

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1038

SPONSOR: Transportation Committee, Senator Cowin and others

SUBJECT: Seat Belts

DATE: April 21, 1999 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>DeMarsh-Mathues</u>	<u>O'Farrell</u>	<u>ED</u>	<u>Favorable</u>
2.	<u>McAuliffe</u>	<u>Meyer</u>	<u>TR</u>	<u>Favorable/CS</u>
3.	_____	_____	<u>FP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

The CS requires all school buses purchased after December 31, 2000, and used to transport students in grades pre-K through 12 be equipped with safety belts, any other federally approved restraint system, and specific types of seats. A school bus purchased prior to December 31, 2000, is not required to meet these requirements. The CS also provides the circumstances under which certain parties are not liable for personal injuries to bus passengers, including the following:

- neither the state nor a school district is liable for an injury to a passenger caused by a passenger's failure to wear a safety belt or restraint system.
- a school district, school bus operator under contract with a school district, or an agent or employee of a school district or operator is not liable in an action for personal injury where:
  - the injury occurred solely as a result of not wearing a safety belt or restraint system;
  - an injury was caused by another passenger's use of a safety belt of federally approved restraint system in a dangerous or unsafe manner.

The CS further exempts private charter buses employed by school districts for field trips or other events which are not used on a daily basis for the transportation of students from the safety belt requirements of this CS.

Passengers on certain school buses must properly wear safety equipment at all times the bus is in operation. Finally, the CS provides that elementary schools are to receive first priority in the allocation of school buses equipped with seat belts or other federally approved restraint systems and specific types of seats.

The CS creates a new section of the Florida Statutes.

## II. Present Situation:

### Current State Regulation of School Buses

Chapter 234, F.S., relates to the transportation of school children. Section 234.02, F.S., states maximum regard for safety and adequate protection of health are primary requirements that must be observed by school boards in routing buses, appointing drivers, and providing and operating equipment, in accordance with all requirements of law and regulations of the Commissioner of Education. The law requires school boards to use school buses for all regular transportation. The law defines regular transportation or regular use to mean transportation of students to and from school or school-related activities that are part of a scheduled series or sequence of events to the same location.

Each school board must designate and adopt a specific plan for adequate examination, maintenance, and repair of transportation equipment. The law (s. 234.02(10), F.S.) requires the examination of the mechanical condition of each school bus at least once per month while the bus is in operation. The superintendent is responsible for notifying the school board about any bus that fails to meet requirements of law and regulation. The school board must withdraw unsafe buses from service until repaired. The Florida Department of Education is authorized to inspect school buses and can require that buses not meeting specific requirements be withdrawn from service.

Section 234.03, F.S., specifies each school board is liable for tort claims arising out of any incident or occurrence involving a school bus or other motor vehicle owned, maintained, operated, or used by the school board to transport persons. The school board is liable to the same extent and in the same manner as the state or any of its subdivisions is liable under s. 768.28, F.S. However, the total liability to persons being transported for all claims and judgments arising out of the same incident is limited to an amount equal to \$5,000 times the rated seating capacity, as determined by rules of the Commissioner of Education, or \$100,000, whichever is greater.

The provisions of s. 768.28, F.S., apply to all claims and actions brought against school boards, as authorized in s. 234.03, F.S. Each school board may secure and maintain a medical payments plan or medical payments insurance on school buses and other vehicles. If used, these options are subject to a threshold of \$500 per person. The law allows expenses, costs, or premiums to protect against liability to be paid from any available funds of the school board. School boards may require owners of vehicles used for transportation that are not owned by the board to provide evidence of adequate insurance.

Section 234.051, F.S., defines a "school bus" as a motor vehicle regularly used for the transportation of pre-K through grade 12 public school students to and from school or school activities. The definition applies to motor vehicles owned, operated, rented, contracted, or leased by the school board. Exceptions to the definition are: passenger cars, multipurpose passenger vehicles, and trucks as defined in federal regulations (49 CFR 571); and motor vehicles subject to and meeting specific federal regulations (the Federal Motor Carrier Safety Regulations in 49 CFR), but not used exclusively for the transportation of public school students.

