

# 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 for SB's 2316 & 1490

SPONSOR: Transportation Committee, Senator Campbell and Senator Saunders

SUBJECT: Passengers in Vehicles

DATE: April, 16, 1999

REVISED: 4/20/99 \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vickers</u>	<u>Meyer</u>	<u>TR</u>	<u>Favorable/CS</u>
2.	<u>Bowman</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/1 amendment</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

This committee substitute (CS) deletes the current statutory provision authorizing persons to be transported in the bed or cargo area of a pickup truck. The CS prohibits minors from riding in the bed of a pickup truck or flatbed truck unless the truck has factory-installed seating in the bed, or has been modified to include in the bed secure seating and safety restraints, that would prevent the minor from falling, jumping, or being thrown from the truck and unless the minor is securely restrained in such seating.

The CS exempts certain persons from the restriction of riding on any portion of a vehicle not designed or intended for the use of passengers. A local governmental entity may enact an ordinance that prohibits any person, other than as previously specified, from riding in or otherwise occupying the open bed of a truck being operated upon any street or highway within its territorial limits.

This CS substantially amends s. 316.2015, F.S.

## II. Present Situation:

Currently, pursuant to s. 316.2015, F.S., it is unlawful for a person to ride on the exterior of a vehicle when it is operated on a street or highway. However, the operator of a vehicle is not in violation of this section if the person occupies a seat securely affixed to the exterior of the vehicle. An operator of a vehicle who violates this section is subject to a \$60 fine, plus court costs.

Section 316.2015, F.S., also provides that it is unlawful for a person to ride on any portion of a vehicle not designed or intended for the use of passengers. This prohibition does not apply to any person engaged in the necessary discharge of his or her duties or to a person riding within truck bodies intended for merchandise (this is the provision authorizing persons to be transported in the bed or cargo area of a pickup truck). In addition, this section does not apply to a performer engaged in a professional exhibition, parade, or any such person preparing to participate in such

an activity. A person who rides on a vehicle in violation of this section is subject to a \$30 fine, plus court costs.

Passengers Riding in Body of Light (Pickup) Trucks Calendar Years 1996 and 1997						
Age	1996			1997		
	In Crashes	Injured	Killed	In Crashes	Injured	Killed
0 to 4	24	15	0	21	7	0
5 to 9	90	45	3	67	22	0
10 to 14	162	72	3	129	62	1
15 to 19	273	157	1	244	124	0
20 to 24	110	60	2	94	40	2
25 to 29	50	28	0	43	23	1
30 to 34	50	27	1	48	27	1
35 to 39	37	19	1	34	13	1
40 to 44	22	8	0	23	12	0
45 to 49	15	9	1	14	8	1
50 to 54	9	8	0	8	4	0
55 to 59	7	5	0	5	3	0
60 to 64	4	2	0	3	1	1
65 to 69	3	3	0	0	0	0
70 to 74	3	1	0	1	0	0
75 to 79	1	0	0	1	1	0
80 to 84	2	2	0	0	0	0
85 and over	0	0	0	0	0	0
Not Stated	38	9	0	18	5	0
Total	900	470	12	753	352	8

Source: Florida Traffic Crash Facts 1996 and 1997 prepared by the Department of Highway Safety and Motor Vehicles

Although s. 316.2015, F.S., authorizes persons to ride in the cargo area of a pickup truck, Florida's child restraint requirements may also apply to the same area of the truck (s. 316.613, F.S.). Florida's child restraint law provides a motor vehicle operator, while transporting a child, shall, if the child is 5 years of age or younger, provide for protection of the child by properly using a crash-tested, federally approved child restraint device. For children aged through 3 years, 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. An operator of a vehicle who violates this section is subject to a \$60 fine, plus court costs.

**III. Effect of Proposed Changes:**

This CS amends s. 316.2015, F.S., to delete the provision that authorizes persons to be transported in the bed or cargo area of a pickup truck. Any person riding in the back of a pickup truck would be committing a nonmoving violation, punishable pursuant to chapter 318.18, F.S., by a \$30 fine.

The CS also specifically prohibits minors from riding in the bed of a pickup truck or flatbed truck unless the truck has factory-installed seating in the bed, or has been modified to include in the bed secure seating and safety restraints, that would prevent the minor from falling, jumping, or being thrown from the truck and unless the minor is securely restrained in such seating. While the CS creates an exemption for minors riding in secure seating with safety restraints to ride in the back of a pick-up truck, the language of the bill does not provide a similar exception for adults.

The CS exempts certain persons from the restriction of riding on any portion of a vehicle not designed or intended for the use of passengers, including:

- ▶ An employee of a fire department;
- ▶ An employee of a governmentally operated solid waste disposal department;
- ▶ An employee of a waste disposal service operating pursuant to a contract with a governmental entity;
- ▶ A volunteer firefighter engaged in the necessary discharge of a duty; or
- ▶ A person who is being transported in response to an emergency by a public agency or pursuant to the direction or authority of a public agency.

The CS provides that a local governmental entity may enact an ordinance that prohibits any person, other than as previously specified, from riding in or otherwise occupying the open bed of a truck being operated upon any street or highway within its territorial limits. The language of the bill is unclear as to whether the local government can only enact ordinances that are more stringent than the terms of the CS or that the local ordinance can only regulate persons not specified by the CS. The later interpretation does not make sense as the CS, as drafted, prohibits all persons from riding in the back of a pick-up truck, with very limited exceptions.

A violation of the local ordinance would be subject to the same penalties authorized by the CS.

#### **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:**

Truck operators would be required to ensure persons 16 years old or less are properly restrained when riding in certain areas of the vehicle.

**C. Government Sector Impact:**

According to the Department of Highway Safety and Motor Vehicles, this CS has no direct fiscal impact to the state.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The Department of Highway Safety and Motor Vehicles indicated this CS could reduce the number of injuries and deaths caused by crashes in which minors are riding unsecured in the beds of trucks.

The CS authorizes counties and municipalities to adopt local ordinances prohibiting persons from riding in the bed of trucks. The lack of consistency in the application of laws governing passengers riding in the bed of trucks could lead to some confusion on the part of the public and law enforcement agencies.

The language of the bill prohibits any person, with limited exceptions, from riding in the back of the pick up truck. Minors are prohibited from riding in the back of a pickup truck unless certain seating and safety features are available. However, adults would not be authorized to ride in the back of a pickup truck with the same safety features. Hence, the regulatory provisions of the bill are stricter for adults than for minors.

**VIII. Amendments:**

#1 by Committee on Comprehensive Planning, Local & Military Affairs:

Provides that a minor is prohibited from riding in the bed of a pickup unless the truck has factory-installed seating or safety restraints. Clarifies that the operator of the truck who violates this prohibition shall be cited for a nonmoving violation. Permits local governments to enact more stringent ordinances as long as the ordinance does not prohibit an employee engaged in the discharge of his duties from riding in the bed of the pickup truck.

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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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