

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: CS/CS/SB 1404

INTRODUCER: Criminal Justice Committee; Transportation Committee; and Senators Altman, Gelber and others

SUBJECT: Child-Restraint Requirements

DATE: April 6, 2009

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Eichin</u>	<u>Meyer</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/CS</u>
3.	_____	_____	<u>TA</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill revises child restraint requirements for children passengers in motor vehicles. Current law requires certain child restraint devices for children through age 5 years, although for ages 4 through 5 years, a seat belt may be used in lieu of a specialized device. Under the bill's provisions, the upper age is raised to 7 years, and a seat belt alone would no longer legally provide sufficient protection 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:

- Traveling on a highway with a posted maximum speed limit of 45 miles per hour or less;
- 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
- Transporting a child whose medical condition necessitates an exception as evidenced by appropriate documentation from a health professional.

It also provides exceptions if the child is being transported in the bed of a pick-up truck or participating in an official parade.

The court may 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, 2011. Beginning July 1, 2010, 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 2011.

This bill substantially amends s. 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 26,000 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.

Current law allows the primary enforcement of mandatory seat belt use for any driver or passenger under the age of 18. Specifically, s. 316.614(4)(a), F.S., makes it unlawful to operate a motor vehicle if any passenger or operator under the age of 18 is not restrained by a safety belt or child restraint device described in s. 316.613, F.S. Unlike the rest of s. 316.614, F.S., enforcement of paragraph (4) (a) may be accomplished as a primary action, i.e., no other violation of traffic laws need occur in order to receive a citation.

¹ s. 316.613(2)(a-e), F.S.

Effectiveness of Booster Seats

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 2008,” the American Academy of Pediatrics (AAP) outlines its recommendations for child restraint use. AAP recommends 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 eight and twelve 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.

Florida’s “\$2 Difference Child Safety Seat Program”

The 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 was collected. By early 1999, \$175,000 had been collected for the growing

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.

program. The donations for this program have remained steady each year. As of December 2007, the program has collected a total of approximately \$840,000 in donations from which nearly 18,800 child safety seats have been purchased for distribution to needy families across the state.

Other States

As of July 1, 2008, 43 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	Idaho	Maryland	New Mexico	Tennessee
Arkansas	Iowa	Michigan	New York	Utah
California	Illinois	Mississippi	North Carolina	Vermont
Colorado	Indiana	Missouri	North Dakota	Virginia
Connecticut	Kansas	Montana	Oklahoma	Washington
Wash., D.C.	Kentucky	Nebraska	Oregon	West Virginia
Delaware	Louisiana	Nevada	Pennsylvania	Wisconsin
Georgia	Maine	New Hampshire	Rhode Island	Wyoming
Hawaii	Massachusetts	New Jersey	South Carolina	

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 separate carrier, integrated child seat, or booster seat. Under the provisions of this bill, motorists will no longer be permitted to transport children aged 4 to 7 years with only a safety belt used as protection.

The bill also 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 4 through 7 as proposed in the bill.

³ [NHTSA Occupant Protection Division, September 1, 2008](#)

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 to 7 years if the person is:

- Traveling on a highway with a posted maximum speed limit of 45 miles per hour or less;
- 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
- Transporting a child whose medical condition necessitates an exception as evidenced by appropriate documentation from a health professional.

It also provides exceptions if the child is being transported in the bed of a pick-up truck or participating in an official parade.

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, 2011. However, the bill authorizes law enforcement personnel to issue a warning and distribute educational literature beginning July 1, 2010, to a person who is in compliance with current law, but whose actions violate the provisions that take effect January 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

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 through age 7 years. Seat belts alone will not satisfy the legal requirements for child restraints for children between the ages of 4 and 7 years when

being transported on roads with speed limits higher than 45 miles per hour. 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. Violation of the law would be punishable by a fine of at least \$60 and a 3 point assessment on the operator's driver license. However, the court may dismiss a first violation if the operator purchases an approved device. Further, for six months prior to the new requirements becoming effective, a law enforcement officer may issue verbal warning and provide informational material to drivers who would violate the requirements after the effective date.

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. Also, the cost to DHSMV of providing educational literature is expected to be minimal and will be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on April 6, 2009:

The Committee Substitute creates two additional exemptions to the requirements of the bill. It provides exceptions if the child is being transported in the bed of a pick-up truck or participating in an official parade.

CS by Transportation on March 18, 2009:

The Committee Substitute limits application of the requirement for children 4 to 7 years old to be transported in a separate carrier, an integrated child seat or a child booster seat, to those roadways with posted speed limits of more than 45 miles per hour. When traveling on roads with posted speeds of 45 miles per hour or less, the requirements for securing children aged 4 to 7 years are met through the use of a separate carrier, an integrated child seat, or simply a seat belt as required in s. 316.614(4)(a), F.S. Booster seats are not required on roads with speed limits of 45 miles per hour or below.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
