

## Committee Substitute for House Bill No. 1837

An act relating to child passenger restraint; amending s. 316.613, F.S.; removing an obsolete reference; amending s. 316.614, F.S.; providing for primary enforcement of violations of child restraint requirements; requiring that buses purchased after a specified date and used in transporting certain students be equipped with safety belts or other restraint system that comply with specified standards; providing an exemption for certain school buses; providing a definition for "school bus" used in the section; requiring passengers to wear safety belts or restraint system; providing immunity of a school district, bus operator, and others for injuries to a passenger caused solely because the passenger was not wearing a safety belt or restraint system; providing immunity to such persons for injury caused by a passenger's dangerous or unsafe use of a safety belt or restraint system; providing certain provisions for implementation; providing an exception to the operation of the act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 316.613, Florida Statutes, is amended to read:

316.613 Child restraint requirements.—

(1)(a) Every operator of a motor vehicle as defined herein, while transporting a child in a motor vehicle operated on the roadways, streets, or highways of this state, shall, if the child is 5 years of age or younger, provide for protection of the child by properly using a crash-tested, federally approved child restraint device. For children aged through 3 years, such restraint device must be a separate carrier or a vehicle manufacturer's integrated child seat. For children aged 4 through 5 years, a separate carrier, an integrated child seat, or a seat belt may be used.

(b) The Division of Motor Vehicles shall provide notice of the requirement for child restraint devices, which notice shall accompany the delivery of each motor vehicle license tag.

(2) As used in this section, the term "motor vehicle" means a motor vehicle as defined in s. 316.003 that is operated on the roadways, streets, and highways of the state. The term does not include:

- (a) A school bus as defined in s. 316.003(45).
- (b) A bus used for the transportation of persons for compensation, other than a bus regularly used to transport children to or from school, as defined in s. 316.615(1)(b), or in conjunction with school activities.
- (c) A farm tractor or implement of husbandry.
- (d) A truck of net weight of more than 5,000 pounds.

(e) A motorcycle, moped, or bicycle.

(3) The failure to provide and use a child passenger restraint shall not be considered comparative negligence, nor shall such failure be admissible as evidence in the trial of any civil action with regard to negligence.

(4) It is the legislative intent that all state, county, and local law enforcement agencies, and safety councils, in recognition of the problems with child death and injury from unrestrained occupancy in motor vehicles, conduct a continuing safety and public awareness campaign as to the magnitude of the problem.

(5) Any person who violates the provisions of this section commits a moving violation, punishable as provided in chapter 318 and shall have 3 points assessed against his or her driver's license as set forth in s. 322.27. In lieu of the penalty specified in s. 318.18 and the assessment of points, a person who violates the provisions of this section may elect, with the court's approval, to participate in a child restraint safety program approved by the chief judge of the circuit in which the violation occurs, and upon completing such program, the penalty specified in chapter 318 and associated costs may be waived at the court's discretion and the assessment of points shall be waived. The child restraint safety program must use a course approved by the Department of Highway Safety and Motor Vehicles Health and Rehabilitative Services, and the fee for the course must bear a reasonable relationship to the cost of providing the course.

Section 2. Section 316.614, Florida Statutes, is amended to read:

316.614 Safety belt usage.—

(1) This section may be cited as the "Florida Safety Belt Law."

(2) It is the policy of this state that enactment of this section is intended to be compatible with the continued support by the state for federal safety standards requiring automatic crash protection, and the enactment of this section should not be used in any manner to rescind or delay the implementation of the federal automatic crash protection system requirements of Federal Motor Safety Standard 208 as set forth in S4.1.2.1 thereof, as entered on July 17, 1984, for new cars.

(3) As used in this section:

(a) "Motor vehicle" means a motor vehicle as defined in s. 316.003 that is operated on the roadways, streets, and highways of this state. The term does not include:

1. A school bus.
2. A bus used for the transportation of persons for compensation.
3. A farm tractor or implement of husbandry.
4. A truck of a net weight of more than 5,000 pounds.

5. A motorcycle, moped, or bicycle.

(b) "Safety belt" means a seat belt assembly that meets the requirements established under Federal Motor Vehicle Safety Standard No. 208, 49 C.F.R. s. 571.208.

