,000 pounds.

80 5.(e) A motorcycle, moped, or bicycle.

81 (h) "Properly restrained" means that the child occupies a
 82 child restraint that is used in accordance with the

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83 recommendations of the manufacturer and is correctly installed
84 in the vehicle.

85 (i) "Seat belt" means a restraint, consisting of a lap
86 belt or both a lap belt and a shoulder belt, that is attached to
87 the frame of a motor vehicle at a seating position.

88 (4)(3) The failure to provide and use a child passenger
89 restraint shall not be considered comparative negligence, nor
90 shall such failure be admissible as evidence in the trial of any
91 civil action with regard to negligence.

92 (5)(a)(4) It is the legislative intent that all state,
93 county, and local law enforcement agencies, and safety councils,
94 in recognition of the problems with child death and injury from
95 unrestrained occupancy in motor vehicles, conduct a continuing
96 safety and public awareness campaign as to the magnitude of the
97 problem.

98 (b) The department may authorize the expenditure of funds
99 for the purchase of promotional items as part of the public
100 information and education campaigns provided for in this
101 subsection and ss. 316.614, 322.025, and 403.7145.

102 (6)(a) A driver shall not transport a child who has not
103 attained 18 years of age in a motor vehicle on a public roadway,
104 street, or highway of this state unless the child is properly
105 restrained in an appropriate child restraint that is correctly
106 installed and that meets or exceeds the requirements of 49
107 C.F.R. s. 571.213.

108 1. For children from birth who have not attained 4 years
109 of age, the child restraint device must be a separate carrier or
110 a vehicle manufacturer's integrated child seat.

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111 2. For children at least 4 years of age who have not
112 attained 8 years of age, a separate child safety seat, a vehicle
113 manufacturer's integrated child seat, or a child booster seat
114 must be used.

115 3. For children at least 8 years of age who have not
116 attained 18 years of age, a seat belt consisting of a lap belt
117 and a shoulder belt must be used; however, if the vehicle is not
118 equipped with lap and shoulder belts or if all existing lap and
119 shoulder belts are being used to properly restrain other
120 children who have not attained 18 years of age, a lap belt only
121 may be used.

122 (b) A child in a rear-facing child restraint device may
123 not ride in the front seat of a motor vehicle unless the front
124 passenger-side airbag is deactivated and:

125 1. Only the front seat is available; or

126 2. The special health care needs of the child require the
127 child to ride in the front seat of the motor vehicle, those
128 special needs are documented by a physician in writing, and the
129 written documentation is carried in the vehicle.

130 (c) The front passenger-side airbag must be deactivated
131 when a child who has not attained 13 years of age rides in the
132 front seat of the motor vehicle. A child who has not attained 13
133 years of age should ride in the rear seat of the vehicle unless
134 the vehicle does not have a rear seat or the rear seat is being
135 used by other children who have not attained 13 years of age.

136 (d) A driver shall ensure that not more than one child
137 occupies each vehicle seating position equipped with a seat
138 belt.

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139 (7) This section is subject to primary enforcement. A
140 driver who violates any provision of this section shall be
141 subject to penalty as follows:

142 (a) Until January 1, 2008, a driver may be issued a verbal
143 warning and given educational literature by a law enforcement
144 officer.

145 (b)~~(5)~~ Any person who violates the provisions of this
146 section commits a moving violation, punishable as provided in
147 chapter 318 and shall have 3 points assessed against his or her
148 driver's license as set forth in s. 322.27.

149 (c) In lieu of the penalty specified in s. 318.18 and the
150 assessment of points, a person who violates the provisions of
151 this section may elect, with the court's approval, to:

152 1. Provide proof of purchase of an appropriate child
153 restraint to the court or appropriate administrative body; or

154 2. Participate in a child restraint safety program
155 approved by the chief judge of the circuit in which the
156 violation occurs, and upon completing such program, the penalty
157 specified in chapter 318 and associated costs may be waived at
158 the court's discretion and the assessment of points shall be
159 waived. The child restraint safety program must use a course
160 approved by the Department of Highway Safety and Motor Vehicles,
161 and the fee for the course must bear a reasonable relationship
162 to the cost of providing the course.

163 Section 2. This act shall take effect July 1, 2007.