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**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CRIME PREVENTION, CORRECTIONS & SAFETY
ANALYSIS**

BILL #: CS/HB 67
RELATING TO: Florida Safety Belt Law
SPONSOR(S): Committee on Crime Prevention, Corrections & Safety and Representatives Slosberg, Priequez and Others

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) CRIME PREVENTION, CORRECTIONS & SAFETY YEAS 8 NAYS 1
 - (2) INSURANCE
 - (3) TRANSPORTATION
 - (4) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
 - (5) COUNCIL FOR HEALTHY COMMUNITIES
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I. SUMMARY:

Current law requires a motor vehicle operator, front seat passengers, and all passengers under 18 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.

The Committee Substitute for HB 67 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 a safety belt violation. A person who violates this provision would be cited for a nonmoving violation, punishable by a fine of \$30.

Furthermore, the Committee Substitute requires **all** passengers in a motor vehicle to be restrained by a safety belt when the vehicle is in motion. It clarifies current exemptions to the safety belt law and provides that the passengers of a motor vehicle in excess of the number of safety belts installed by the manufacturer are exempt from the provisions of the safety belt law.

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

Although primary enforcement of safety belt violations may result in an increase of citations, the potential fiscal impacts are unknown.

The Committee Substitute has an effective date of July 1, 2001.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1. Less Government Yes No N/A

Law enforcement would be authorized to stop motor vehicles for a violation of the Florida Safety Belt Law as a primary, rather than a secondary, violation.

2. Lower Taxes Yes No N/A

3. Individual Freedom Yes No N/A

See above.

4. Personal Responsibility Yes No N/A

5. Family Empowerment Yes No N/A

B. PRESENT SITUATION:

Section 316.614, F.S., the "Florida Safety Belt Law," requires a motor vehicle operator, front seat passengers, and all passengers under 18 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.

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.

The penalty for failure to wear a seat belt is \$30, plus add-ons and court costs. Revenues collected from citations issued for seat belt violations are distributed like other citation revenues, pursuant to s. 318.21, F.S. except \$5 for each citation paid is directed to the Epilepsy Services Trust Fund.

There are, however, exceptions for when seat belts are required to be worn. For example, persons who deliver newspapers on home delivery routes are not required to wear seat belts during the course of their employment. Also, under current law, the front seat passengers of a pickup truck in excess of the number of seat belts installed in the front seat are not required to wear a seat belt.

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.

C. EFFECT OF PROPOSED CHANGES:

This Committee Substitute for HB 67 amends the "Florida Safety Belt Law" to provide for primary enforcement of the seat belt law. Under the Committee Substitute, law enforcement officers would be authorized to stop motorists and issue citations for seat belt violations.

The Committee Substitute requires **all** passengers in a motor vehicle to wear a seat belt, in the front and back seats, when the vehicle is in motion. Current law requires all front seat passengers to wear a seat belt, but back seat passengers are not required to wear seat belts unless they are under 18.

The Committee Substitute broadens the exemption for excess passengers in a vehicle. Current law provides that "*front seat passengers of a pickup truck*" in excess of the number of seat belts installed are not required to wear a seat belt; the Committee Substitute expands this exemption to "*passengers of a motor vehicle*" in excess of seat belts installed by the manufacturer.

The amendment, however, does not conflict with current law under Paragraph (d) of subsection (6) of 316.614, F.S., which excludes the living quarters of a recreational vehicle or a space within a truck body primarily intended for merchandise or property. Section 316.2015, F.S. provides regulations for persons riding on the exterior of a vehicle and also provides an exclusion for persons riding within truck bodies in space intended for merchandise.

The Committee Substitute also clarifies exemptions to the safety belt law under s. 316.614(5) by specifying, "The following are not required to be restrained by a safety belt."

In order to conform to primary enforcement provisions, a reference to the requirements of federal safety standards is deleted in the Committee Substitute under s. 316.614(2).

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

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Cites the act as the "Dori Slosberg Act of 2001."

Section 2: Deletes s. 316.614(2) to conform to provisions of primary enforcement; requires all passengers in a motor vehicle be restrained by a safety belt when the vehicle is in motion; clarifies exemptions to safety belt law; exempts passengers of a motor vehicle in excess of the number of safety belts installed by the manufacturer; provides for primary enforcement of the safety belt law; provides limits on law enforcement's authority to search or inspect a motor vehicle, its contents, the driver, or a passenger based solely on a seat belt violation.

Section 3: Provides an effective date of July 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

Although primary enforcement of safety belt violations may result in an increase of citations, the potential fiscal impacts are unknown.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The Committee Substitute does not require counties or municipalities to spend funds or take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The Committee Substitute does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This Committee Substitute does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

The provision in this bill prohibiting an officer from searching or inspecting "a motor vehicle, its contents, the driver, or a passenger solely because of a violation of this section" is a restatement of existing law. 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.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

According to the National Highway Traffic Safety Administration (NHTSA), as of March 1999, the average seat belt use rate in the 19 states (including the District of Columbia and Puerto Rico) which have laws that permit primary enforcement is 12 percentage points higher than the average of those states which permit only secondary enforcement. The average use rate among primary law enforcement states in 1999 was 73 percent and the average use rate among secondary law enforcement states in 1999 was 61 percent. In Florida, the NHTSA reported that the average safety belt use rate was 57 percent for the same period in 1999.

According to the Department of Highway Safety and Motor Vehicles (DHSMV), 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. DHSMV's records indicate that 313,684 citations were issued in Florida for seat belt violations during calendar year 1999.

The language amending subsection (5)(d) would conflict with current law that requires each passenger under the age of 18 to be restrained by a safety belt or child restraint device no matter where in the car they are sitting. If there are more children than safety belts, then there may not be a violation of this section.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Representative Slosberg offered a strike-everything amendment in the February 22, 2001 meeting of the Committee on Crime Prevention, Corrections and Safety. The amendment requires **all** passengers in a motor vehicle to wear a seat belt, in the front and back seats.

The Committee Substitute also broadens exemptions to the safety belt law. Current law provides "*front seat passengers of a pickup truck*" in excess of the number of seat belts installed by the manufacturer are exempt; the committee substitute expands the exclusion to "*passengers of a motor vehicle*" in excess of seat belts installed by the manufacturer.

The Committee Substitute also deletes references to federal requirements to conform to primary enforcement provisions and clarifies exemptions to the safety belt law under current law.

The strike-everything amendment was then engrossed in the bill in the form of a committee substitute.

VII. SIGNATURES:

COMMITTEE ON CRIME PREVENTION, CORRECTIONS & SAFETY:

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