



## Legislative Fiscal Bureau

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TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 618/Senate Bill 305: Motor Vehicle Child Safety Restraint Requirements

Assembly Bill 618 and Senate Bill 305 are companion bills affecting motor vehicle child safety restraint requirements. Assembly Bill 618 was introduced on August 19, 2005, and referred to the Committee on Highway Safety. On September 14, 2005, that Committee adopted Assembly Amendment 1 and recommended the bill for passage, as amended, on votes of six to zero. On September 19, 2005, the bill was referred to the Joint Committee on Finance.

Senate Bill 305 was introduced on August 24, 2005, and referred to the Committee on Health, Children, Families, Aging, and Long Term Care. On September 15, that Committee adopted Senate Amendment 1 and recommended the bill for passage, as amended, on votes of five to zero. On September 19, 2005, the bill was referred to the Joint Committee on Finance.

### **BACKGROUND**

The state's current child safety seat law requires all children under the age of four to be properly restrained in a child safety restraint system. Children who are at least four years old, but not more than eight years old, are required either to be restrained in a child safety restraint system or a safety belt. Any person violating the requirement for children under four years of age is subject to a forfeiture of between \$30 and \$75. However, no forfeiture may be charged if there was no child safety seat in the vehicle and the person provides proof that a child safety seat was purchased or leased and installed in the vehicle, within 30 days after receiving the citation. A violation of the requirement with respect to a child who is at least four years old but less than eight years old carries a forfeiture between \$10 and \$25 for a first offense and between \$25 and \$200 for a second or subsequent offense within three years. A person other than the driver of a vehicle may temporarily

remove a child from a safety restraint to attend to the child's personal needs, provided that certain other conditions are met.

The state's safety belt law prohibits any person, with certain limited exceptions, from operating a motor vehicle unless he or she is wearing a safety belt. In addition, no person may operate a motor vehicle unless he or she reasonably believes that each passenger who is at least four years old and not more than 15 years old is properly restrained if the passenger is either sitting in the front seat or sitting in a seat other than the front seat for which there is a safety belt with a shoulder harness. Any person violating these prohibitions is subject to a \$10 forfeiture. Passengers in a motor vehicle who are at least four years old (with certain limited exceptions) are also personally subject to a safety belt requirement. As with the requirements related to drivers, passengers must pay a \$10 forfeiture for a violation, although no forfeiture is charged for a passenger who is less than 16 years of age.

## **SUMMARY OF BILLS**

Assembly Bill 618 and Senate Bill 305 would principally modify the requirements relative to the child safety seat law, but would also make changes to the safety belt law for passengers. With respect to the child safety seat law, the bills would establish the following requirements: (a) any child who is less than one year old (regardless of weight) or less than 20 pounds (regardless of age) would be required to be in a rear-facing child safety restraint system; (b) any child who is at least one year old and weighs at least 20 pounds but is less than four years old or weighs less than 40 pounds would be required to be in a forward-facing child safety restraint system; (c) any child who is four years old but less than eight years old, weighs at least 40 pounds, but not more than 80 pounds and is not more than 57 inches in height would be required to be properly restrained in a child booster seat; and (d) any child who is at least five years old, but less than eight years old, and who is 80 pounds or more or is more than 57 inches tall would be required to be restrained in a safety belt. Children who are required to be in either a rear-facing or front-facing child safety restraint system would also be required to be positioned at a designated seating position in the back passenger seat if the vehicle is equipped with a back passenger seat. The following chart illustrates the AB 618 and SB 305 requirements by age and weight.

## AB 618 and SB 305 Child Safety Restraint Requirements

	Less than 20 Pounds	20-40 Pounds	40-80 Pounds	80 Pounds or More
Less than 1 Year	<b>Rear-Facing Safety Restraint</b>			
1-4 Years	<b>Forward-Facing Safety Restraint</b>			
5-8 Years			<b>Booster Seat*</b>	<b>Safety Belt</b>

\*Does not apply if the child is over 57 inches tall. In this case, the child must wear a safety belt.

