

Model Language Child Passenger Safety Restraints

Existing Florida Statute

316.613 Child restraint requirements.—

- (1)
- (a) Every operator of a motor vehicle as defined in this section, 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.
 1. For children aged through 3 years, such restraint device must be a separate carrier or a vehicle manufacturer's integrated child seat.
 2. For children aged 4 through 5 years, a separate carrier, an integrated child seat, or a child booster seat may be used. However, the requirement to use a child restraint device under this subparagraph does not apply when a safety belt is used as required in s. 316.614(4)(a) and the child:
 - a. Is being transported gratuitously by an operator who is not a member of the child's immediate family;
 - b. Is being transported in a medical emergency situation involving the child; or
 - c. Has a medical condition that necessitates an exception as evidenced by appropriate documentation from a health care professional.
 - (b) The department 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.
 - (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 having a gross vehicle weight rating of more than 26,000 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 this section commits a moving violation, punishable as provided in chapter 318 and shall have 3 points assessed against his or her driver 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 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, and the fee for the course must bear a reasonable relationship to the cost of providing the course.
- (6) The child restraint requirements imposed by this section do not apply to a chauffeur-driven taxi, limousine, sedan, van, bus, motor coach, or other passenger vehicle if the operator and the motor vehicle are hired and used for the transportation of persons for compensation. It is the obligation and responsibility of the parent, guardian, or other person responsible for a child's welfare as defined in s. 39.01 to comply with the requirements of this section.

Limitations of Existing Florida Statute

The existing statute is in conflict with F.S. [316.6145\(1\)\(a\)](#) and (2) which states that, "Each school bus that is purchased new 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." and that, "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 existing statute does not align with national best practice recommendations of requiring children age 12 years and younger to be properly restrained in a car seat or booster seat.

Proposed Model Legislative Language

Note: New language is underlined and deleted language is shown by a ~~strikethrough~~.

316.613 Child restraint requirements.—

- (1)
- (a) Every operator of a motor vehicle as defined in this section, while transporting a child in a motor vehicle operated on the roadways, streets, or highways of this state, shall, if the child is ~~5~~ 12 years of age or younger, provide for protection of the child by properly using a crash-tested, federally approved child restraint device.
1. For children aged through 3 years, such restraint device must be a separate carrier or a vehicle manufacturer's integrated child seat.
 2. For children aged 4 through ~~5~~12 years, a separate carrier, an integrated child seat, or a child booster seat may be used. However, the requirement to use a child restraint device under this subparagraph does not apply when a safety belt is used as required in s. 316.614(4)(a) and the child:
 - a. Is being transported gratuitously by an operator who is not a member of the child's immediate family;
 - b. Is being transported in a medical emergency situation involving the child; or
 - c. Has a medical condition that necessitates an exception as evidenced by appropriate documentation from a health care professional.
- (b) The department 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 purchased prior to December 31, 2000 as defined in s. 316.6145 ~~316.003~~.
 - (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 having a gross vehicle weight rating of more than 26,000 pounds.
 - (e) A ~~motorcycle~~, moped, or bicycle.
- (3) A child who is younger than 13 years of age shall be transported in the rear seat of a motor vehicle, in a properly used child restraint system, child booster seat, or adult safety belt that complies with all applicable federal regulations.
- (4) 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.
- (5) 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.

- (6) Any person who violates this section commits a moving violation, punishable as provided in chapter 318 and shall have 3 points assessed against his or her driver 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 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, and the fee for the course must bear a reasonable relationship to the cost of providing the course.
- (7) The child restraint requirements imposed by this section do not apply to a chauffeur-driven taxi, limousine, sedan, van, bus, motor coach, or other passenger vehicle if the operator and the motor vehicle are hired and used for the transportation of persons for compensation. It is the obligation and responsibility of the parent, guardian, or other person responsible for a child's welfare as defined in s. 39.01 to comply with the requirements of this section.

Rationale for Model Language Adjustment

The National Highway Traffic Safety Administration (NHTSA) has estimated that car seats reduce the risk of fatal injury by 71 percent for infants (younger than 1 year old) and by 54 percent for toddlers (1 to 4 years old) in passenger cars. For infants and toddlers in light trucks, the corresponding reductions are 58 percent and 59 percent, respectively (Kahane, 2015). Among children under 5, an estimated 325 lives were saved in 2017 by restraint use.¹

The revisions to this statute provide a more comprehensive approach to child passenger restraint to better align with manufacturer recommendations for proper restraint use and realize the additional safety benefits of proper child restraint usage as described above. These revisions also correct the conflict with F.S. 316.6145.

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¹ National Center for Statistics and Analysis. (2020, June). *Occupant protection in passenger vehicles: 2018 data* (Traffic Safety Facts. Report No. DOT HS 812 967). National Highway Traffic Safety Administration.