School buses which are rented, leased, purchased, or contracted for must meet applicable federal motor carrier vehicle safety standards and other specifications as may be required by the Commissioner. Students may be transported only in designated seating positions, except as otherwise provided, and must use the occupant crash protection system provided by the manufacturer. This system must meet federal requirements (49 CFR 571) or comply with the Commissioner's specifications.

The law (s. 234.211, F.S.) also provides for school districts to enter into agreements with state agencies or the governing body of a county or municipality for the use of school buses for public purposes. The law (s. 234.211(2)(a), F.S.) provides various entities must indemnify and hold harmless the school district from any and all liability of the school district by virtue of the use of the buses under an agreement authorized under this section of law. The law provides that for purposes of liability for negligence, state agencies or subdivisions as defined in s. 768.28(2), F.S., are covered by s. 768.28, F.S., relating to sovereign immunity. Every other corporation or organization must provide specified liability insurance coverage for claims and judgments. Except as provided in this section, the school board, under s. 234.02(9), F.S., is not responsible for transportation to events and activities that are not offered, sponsored or required by the district, nor is it liable for the transportation arranged and provided by parents or others to these activities.

Section 316.615, F.S., requires all motor vehicles with a seating capacity of 24 or more pupils, regularly used to transport pupils to and from school or school activities, comply with the requirements of chapter 234, F.S. Also, the law specifies the requirements for motor vehicles (other than privately owned passenger motor vehicles and those owned or operated by governmental entities) with a seating capacity of less than 24 pupils used for transportation of pupils to and from the school or school activities. The section defines "school" to include all public and private nursery, preelementary, elementary, and secondary level schools. School bus drivers must meet the physical examination requirements established by law and by rule of the Commissioner, pass an annual physical examination, and post in the vehicle a certificate to drive the vehicle. As in s. 234.03, F.S., school buses must be covered by liability insurance of \$5,000 times the rated seating capacity or \$100,000, whichever is greater.

Section 232.28, F.S., delineates the authority of school bus drivers. Bus drivers cannot be required to operate a bus under conditions in which one or more students pose a clear and present danger to the driver or other students, or the safety of the bus while in operation. The law also provides for the duties of the school board.

### **The Debate Surrounding Seat Belts on School Buses**

National statistics have consistently demonstrated that school buses constitute one of the safest forms of transportation. The National Highway Traffic Safety Administration has determined that school buses are approximately four times safer per mile traveled than private automobiles. A number of factors, including the size, design, operation, and existing safety features account for the safety of school buses. Central to current school bus safety features is the concept of "compartmentalization" which relies on high-backed padded seats, spaced close together, to confine and cushion passengers in the event of a crash. The consensus is that compartmentalization has proven to be effective in reducing injuries and fatalities, especially in instances of front or rear impact crashes.

Proponents of safety belts in large school buses acknowledge that the requirement of compartmentalization is effective in reducing fatalities and injuries, but argue when combined with safety restraint use, fatality and injury rates could be reduced even further. They contend that safety restraints in school buses will reinforce the habit in young children with regard to wearing restraints in passenger cars. In addition, proponents assert safety restraint use will improve on-board occupant behavior and decrease driver distractions, translating into possible avoidance of accidents. In terms of cost, proponents estimate the installation of seat belts would cost an additional \$1,000 - \$1,500 per large school bus (66 passengers).

