

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 27 Safety Belt Law Enforcement  
**SPONSOR(S):** Glorioso and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 484

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Homeland Security &amp; Public Safety</u>	<u>9 Y, 0 N</u>	<u>Newton</u>	<u>Kramer</u>
2) <u>Safety &amp; Security Council</u>	<u></u>	<u></u>	<u></u>
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### SUMMARY ANALYSIS

Current law requires a motor vehicle operator, front seat passengers, and all passengers and operators less than 18 years of age to wear safety belts. The "Florida Safety Belt Law" is enforced as a secondary offense for operators and passengers 18 and older; that is, law enforcement officers cannot stop motorists 18 and older solely for not using safety belts. Instead, an officer must first stop a motorist who is 18 or older 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. It is a primary offense to operate a motor vehicle in this state unless each passenger and the operator of the vehicle under the age of 18 are restrained by a safety belt or by a child restraint device.

HB 27 gives the act the popular name the "Dori Slosberg and Katie Marchetti Safety Belt Law" and amends the Florida Safety Belt Law to provide for primary enforcement for all motorists. A law enforcement officer would be authorized to stop a motorist and issue a citation for a safety belt violation upon reasonable suspicion that the driver, any passenger under the age of 18 years, or any passenger in the front seat who is 18 years of age or older, is not restrained. A person violating this provision would be cited for a nonmoving violation, punishable by a \$30 fine plus applicable fees and court costs. The fees and court costs vary from county to county, but the total paid for each citation would range from \$68.50 to \$89.50.

Primary enforcement of safety belt violations could result in an increase in the number of citations issued. However, the potential fiscal impacts to state and local governments resulting from penalty revenues are unknown because it is impossible to forecast how many additional citations may be issued. Crash-related injuries and deaths could be reduced thereby decreasing associated medical and insurance costs.

This bill will take effect June 30, 2007.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government—The bill expands the authority of law enforcement to detain motor vehicle operators, arguably increasing the scope of government rather than decreasing it.

Promote Personal Responsibility—Currently, a person over 18 years of age may not be stopped for a safety belt violation as a primary enforcement action by a law enforcement officer. To the extent that primary enforcement allows more effective enforcement of the safety belt law, the bill tends to increase personal accountability of drivers and passengers for failure to comply with the law.

Safeguard individual liberty—Although the bill does not impose any new regulation upon motor vehicle operators, it does authorize law enforcement officials to detain an individual operating a motor vehicle in circumstances that under current law would not be reasonable grounds for stopping the motorist.

### B. EFFECT OF PROPOSED CHANGES:

#### 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 less than 18 years of age to wear safety belts. The law is enforced against any adult driver or adult front seat passenger who is not restrained by a safety belt. If a person under 18 years of age is unrestrained, the law is enforced against the driver. 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 unless the operator or passengers are under 18. 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. In 2005, HB 1697 was passed to amend s. 316.614, F.S., making it a primary offense to operate a motor vehicle in this state unless each passenger and the operator of the vehicle under the age of 18 years is restrained by a safety belt or by a child restraint device.<sup>1</sup>

Those not subject to the safety belt law include:

- Persons certified by a physician 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;
- Employees of a solid waste or recyclable collection service on designated routes during the course of their employment;
- Persons occupying the living quarters of a recreational vehicle or the space within the body of a truck used for the storage of merchandise.

The penalty for failure to wear a safety belt is \$30, plus administrative and court costs. The fees and court costs vary from county to county, but the total paid for each citation would range from \$68.50 to \$89.50. 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 Uniform Traffic Citation Statistics compiled by the

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<sup>1</sup> This act also amended section 316.614, F.S. to provide that, by January 1, 2006, each law enforcement agency must adopt departmental policies to prohibit the practice of racial profiling. Further, the section requires law enforcement officers to record the race and ethnicity of a violator of the safety belt law and requires DHSMV to annually report this information to the legislature and the Governor.

Department of Highway Safety and Motor Vehicles, there were 300,213 safety belt violations during the 2004 calendar year.

According to the National Highway Traffic Safety Administration (NHTSA) there are 24 primary states, 25 secondary states, and 1 state (New Hampshire) that effectively has no belt use law. The National Occupant Protection Use Survey (NOPUS) is an observational survey of safety belt use that began in 1994 and has been used by NHTSA to measure the nation's safety belt use. NOPUS has consistently found higher usage rates in the presence of primary laws, with collective statistically different rates of 85 percent in primary states compared to 75 percent in secondary ones in 2005.<sup>2</sup> Through statewide enforcement/education efforts such as the Buckle Up Florida/Click It or Ticket campaign, Florida has shown an overall increase in seat belt usage rates from 59 percent in 1999 to 76.3 percent in 2004. As of January, 2006 Florida's safety belt usage rate was 73.9 percent. Research has found that lap/shoulder belts, when used properly, reduce the risk of fatal injury to front seat passenger car occupants by 45 percent and the risk of moderate-to-critical injury by 50 percent (for occupants of light trucks, 60 percent and 65 percent, respectively).

