

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 619 Child-Restraint Requirements

SPONSOR(S): Gelber and others

TIED BILLS: IDEN./SIM. BILLS: SB 668

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Infrastructure</u>	<u>8 Y, 0 N</u>	<u>Cortese</u>	<u>Miller</u>
2) <u>Economic Expansion &amp; Infrastructure Council</u>	<u></u>	<u></u>	<u></u>
3) <u></u>	<u></u>	<u></u>	<u></u>
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SUMMARY ANALYSIS

This bill revises child restraint requirements for children passengers in motor vehicles. Motor vehicle operators will be required to use child restraint devices for children aged through seven years of age, instead of the current four years of age. Under the bill's provisions, a safety belt alone is no longer sufficient protection for any child aged four through seven years. In addition, the bill specifies that certain child safety seats are appropriate restraint devices for children aged through four years, and certain child booster seats are appropriate restraint devices for children aged four through seven years.

An infraction is considered a moving violation punishable by a fine of \$60 plus court costs and add-ons, and by assessment of three points against the driver's license. The court may dismiss a first violation if the operator produces proof of purchase of a federally approved child restraint device. The revised provisions take effect January 1, 2010. Beginning July 1, 2009, law enforcement officers may issue verbal warnings and educational literature to those persons who are in compliance with existing law, but who are violating the provisions of the child restraint law, which take effect in 2010.

The bill provides exceptions to the child restraint law for persons transporting a child aged four through seven years and who are:

- Visiting the state
- Transporting the child gratuitously and in good faith in response to a declared emergency situation or an immediate emergency involving the child
- Transporting a child with a medically necessary exception with appropriate documentation; or
- Acting generally as a Good Samaritan.

The bill may generate an indeterminate amount of additional fine revenues for state and local governments.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Reduce Government:** The bill increases government regulation in that it requires motorists carrying child passengers to use a child restraint device in cases where no such requirement is found in existing law.

**Expand Individual Freedom:** The bill does not increase opportunities for individuals or families to make personal choices, in that it renders unlawful certain activity that was previously lawful, and subjects individuals who violate the provisions to monetary sanctions.

**Empower Families:** The bill requires motorists to use a child restraint device to transport certain children where it is not currently required in law. This reduces the power of the family to choose how to transport its children.

#### B. EFFECT OF PROPOSED CHANGES:

##### Current Situation

Current Florida law requires a vehicle operator transporting a child to use a separate carrier or child seat for children through age 3. The child seat or carrier must be crash-tested and federally approved. Children, age 4 and 5, must be restrained by a separate carrier, child seat, or seat belt.<sup>1</sup>

Exceptions to the child restraint requirement are provided for:

- School buses
- Buses that charge for transportation or assist in school related activities
- Farm equipment
- Motorcycles, mopeds and bicycles.

There are currently no separate provisions for children aged 6 and 7 years, who fall under the general seat belt law.

##### Proposed Changes

This bill amends s. 316.613(1)(a), F.S., to increase the age for which use of a child restraint device is required from 5 years of age to 7 years of age. Such device may include a manufacturers integrated child seat, a separate child safety seat, or a child booster seat that displays the child's weight and height specifications. The device must be secured in accordance with manufacturers specifications. Courts are provided authority to dismiss a charge for a first time violation upon proof of the purchase of a federally approved child restraint device. An infraction is considered a moving violation punishable by a fine of \$60 plus court costs and add-ons, and by assessment of three points against the driver's license.

This bill amends s. 316.613(2)(b), F.S., adding any passenger vehicle designed to accommodate 10 or more persons to the list of vehicles for which the statute does not apply.

These portions of the bill shall take effect on January 1, 2010.

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<sup>1</sup> S. 316.613(1), F.S.

This bill would also permit law enforcement officers to issue verbal warnings and educational literature to persons whose conduct do not violate the current statutes but would constitute a violation of the statute as amended by this bill. This portion shall take effect July 1, 2009.

The bill provides exceptions to the child restraint law for persons transporting a child aged four through seven years and who are:

- Visiting the state
- Transporting the child gratuitously and in good faith in response to a declared emergency situation or an immediate emergency involving the child
- Transporting a child with a medically necessary exception with appropriate documentation; or
- Acting generally as a Good Samaritan

This provision shall take effect July 1, 2008, except as otherwise expressly provided in this act.

#### C. SECTION DIRECTORY:

**Section 1.** Amends s. 316.613, F.S., by revising requirements for children seven years of age and younger; providing requirements for children six and seven years of age; and providing exceptions to penalties.

**Section 2.** Provides a grace period for implementation of the new child restraint requirements.

**Section 3.** Provides exceptions to the child restraint provisions for certain persons transporting children ages four through seven.

**Section 4.** Provides an effective date of July 1, 2008, except as otherwise expressly provided.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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

##### 1. Revenues:

According to the Department, the bill may generate additional fine revenues for state and local governments, the amount of which is indeterminate.

##### 2. Expenditures:

None.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

According to the Department, the bill may generate additional fine revenues for state and local governments, the amount of which is indeterminate.

##### 2. Expenditures:

None.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Motor vehicle operators must use a separate carrier, an integrated child seat or a child booster seat to transport children within the age requirements. Seat belts alone will no longer be legal restraints for

children ages 6 and 7. This change will fiscally impact motorists in the amount it costs to acquire necessary restraint devices. Child safety restraints range widely in price from models offered by nonprofit agencies for low-income families that cost around \$20 to customized high-back harness boosters that approach \$350. However, the majority of child safety restraints generally cost from \$50 to \$120. Because the number of additional children who will need specific restraint devices is unknown, the amount of this impact cannot be determined. Violation of the law would be punishable by a fine of at least \$60 and a 3 point assessment on the operator's driver's license.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the 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:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

**Past Legislation:**

In 2001 SB 1412, "Child Restraint Requirements", which is similar to HB 443, passed both chambers of the Legislature, but was vetoed by Governor Jeb Bush. In his veto message, Governor Bush cited enforceability, unintended consequences (such as a mandate on low-income families and shifting responsibility away from automobile manufacturers), how far the bill goes (at the time, the bill would place Florida far beyond other states in the level of requirements), and the appropriate role of state government (a "government-imposed regulatory solution at the outset rather than as a last resort", "we must place some trust in parents and recognize that almost every parent in our state, more so than government, wants their child to lead healthy, safe lives") as his concerns with the legislation and reasons for the veto.

**Other Comments:**

Advocates of the legislation argue that seatbelts designed to accommodate a large adult body frame do not fit or properly restrain a child ages 4 to 8, causing a group of injuries known as "seatbelt syndrome". They state that poverty-level parents may be less likely to have regular contact with a pediatrician who would tell them about the danger of inadequate child safety restraints and less able to afford long-term medical care if a motor vehicle accident seriously injures their child due to lack of appropriate restraint. In the case of age appropriate vehicle occupant restraints, advocates point to the fact that the state does not allow adults to choose for themselves.<sup>2</sup>

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<sup>2</sup> <http://www.jflspac.org/BoosterSeatFiles/Comprehensive.pdf>

D. STATEMENT OF THE SPONSOR

No statement submitted.

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

On March 20, 2008, one amendment was adopted by the Infrastructure Committee. The amendment provides an additional exemption based on the child's height being over 57 inches or weight being over 100 pounds. The bill was reported favorably with the amendment.