Opponents of safety belts in large school buses argue because of their size, distinct yellow color, well-known routes, governed operating speed, and unique safety design, school buses are inherently safer than other forms of transportation, and consequently, do not need safety restraints to improve occupant safety. Opponents further contend in the case of serious accidents, safety restraints may actually increase the likelihood of injury and could imperil occupants in accidents involving fire and rollovers. They contend the potential “carryover” effect would be lost if drivers do not insist on restraint use resulting in children becoming desensitized to safety restraint use in other types of vehicles. In terms of cost effectiveness, opponents believe funds would be better spent on options such as driver training, higher seat backs, crossing control arms, increased enforcement of laws against passing stopped school buses, and adult school bus monitors.

The Florida Department of Education reports from years 1991 through 1995 almost one million public school students were transported daily, traveling over one million miles on 14,000 school buses. During that 5-year period, there have been three students and a teacher tragically killed while riding on Florida’s public school buses. Two of the students and the teacher were killed in one incident when a tire came off a truck and went through the windshield of the bus. Five students also died in the loading zone; four of these children were run over by motorists illegally passing stopped school buses. The Department reported nationally about 15 students per year are killed on board school buses, while about 40 die outside the bus in the loading zone, two thirds as a result of being run over by their own bus. Because the loading zone around the bus is the area where fatalities are most likely to occur, Florida has concentrated its resources on driver training, improved mirror systems, and other strategies to improve loading zone safety.

In the debate concerning the use of seat belts on school buses, both proponents and opponents cite compelling evidence in support of their positions. Various federal, state, and local entities have undertaken research on this issue. The major research findings and position papers relating to seat belts on school buses are summarized below.

### **Findings in Support of Seat Belts on School Buses**

*The Florida Congress of Parents and Teachers (Florida PTA)* - The Florida PTA cites the disproportionate number of fatalities and serious injuries which occur in side-impact and rollovers crashes as evidence of the need for seat belts. These are scenarios where seat belts would provide the greatest improvement in safety performance. Florida PTA also asserts that seat belts would improve behavior on the bus, reduce the number of fatal actions (e.g., putting arms and heads out of windows), and reinforce the habit of buckling up. Citing a study by the Transportation Research Board, the Florida PTA asserts seat belts on school buses would improve safety by 20 percent with 50 percent usage. Using the same methodology employed by researchers in New

Jersey, the organization contends that seat belts on school buses would prevent an average of .11 deaths, 10.74 incapacitating injuries, and 37.5 non-incapacitating injuries each year in Florida.

The Florida PTA passed a resolution during its 1997 convention in support of legislation to require any new bus purchased to transport school children in Florida to be equipped with 28 inch seat backs and seat belts. The resolution also provided for forwarding the seat belt portion of the resolution to the National PTA for inclusion in the National Platform. The Florida PTA provided documentation from various medical organizations which support the use of seat belts on school buses, including: the American Medical Association, Physicians for Automotive Safety, the American Academy of Pediatrics, the College of Preventative Medicine, the American Association of Oral and Maxillo Facial Surgery, the American Society for Adolescent Medicine, and the American College of Emergency Physicians. The National PTA adopted a resolution at its 1998 convention supporting legislation or regulation requiring the seat belts in new buses purchased to transport school children.

*The American Academy of Pediatrics* - In a 1996 policy statement, the American Academy of Pediatrics recommended the use of child safety seats and other restraint systems on school buses used to transport pre-kindergarten school children in order to keep the children secure in their seats. In agreement with a National Transportation Safety Board study, the Academy recommended that federal motor vehicle safety standards be revised to require that seat backs be 24 inches above a designated reference point (slightly more than 26 inches from the seat surface)

The Academy estimated that the use of seat belts on large buses may reduce deaths and injuries by 20 percent, with an assumption that use rates are only 50 percent. An additional benefit is that such use reinforces use in private vehicles. Acknowledging that the cost effectiveness of seat belts on buses may remain controversial, the Academy recommended the installation of seat belts on all newly purchased school buses. In addition, the Academy recommended that those districts providing seat belts should ensure the appropriate education of administrators, students, teachers, drivers, and parents in their use.

