

By Senator Wise

5-1077-07

See HB 443

1 A bill to be entitled
2 An act relating to child passenger safety;
3 amending s. 316.613, F.S.; revising
4 requirements for safety restraints to be used
5 by motor vehicle passengers under a certain
6 age; providing a short title; providing for
7 application; requiring motor vehicle leasing
8 companies to provide notice of restraint device
9 requirements; providing definitions; revising
10 the definition of "motor vehicle"; authorizing
11 the Department of Highway Safety and Motor
12 Vehicles to expend funds for certain
13 educational purposes; prohibiting a driver from
14 transporting a child who has not attained a
15 certain age unless the child is properly
16 restrained; providing requirements for use of
17 restraint devices and seating positions;
18 providing for exceptions; providing driver
19 responsibility with respect to passenger
20 seating positions; providing penalties;
21 providing for disposition by the court;
22 providing an effective date.

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

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

28 316.613 Child restraint requirements.--

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

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1 (2)(a) This section applies to any person operating a
2 motor vehicle on a public roadway, street, or highway of this
3 state when transporting a child who has not attained 18 years
4 of age.

5 ~~(1)(a) Every operator of a motor vehicle as defined~~
6 ~~herein, while transporting a child in a motor vehicle operated~~
7 ~~on the roadways, streets, or highways of this state, shall, if~~
8 ~~the child is 5 years of age or younger, provide for protection~~
9 ~~of the child by properly using a crash tested, federally~~
10 ~~approved child restraint device. For children aged through 3~~
11 ~~years, such restraint device must be a separate carrier or a~~
12 ~~vehicle manufacturer's integrated child seat. For children~~
13 ~~aged 4 through 5 years, a separate carrier, an integrated~~
14 ~~child seat, or a seat belt may be used.~~

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

19 2. A business that leases motor vehicles to the public
20 shall provide notice in the leasing agreement of the
21 requirement for child restraint devices.

22 ~~(3)(2)~~ As used in this section:~~, the term~~

23 (a) "Appropriate child restraint" means a child
24 restraint that fits a child when used in accordance with the
25 recommendations of the child restraint manufacturer.

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

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1 (c) "Child restraint anchorage system" means the
2 equipment in a vehicle, other than seat belts, which is
3 specifically designed for attaching the child restraint to the
4 vehicle seat.

5 (d) "Correctly installed" means that the child
6 restraint, other than a built-in child restraint, is attached
7 to the vehicle seat by means of the child restraint anchorage
8 system or a seat belt in a manner that tightly secures the
9 child restraint to the vehicle seat.

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

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

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

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

19 2.(b) A bus, or a passenger vehicle designed to
20 accommodate ten or more persons, used for the commercial
21 transportation of persons for compensation, other than a bus
22 regularly used to transport children to or from school, as
23 defined in s. 316.615(1)(b), or in conjunction with school
24 activities.

25 3.(c) A farm tractor or implement of husbandry.

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

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

28 (h) "Properly restrained" means that the child
29 occupies a child restraint that is used in accordance with the
30 recommendations of the manufacturer and is correctly installed
31 in the vehicle.

1 (i) "Seat belt" means a restraint, consisting of a lap
2 belt or both a lap belt and a shoulder belt, which is attached
3 to the frame of a motor vehicle at a seating position.

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

8 ~~(5)(a)(4)~~ It is the legislative intent that all state,
9 county, and local law enforcement agencies, and safety
10 councils, in recognition of the problems with child death and
11 injury from unrestrained occupancy in motor vehicles, conduct
12 a continuing safety and public awareness campaign as to the
13 magnitude of the problem.

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

18 (6)(a) A driver may not transport a child who has not
19 attained 18 years of age in a motor vehicle on a public
20 roadway, street, or highway of this state unless the child is
21 properly restrained in an appropriate child restraint that is
22 correctly installed and that meets or exceeds the requirements
23 of 49 C.F.R. s. 571.213.

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

27 2. For children at least 4 years of age who have not
28 attained 8 years of age, a separate child safety seat, a
29 vehicle manufacturer's integrated child seat, or a child
30 booster seat must be used.

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1 3. For children at least 8 years of age who have not
2 attained 18 years of age, a seat belt consisting of a lap belt
3 and a shoulder belt must be used; however, if the vehicle is
4 not equipped with lap and shoulder belts or if all existing
5 lap and shoulder belts are being used to properly restrain
6 other children who have not attained 18 years of age, a lap
7 belt only may be used.

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

11 1. Only the front seat is available; or

12 2. The special health care needs of the child require
13 the child to ride in the front seat of the motor vehicle,
14 those special needs are documented by a physician in writing,
15 and the written documentation is carried in the vehicle.

16 (c) The front passenger-side airbag must be
17 deactivated when a child who has not attained 13 years of age
18 rides in the front seat of the motor vehicle. A child who has
19 not attained 13 years of age should ride in the rear seat of
20 the vehicle unless the vehicle does not have a rear seat or
21 the rear seat is being used by other children who have not
22 attained 13 years of age.

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

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

29 (a) Until January 1, 2008, a driver may be issued a
30 verbal warning and given educational literature by a law
31 enforcement officer.

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

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

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

10 2. Participate in a child restraint safety program
11 approved by the chief judge of the circuit in which the
12 violation occurs, and upon completing such program, the
13 penalty specified in chapter 318 and associated costs may be
14 waived at the court's discretion and the assessment of points
15 shall be waived. The child restraint safety program must use a
16 course approved by the Department of Highway Safety and Motor
17 Vehicles, and the fee for the course must bear a reasonable
18 relationship to the cost of providing the course.

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