(c) "Restrained by a safety belt" means being restricted by an appropriately adjusted safety belt which is properly fastened at all times when a motor vehicle is in motion.

(4) It is unlawful for any person:

(a) To operate a motor vehicle in this state unless each passenger of the vehicle under the age of 16 years is restrained by a safety belt or by a child restraint device pursuant to s. 316.613, if applicable; or

(b) To operate a motor vehicle in this state unless the person is restrained by a safety belt.

(5) It is unlawful for any person 16 years of age or older to be a passenger in the front seat of a motor vehicle unless such person is restrained by a safety belt when the vehicle is in motion.

(6)(a) Neither a person who is certified by a physician as having a medical condition that causes the use of a safety belt to be inappropriate or dangerous nor an employee of a newspaper home delivery service while in the course of his or her employment delivering newspapers on home delivery routes is required to be restrained by a safety belt.

(b) The number of front seat passengers of a pickup truck required to wear a safety belt pursuant to this section shall not exceed the number of safety belts which were installed in the front seat of such pickup truck by the manufacturer.

(c) An employee of a solid waste or recyclable collection service is not required to be restrained by a safety belt while in the course of employment collecting solid waste or recyclables on designated routes.

(d) The requirements of this section shall not apply to the living quarters of a recreational vehicle or a space within a truck body primarily intended for merchandise or property.

(7) It is the intent of the Legislature that all state, county, and local law enforcement agencies, safety councils, and public school systems, in recognition of the fatalities and injuries attributed to unrestrained occupancy of motor vehicles, shall conduct a continuing safety and public awareness campaign as to the magnitude of the problem and adopt programs designed to encourage compliance with the safety belt usage requirements of this section.

(8) Any person who violates the provisions of this section commits a nonmoving violation, punishable as provided in chapter 318. However, except for violations of s. 316.613, enforcement of this section by state or local law enforcement agencies must be accomplished only as a secondary action

when a driver of a motor vehicle has been detained for a suspected violation of another section of this chapter, chapter 320, or chapter 322.

(9) A violation of the provisions of this section shall not constitute negligence per se, nor shall such violation be used as prima facie evidence of negligence or be considered in mitigation of damages, but such violation may be considered as evidence of comparative negligence, in any civil action.

Section 3. (1)(a) Each school bus that is purchased after December 31, 2000, and used to transport students in grades pre-K through 12 must be equipped with safety belts or with any other restraint system approved by the Federal Government in a number sufficient to allow each student who is being transported to use a separate safety belt or restraint system. These safety belts must meet the standards required under s. 316.614, Florida Statutes. A school bus that was purchased prior to December 31, 2000, is not required to be equipped with safety belts.

(b) As used in this section, "school bus" means a school bus that is owned, leased, operated, or contracted by a school district.

(2) Each passenger on a school bus that is equipped with safety belts or restraint system shall wear a properly adjusted and fastened safety belt at all times while the bus is in operation. The state, the county, a school district, school bus operator under contract with a school district, or an agent or employee of a school district or operator, including a teacher or volunteer serving as a chaperone, is not liable in an action for personal injury by a school bus passenger solely because the injured party was not wearing a safety belt.

(3) The state, the county, a school district, school bus operator under contract with a school district, or an agent or employee of a school district or operator, including a teacher or volunteer serving as a chaperone, is not liable in an action for personal injury by a school bus passenger for an injury caused solely by another passenger's use or non-use of a safety belt or restraint system in a dangerous or unsafe manner.

(4) In implementing the provisions of this section, each school district must prioritize the allocation of buses equipped with safety belts or restraint system to ensure that elementary schools within the district receive first priority. A school district may enter into agreements to provide transportation pursuant to this section only if the point of origin or termination of the trip is within the district's boundaries.

(5) The provisions of this section shall not apply to vehicles as defined in s. 234.051(1)(b), Florida Statutes.

Section 4. This act shall take effect July 1, 1999.

Approved by the Governor June 8, 1999.

Filed in Office Secretary of State June 8, 1999.