#### ***Seat Belt Requirements in New York and New Jersey***

According to the National Highway Transportation Safety Administration, states are free to require the installation of lap belts on large school buses and cited the efforts of New York and New Jersey. (New York required the installation of seat belts on all new school buses in 1987, while New Jersey passed a law in 1992 to require the installation and use of lap belts on all new large school buses.)

#### **Findings Adverse to the Use of Seat Belts on School Buses**

*The National Highway Transportation Safety Administration* - The National Highway Transportation Safety Administration (NHTSA) contends, based on school bus crash data, a federal requirement for safety belts on buses would provide little, if any, added protection in a crash. In support of this position, NHTSA cites a 1987 study undertaken by the National Transportation Safety Board which concluded that most fatalities and injuries were due to occupant seating positions being in direct line with crash forces, and safety belts would have done little in terms of prevention. Citing a 1989 study by the National Academy of Sciences (the Transportation Research Board report discussed below), NHTSA concluded that the overall

potential benefits of requiring seat belts on large school buses are insufficient to justify a federal mandate for installation, and that funds that would have been used for such installation would be better spent on school bus safety programs and other prevention devices. NHTSA noted, however, that small school buses (e.g., those with a gross vehicle weight rating under 10,000 pounds) must be equipped with lap or lap/shoulder belts at designated seating positions, since these vehicles are closer in size and weight to passenger cars and trucks where seat belts are considered needed for occupant protection.

NHTSA maintains that the concept of compartmentalization is the best method for providing crash protection for large buses. The agency has, however, initiated a research program to develop the next generation of occupant protection for school bus passengers.

***The Transportation Research Board*** - A 1989 study undertaken by the Transportation Research Board (under the auspices of the National Academy of Sciences) concluded that installing seat belts on all large school buses operated in the United States could provide a marginal increase in school bus safety. However, the committee concluded that the overall potential benefit of requiring seat belts in large school buses is insufficient to justify a federal standard mandating installation. Further, the report suggested that funds used to purchase and maintain seat belts in the nation's fleet of school buses, more than \$40 million per year, might better be spent on other school bus safety programs and devices to save more lives and reduce more injuries. It should be noted that the members of the committee examining this issue were divided in their final recommendations concerning the use of seat belts on buses.

***The Center for Urban Transportation Research Report*** - In 1993, the University of South Florida, Center for Urban Transportation Research (CUTR) issued a report entitled "Florida School Bus Occupant Safety." The report was undertaken at the direction of the Legislature to examine the potential benefits from the use of safety restraints in large Florida school buses. The report concluded that the effectiveness of safety restraints in large school buses has not been proven. However, the CUTR study acknowledged that the debate is heated, and that both proponents and opponents make strong cases in support of their positions.

To determine the potential effectiveness of safety restraints in large Florida school buses, CUTR examined Florida school bus accident data and concluded that the data did not provide convincing evidence that safety restraints are needed in these vehicles. The review noted that the considerable number of occupants were either uninjured or received minor or moderate injuries (44,220). According to CUTR, this reiterated the notion that large school buses are a safe mode of transportation. It also concluded that the availability of safety restraints would not have made a difference in the nine fatal injuries (five occurring in a single accident) reported. In view of the nine fatalities (0.02 percent) and a reported 202 (0.45 percent) incapacitating injuries sustained by the 44,438 Florida school bus occupants involved in the 4,732 accidents reported for 1986 through 1991, CUTR concluded that serious accidents involving school buses are infrequent and that the effectiveness of available safety options was substantiated.

The report suggest that higher back seats offer the greatest potential for the prevention of fatalities and the reduction of injuries sustained by Florida school bus occupants per dollar invested. However, CUTR recommended further studies prior to legislatively mandating these devices, including comprehensive surveys of school districts and states that require safety

restraints to determine their experience with specific issues (e.g., liability, seat belt use/compliance, maintenance costs, vandalism of belts, and influence of safety restraints on student conduct).

