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DATE: April 2, 2001

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
TRANSPORTATION
ANALYSIS**

BILL #: CS/HB 67

RELATING TO: Florida Safety Belt Law

SPONSOR(S): Committee on Crime Prevention, Corrections & Safety and Representatives Slosberg, Prieguez and Others

TIED BILL(S): None

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

- (1) CRIME PREVENTION, CORRECTIONS & SAFETY YEAS 8 NAYS 1
 - (2) INSURANCE YEAS 10 NAYS 4
 - (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 safety belts. The "Florida Safety Belt Law" is enforced as a secondary offense; that is, law enforcement officers cannot stop motorists solely for not using safety belts. Instead, an officer must first stop a motorist for a suspected violation of state traffic, motor vehicle, or driver license laws before issuing a uniform traffic citation for failure to wear a safety belt.

The "Florida Safety Belt Law" would be amended to provide for primary enforcement of the safety belt law. Law enforcement officers would be authorized to stop motorists and issue citations for a safety belt violation. A person violating this provision would be cited for a nonmoving violation, punishable by a \$30 fine.

All passengers in both the front and back seats of a motor vehicle would be required to wear a safety belt when the vehicle is in motion. The number of passengers required to wear safety belts would equal the number of safety belts installed by the manufacturer.

Law enforcement officers would be prohibited from searching or inspecting the vehicle, its contents, or the driver based solely upon a violation of the safety belt law.

Primary enforcement of safety belt violations could result in an increase of citations. However, the potential fiscal impacts are unknown because the number of additional citations issued cannot be determined.

The effective date of this bill is 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:

In 1986, the Legislature enacted the "Florida Safety Belt Law." Section 316.614, F.S., requires a motor vehicle operator, front seat passengers, and all passengers under 18 years of age to wear safety 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 safety 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 safety belt.

The penalty for failure to wear a safety belt is \$30, plus administrative and court costs. Revenues collected from citations issued for safety belt violations are distributed like other traffic citation revenues, pursuant to s. 318.21, F.S., except that \$5 of each citation paid is directed to the Epilepsy Services Trust Fund. According to the Department of Highway Safety and Motor Vehicles, there were 313,684 citations issued for safety belt violations during calendar year 1999.

Those not subject to the safety belt law include:

- Persons certified by physicians as having a medical condition that would cause the use of a safety belt to be inappropriate or dangerous;
- Persons delivering newspapers on home delivery routes during the course of their employment;
- Front seat passengers of a pickup truck in excess of the number of safety belts installed; and
- The living quarters of a recreational vehicle or the space within a truck body that is used for storage or merchandise.

The "Florida Safety Belt Law" does not qualify the authority of law enforcement officers to search and inspect a motor vehicle, its contents, or the driver by a law enforcement officer for traffic stops resulting in a secondary violation of s. 316.614, F.S.

According to the National Highway Traffic Safety Administration (NHTSA), as of March 1999, the average rate of safety belt use in the 19 states (including the District of Columbia and Puerto Rico) permitting primary enforcement of the safety belt law was 73 percent and the average use rate among states with secondary enforcement was 61 percent. In Florida, according to the NHTSA, the average rate of safety belt use was 57 percent during that same period.

C. EFFECT OF PROPOSED CHANGES:

Current law requires a motor vehicle operator, front seat passengers, and all passengers under 18 years of age to wear safety belts. The "Florida Safety Belt Law" is enforced as a secondary offense; that is, law enforcement officers cannot stop motorists solely for not using safety belts. Instead, an officer must first stop a motorist for a suspected violation of state traffic, motor vehicle, or driver license laws before issuing a uniform traffic citation for failure to wear a safety belt.

The "Florida Safety Belt Law" would be amended to provide for primary enforcement of the safety belt law. Law enforcement officers would be authorized to stop motorists and issue citations for a safety belt violation. A person violating this provision would be cited for a nonmoving violation, punishable by a \$30 fine.

All passengers in both the front and back seats of a motor vehicle would be required to wear a safety belt when the vehicle is in motion. The number of passengers required to wear safety belts would equal the number of safety belts installed by the manufacturer.

Law enforcement officers would be prohibited from searching or inspecting the vehicle, its contents, or the driver based solely upon a violation of the safety belt law.

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 of safety belt law; requires all passengers in a motor vehicle be restrained by a safety belt when the vehicle is in motion; revises exemptions to safety belt law; exempts passengers of a motor vehicle in excess of the number of safety belts installed by the manufacturer from having to wear a safety belt; 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 safety 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:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments.

D. FISCAL COMMENTS:

Primary enforcement of safety belt violations may result in an increased number of citations being issued; however, the number is indeterminate and therefore the fiscal impact is unknown.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

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

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill 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:

The bill 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:

Current law requires a motor vehicle operator, front seat passengers, and all passengers under 18 years of age to be restrained by a safety belt or child restraint device. Passengers under 18 years of age are required to wear a safety belt no matter where in the car they are sitting. Currently, front seat passengers of a pickup truck in excess of the number of seat belts installed in the truck are not required to wear a seat belt

The language amending section 316.614(6) (s. 316.614(5)(d) in the bill) provides an exception for seat belt usage for those passengers of a motor vehicle in excess of the number of seat belts installed in the vehicle, which broadens the exemptions under current law. If there are more children in the car than available seat belts, then there may not be a violation of this section.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Crime Prevention, Corrections, & Safety passed the bill as a committee substitute. CS/HB 67 differs from the original bill in that the committee substitute:

- Requires all passengers in a motor vehicle to wear a safety belt, in the front and back seats, rather than those passengers in the front seat;
- Broadens exemptions to the safety belt law by exempting from current law passengers in a motor vehicle in excess of the number of safety belts installed by the manufacturer; and
- Deletes references to federal requirements to conform to primary enforcement provisions and revises exemptions to the safety belt law under current law.

VII. SIGNATURES:

COMMITTEE ON CRIME PREVENTION, CORRECTIONS & SAFETY:

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