

# 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 316

SPONSOR: Transportation Committee and Senator Grant

SUBJECT: Florida Safety Belt Law

DATE: April 26, 2000 REVISED: \_\_\_\_\_

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

## I. Summary:

Current law requires a motor vehicle operator, front seat passengers, and all passengers under 16 years of age to wear seat belts. The “Florida Safety Belt Law” is enforced as a secondary offense; that is, law enforcement officers cannot stop motorists solely for not using their seat belts. Instead, the officer must first stop the motorist for a suspected violation of state traffic, motor vehicle, or driver license laws before the officer can issue a uniform traffic citation for failure to wear a seat belt.

This CS amends the “Florida Safety Belt Law” to provide for primary enforcement of the seat belt law. Under the CS, law enforcement officers would be authorized to stop motorists and issue citations when an operator is not using a seat belt. A person who violates this provision would be cited for a nonmoving violation, punishable by a fine of \$30. However, the CS prohibits a law enforcement officer from searching or inspecting the vehicle, its contents, the driver, or a passenger based solely upon this violation.

The CS also provides the Department of Insurance is not to approve a rate to be charged in a motor vehicle policy issued or renewed on or after the effective date of this CS unless that rate includes a reduction based on the projected savings to the insurer as a result of the primary enforcement of Florida’s safety belt law. The CS provides a reduction of less than 10 percent for specified coverages is to be presumed to be an excessive or unfairly discriminatory rate, unless the insurer demonstrates by appropriate actuarial data that a lower reduction is warranted.

The CS substantially amends section 316.614, Florida Statutes. The CS creates an unnumbered section of the Florida Statutes.

## **II. Present Situation:**

Section 316.614, F.S., the “Florida Safety Belt Law”, requires a motor vehicle operator, front seat passengers, and all passengers under 16 years of age to wear seat belts. The "Florida Safety Belt Law" is enforced as a secondary offense; that is, law enforcement officers cannot stop motorists solely for not using their seat belts. Instead, the officer must first stop the motorist for a suspected violation of Chapters 316, 320, or 322, F.S., before the officer can issue a uniform traffic citation for failure to wear a seat belt. The penalty for failure to wear a seat belt is \$30, plus additional fees and court costs.

Although the “Florida Safety Belt Law” is enforced as a secondary offense, the child restraint requirements of s. 316.613, F.S., are enforced as a primary offense. The law requires all children 5 years of age and younger being transported in a motor vehicle to be restrained in a carrier, integrated car seat, or seat belt. Motorists are subject to being stopped by a law enforcement officer for failure to comply with this requirement.

Currently, there is no language in the “Florida Safety Belt Law” statute which relates to searches and inspections of a motor vehicle, its contents, or the driver by a law enforcement officer for a traffic stop which results in a secondary violation of s. 316.614, F.S.

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

This CS amends the “Florida Safety Belt Law” to provide for primary enforcement of the seat belt law. Under this bill, law enforcement officers would be authorized to stop motorists and issue citations for not using a seat belt.

The CS, however, prohibits a law enforcement officer from searching or inspecting the vehicle, its contents, the driver, or a passenger based solely upon this violation.

The CS also provides that notwithstanding existing statutory provisions, the Department of Insurance is not to approve a rate to be charged in a motor vehicle policy issued or renewed on or after the effective date of this CS unless that rate includes a reduction based on the projected savings to the insurer as a result of the primary enforcement of Florida’s safety belt law. The CS provides a reduction of less than 10 percent for personal injury protection, medical payments, uninsured motorist, and bodily injury liability coverages is to be presumed to be an excessive or unfairly discriminatory rate, unless the insurer demonstrates by appropriate actuarial data as part of the rate filing process that a lower reduction is warranted.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

### **B. Public Records/Open Meetings Issues:**

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The CS prohibits an officer from searching or inspecting “a motor vehicle, its contents, the driver, or a passenger solely because of a violation of this section”.

At present, a law enforcement officer cannot search a vehicle based solely on a traffic stop. The officer either has to obtain consent, develop independent probable cause to search, or develop a founded suspicion that the suspect has committed, is committing, or is about to commit a crime.

A lawful stop by an officer to enforce the provisions of this section would still be subject to all of the protections of the Fourth Amendment to the United States Constitution and Article I, Section 12 of the Florida Constitution.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent the CS increases safety belt use in Florida, crash-related injuries and deaths will be reduced, decreasing associated medical and insurance costs.

The CS provides for a presumptive rate reduction of 10 percent for certain motor vehicle insurance coverages based on the projected savings resulting from primary enforcement of Florida’s seat belt law. Insurers are afforded an opportunity to demonstrate by appropriate actuarial data that a lower reduction is warranted. This would result in an indeterminate positive fiscal impact on Florida consumers.

C. Government Sector Impact:

The number of additional traffic citations issued as a result of this CS and the resulting fiscal impact is unknown.

**VI. Technical Deficiencies:**

The CS references the rate filing process established in s. 627.062, F.S. While that section governs rate standards for numerous classes of insurance, it is not the primary section governing the establishment of motor vehicle insurance rates. The correct reference for the motor vehicle rate filing process is s. 327.0651, F.S.

**VII. Related Issues:**

According to the National Highway Traffic Safety Administration, the average seat belt use rate in 1998 in the 16 states which have laws that permit primary enforcement is 17 percentage points higher than the average of those states which permit only secondary enforcement. The average use rate among primary law enforcement states in 1998 was 79 percent and the average use rate among secondary law enforcement states in 1998 was 62 percent. Furthermore, the National Highway Traffic Safety Administration reported that in 1998 the average seat belt use rate in Florida was 57 percent.

According to the Department of Highway Safety and Motor Vehicles, this bill would strengthen Florida's Safety Belt Law by increasing compliance and, thereby reducing the number of deaths and injuries associated with failure to wear a seat belt. During calendar year 1998, 270,717 traffic citations were issued in Florida for seat belt violations

**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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