### **III. Effect of Proposed Changes:**

The CS requires all school buses purchased after December 31, 2000, and used to transport students in grades pre-K through 12 be equipped with: (1) safety belts or any other restraint system approved by the federal government that are sufficient to provide each student a separate belt or restraint system; and (2) seats having backs measuring at least 28 inches from the plane on which the passenger sits to the top of the seat. If safety belts are used, the belts must meet the same standards as those prescribed in the Florida Safety Belt Law (s. 316.614, F.S.)

A school bus that was purchased prior to December 31, 2000, is not required to be equipped with safety belts, a federally approved restraint system, or the specific seat backs. The CS also provides that neither the state nor a school district will be liable for personal injury to a passenger on these buses which is caused by a passenger's failure to wear a safety belt or restraint system. The CS defines a "school bus" as a school bus owned, leased, operated, or contracted by a school district.

The CS also states that passengers on school buses equipped with safety belts or federally approved restraint systems must wear properly adjusted and fastened belts or restraint systems at all times the bus is in operation. The CS also provides a school district, school bus operator under contract with the school district, or an agent or employee of a school district or operator is not liable in an action for personal injury by a school bus passenger solely because the injured passenger was not wearing a safety belt or restraint system. Similarly, these parties are not liable in an action for personal injury caused by another passenger's use or non-use of a safety belt or federally approved restraint system in a dangerous or unsafe manner. The parties exempt from liability specifically includes teachers and volunteers serving as chaperones. The CS further exempts private charter buses employed by school districts for field trips or other events which are not used on a daily basis for the transportation of students from the safety belt requirements of this CS.

Finally, the CS provides elementary schools within the school district are given first priority in the allocation of buses equipped with safety belts or federally approved restraint systems and specified types of seats.

### **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:

Indeterminate. The impact affects future contracts and the cost depends on the number of buses that will be under contract with school districts and the rate at which these buses will be exchanged.

C. Government Sector Impact:

The Department of Education estimates the provisions of the CS would add between \$1200 and \$1800 to the cost of a new 65-passenger bus. This is based on installing two-point lap belts, one assembly per passenger position. Assuming an annual purchase volume of 1,432 (based on 1996-97 and 1997-98 data), the department estimates the annual cost to range between \$1.7 million to \$2.6 million. The department noted that additional costs (e.g., the adoption of policies, training for students and drivers, monitoring and enforcement of use, and equipment replacement) could not currently be estimated.

The Florida PTA estimates a 65-passenger bus meeting Florida specifications can be purchased for an average of \$40,000 and can be equipped with 28" high back seats and seat belts for an additional \$1,600, based on manufacturer quotes.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

When school district employees provide approved transportation in privately owned vehicles, the law (s. 234.02, F.S.) states they are acting within the scope of their employment. Parents, guardians, or other responsible adults who provide approved transportation in privately owned vehicles have the same exposure to and protection from, risks of personal liability as do school district employees acting within the scope of their employment.

Section 1 of the CS specifies school buses purchased prior to December 31, 2000, are not subject to the requirements for new equipment. The CS, however, does not specifically provide that the exemptions from liability do not apply to a cause of action accruing before the CS's effective date.

Statistics, comparing all vehicle crashes to school bus crashes for 1995, 1996, and 1997 in Florida are reflected below:

**COMPARISON OF ALL VEHICLE CRASHES TO SCHOOL BUS CRASHES**

VEHICLE	ALL CRASHES 1995	ALL CRASHES 1996	ALL CRASHES 1997	FATAL CRASHES 1995	FATAL CRASHES 1996	FATAL CRASHES 1997	INJURY CRASHES 1995	INJURY CRASHES 1996	INJURY CRASHES 1997
SCHOOL BUSES	1,019	1,019	1,034	8	13	13	604	592	598
ALL VEHICLES	451,443	475,202	474,379	4,385	4,278	4,276	288,342	299,204	297,238

Source: Florida Department of Highway Safety and Motor Vehicles

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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