

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 11 Safety Belt Law Enforcement
SPONSOR(S): Glorioso and others
TIED BILLS: IDEN./SIM. BILLS: SB 94

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: 1) Committee on Infrastructure, 6 Y, 2 N, Brown, Miller.

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.

HB 11 gives the act a 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.

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.

Pursuant to 23 U.S.C. 406, a primary safety belt law would put Florida one step closer to receiving a one-time grant of \$35.5 million from a federal safety belt incentive program. According to the U.S. DOT, two additional changes to Florida's safety belt laws, along with the change in this bill, would entitle the state to the allotted funds.

This bill will take effect June 30, 2008.

## 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.

#### 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>

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 Department of Highway Safety and Motor Vehicles, there were 348,542 safety belt violations during the 2006 calendar year.

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.

According to the National Highway Traffic Safety Administration (NHTSA) there are 22 primary states, 27 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 83 percent in primary states compared to 75 percent in secondary ones in 2003. Through statewide

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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.

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 23, 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 97 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.

#### 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, 2008.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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

1. Revenues:

See Fiscal Comments, below.

2. Expenditures:

N/A

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

1. Revenues:

N/A

2. Expenditures:

N/A

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

None.

#### D. FISCAL COMMENTS:

##### Enforcement Impacts

Primary enforcement of some safety belt violations may 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 occur and be cited, the fiscal impact on state and local government is unknown.

##### Safety Impacts

To the extent that the bill increases safety belt usage in Florida, crash-related injuries and deaths could be reduced thereby decreasing associated medical and insurance costs. 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, if a primary safety belt enforcement law were enacted. The Department of Highway Safety and Motor Vehicles states that "primary seatbelt enforcement has been endorsed by virtually all Florida law enforcement and traffic safety organizations statewide. The Florida Highway Patrol strongly supports this bill."

##### Federal Funds Issues

Section 157 in Title 23 of the United States Code, established by the previous federal transportation act, authorized incentive funds for Federal Fiscal Years (FFY) 1999 through 2003. These incentive funds were awarded annually to states whose seat belt use rates for a given year either exceeded the national average or exceeded the state's highest achieved seat belt usage rate during certain designated previous years. Through statewide enforcement and education efforts under the Buckle Up Florida/Click It or Ticket campaign, administered by the Florida Department of Transportation (FDOT) Safety Office, Florida had an overall increase in seat belt usage rates from 59 percent in 1999 to 76.3 percent in 2004. This enabled the state to receive Section 157 incentive funds in FFY 2002 (\$1,255,600) and FFY 2003 (\$2,863,600). FDOT has used these funds for enhancing the Buckle Up Florida/Click It or Ticket Campaign to help insure continued seat belt usage increases.

SAFETEA-LU, implementing the current federal transportation act, includes a federal grant program that encourages states to raise safety belt usage.<sup>2</sup> In order to qualify for this program, a state must enact a primary safety belt law or achieve 85 percent safety belt usage for two consecutive years. As of January 23, 2006, Florida's safety belt usage rate was 73.9 percent. This is a decline from 76.3 percent in 2004. According to the National Highway Traffic Safety Administration of the U.S. Department of Transportation,<sup>3</sup> if Florida enacts a primary safety belt law it will be eligible to receive a one-time federal grant of \$35.5 million from the safety belt incentive program contained in SAFETEA-LU with no requirement for a state match. The grant funds could be used for any highway safety related purpose including highway safety infrastructure improvements. However, the NHTSA has issued guidance to FDOT that Florida must make two additional changes to its safety belt laws, along with "primary enforcement" change, in order to receive the funds available under SAFETEA-LU.<sup>4</sup> These additional changes involve the removal of a safety belt exemption for vehicles weighing more than 5,000 pounds,<sup>5</sup> and an exemption regarding the use of safety belts when the number of passengers in the front seat of a pickup truck is greater than the number of installed belts in the front of the pickup.<sup>6</sup>

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

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<sup>2</sup> 23 U.S.C. 406.

<sup>3</sup> Letter from Ms. Jacqueline Glassman, Acting Administrator, NHTSA, dated January 23, 2006, on file with House Transportation Committee.

<sup>4</sup> Memorandum from John Donaldson, U.S. Department of Transportation, NHTSA Office of Chief Counsel, Jan. 23, 2007. A copy of this memorandum is on file with the Committee on Infrastructure.

<sup>5</sup> See s. 316.614(3)(a)4., F.S.

<sup>6</sup> See s. 316.614(6)(b), F.S.

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an 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:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

Safety belts save lives.

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

None.