### Effect of Proposed Changes

HB 27 gives the act the popular name the "Dori Slosberg and Katie Marchetti Safety Belt Law" and amends the Florida Safety Belt Law to provide for primary enforcement for all drivers. A law enforcement officer would be authorized to stop a motorist and issue a citation for a safety belt violation upon reasonable suspicion that the driver, any passenger under the age of 18 years, or any passenger in the front seat who is 18 years of age or older, is not restrained. A person violating this provision would be cited for a nonmoving violation, punishable by a \$30 fine plus applicable fees and court costs. The fees and court costs vary from county to county, but the total paid for each citation would range from \$68.50 to \$89.50.

If Florida enacted a primary safety belt enforcement law, National Highway Traffic Safety Administration (NHTSA) studies forecast that 192 lives would be saved, 2,792 serious injuries would be prevented, and over \$589 million in economic costs would be saved annually.<sup>3</sup>

#### C. SECTION DIRECTORY:

Section 1. Gives the act the popular name the "Dori Slosberg and Katie Marchetti Safety Belt Law."

Section 2. Amends s. 316.614, F.S., to provide for primary enforcement of the safety belt law.

Section 3. Provides that the act shall take effect June 30, 2007.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

Indeterminate – see fiscal comments

##### 2. Expenditures:

Indeterminate – see fiscal comments

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<sup>2</sup> *Traffic Safety Facts*, National Highway Traffic Safety Administration, November 2006, DOT HS 810 677.

<sup>3</sup> Information provided from National Highway Traffic Safety Administration, January 17, 2007.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate – see fiscal comments

2. Expenditures:

Indeterminate – see fiscal comments

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate – see fiscal comments

D. FISCAL COMMENTS:

Primary enforcement of safety belt violations for motorists will likely result in the issuance of an increased number of citations, and the assessment of additional traffic penalties and court costs. However, because it is impossible to forecast how many additional violations will be cited, the fiscal impact on state and local government is indeterminate.

According to the Florida Department of Transportation (FDOT), the agency received incentive funds from the U.S. Department of Transportation for the years 1999 through 2003. The funds ranged in amount from 1999 to 2003. The most recent reported award was in 2003 in the amount of \$2,863,600. The federal funds were awarded annually to states whose seat belt use rates for a given year either exceeded the national average or exceeded seat belt usage rates in previous years. The allocations to states were based on savings in medical costs to the federal government resulting from the seat belt use rates. FDOT used the funds for enhancing the Buckle Up Florida/Click It or Ticket Campaign to help insure continued seat belt usage increases, primarily to purchase incentive items for law enforcement agencies to encourage their involvement in enforcing the seat belt and child restraint laws. Portions of the funds were also used to support the Law Enforcement Liaison program, an essential component of Buckle Up Florida. This federal incentive program expired in April 30, 2004, however other federal incentive programs may be ongoing.

Through strong statewide enforcement/education efforts under the Buckle Up Florida/Click It or Ticket campaign, administered by the FDOT, Florida has shown a continuing increase in seat belt usage rates from 58.7% in 1999 to 73.9% in 2005.

In an earlier bill analysis, reference was made to a federal safety belt grant program associated with primary safety belt law enactment. In a letter dated January 23, 2006 from the U.S. Department of Transportation, the federal agency announced a new safety belt incentive grant program offered through the Safe, Accountable, Flexible, Efficient Transportation Equity Act (SAFETEA-LU) for states that enact a primary safety belt law or achieve 85% safety belt usage for 2 consecutive years. A primary safety belt use law allows law enforcement officers to stop and issue a citation to unbuckled occupants of a vehicle without having to determine that another driving violation has occurred. The letter stated that if Florida were to meet certain federal criteria, it would be eligible to receive a one-time federal grant of \$35.5 million. However, in a follow-up memorandum dated January 23, 2007 by the Assistant Chief Counsel for the National Highway Traffic Safety Administration (NHTSA), it was determined that Florida would not be eligible for the grant. The NHTSA determined that because of an existing provision in s. 316.614(a), Florida Statutes, which exempts all vehicles that exceed 5,000 pounds from coverage under the state's seat belt use law, Florida would not be in compliance with the federal grant program and therefore, would not be eligible for the federal funds even if it passed a primary safety belt use law.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None

B. RULE-MAKING AUTHORITY:

HB 27 does not require any grant or exercise of rule-making authority to implement its provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

D. STATEMENT OF THE SPONSOR

The bill sponsor submitted the following statement:

Staff Summary says it all -- bottom line is safety belts save lives.

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

HB 27 was reported favorably with no amendments on January 24, 2007.