Under the bills, the current law provision defining the term "properly restrained" would be modified to specify a different definition depending upon the different types of restraint systems. The current definition of the term would continue to apply to both front-facing and rear-facing safety restraint systems. With respect to a child required to use a booster seat, the term would be defined as "wearing a safety belt consisting of a combination lap belt and shoulder harness approved by the Department and fastened in a manner prescribed by the manufacturer of the safety belt so that the safety belt properly fits across the child's lap and the center of the child's chest in a manner appropriate to the child's height, weight, and age that permits the safety belt to act as a body restraint." With respect to a child required to use a safety belt, the term would be defined as "fastened in a manner prescribed by the manufacturer of the system which permits the system to act as a body restraint." The term "child booster seat" would be defined as a child passenger restraint system that meets the applicable federal standards (49 CFR 571.213) and is designed to elevate a child from a vehicle seat to allow the vehicle's safety belt to be properly positioned over the child's body. The term "designated seating position" is defined in accordance with the federal definition of the term, which relates to the dimensions and designed purpose of the seat. The bills would include a specific citation to the Code of Federal Regulations (49 CFR 571.213) in a current law provision that requires the Department to promulgate rules establishing standards for child restraint systems that are in compliance with applicable federal standards.

Under the bills, the forfeiture for a violation of the child safety seat requirements would remain the same as under current law (\$30 to \$75 for a child under four years old, \$10 to \$25 for a first violation involving a child at least four years old but less than eight years old, and \$25 to \$200 for a second or subsequent such violation). However, the bills would modify a current law provision that requires the forfeiture associated with a child under four years old to be waived if the

person provides proof that a safety seat was installed in the vehicle within 30 days of the citation. A new condition would specify that such a waiver would not be granted if the person had been issued a citation for a child safety restraint violation (for any child under eight years old) in the preceding three years.

The bills would require law enforcement officers to issue a written warning, instead of a citation, for any suspected safety belt or child safety seat violation, within the first six months following the effective date of the bill, as long as the person who committed the suspected violation had not been found to have committed, or received a written warning for, a previous violation during that period. Any law enforcement officer who issues such a warning would be required to forward a copy of the warning to DOT. The Department would be required to maintain a record of the warning in the person's driver record file until the final day of the six-month period.

The bills would also make modifications to the state's safety belt law, as it relates to child passengers. To conform with the age changes to the child safety restraint law, the minimum age for which the separate passenger safety belt requirements would apply would be increased from a passenger who is at least four years old (currently) to a passenger who is at least eight years old. The maximum age of a passenger for whom the driver is required to ensure the wearing of a safety belt would be increased from not more than 15 years old (currently) to not more than 16 years old. Finally, the current law provision that specifies that passengers sitting in seats other than the front seat must be properly restrained only if the safety belt has a shoulder harness would be modified to require such passengers to be properly restrained in all cases where a safety belt is required to be installed at the seating position.

All provisions of AB 618 and SB 305 would first apply to violations committed on the first day of the fourth month beginning after publication, but the bills would not preclude the counting of other violations as prior violations for the purposes of sentencing a person.

## **SUMMARY OF SENATE AMENDMENT 1**

Both AB 618 and SB 305 were amended through the adoption of an amendment (Assembly Amendment 1 to AB 618 and Senate Amendment 1 to SB 305) by the respective standing committees. These amendments are identical. The amendments would eliminate the current law provision that allows a person to temporarily remove a child from a child safety seat to attend to the child's personal needs. The amendments would also modify the provision that requires law enforcement officers to issue a written warning, instead of a citation, for safety belt and child safety restraint violations during the first six months following the effective date of the bill. Under the amendments, a written warning (instead of a citation) would be required only for child safety seat violations involving a child who is at least four years old but less than eight years old.

## **FISCAL EFFECT**

The Department of Transportation's fiscal estimates for the bills indicate that the primary fiscal effect of the bills would be a reduction in revenue generated by forfeitures and surcharges collected for child safety restraint violations. This revenue loss would occur for two reasons. First, the Department assumes that the bills would result in increased compliance with child safety seat laws, which would, in turn, result in a 25% reduction in the number of child safety seat citations issued. Under these assumptions, the Department estimates that there would be an annual revenue reduction of \$83,800. Since this amount includes both forfeiture and surcharge revenue, which is distributed to both local governments and the state, this amount is a combination of local, general fund, common school fund, and program revenues. It should be noted, however, that the Department's conclusion that the bills would reduce the number of child safety restraint citations is based upon assumptions that cannot be confirmed prior to enactment. The Department indicates that the increased publicity to the issue of child safety that would result from the passage of the bills may encourage more people to obey the law. Since, however, the bills would not change the penalty for child safety restraint violations and would actually increase some requirements, a case could also be made that the bills would not greatly decrease the number of violations or may even result in an increase in violations.

The second source of revenue reduction is the provision in the bills (as amended) that would require law enforcement officers to issue warnings, rather than citations, for a six-month period if the child is between the ages of four and seven. Currently, about one-third of child safety seat violations involve a child that is between the ages four and seven. Therefore, it is estimated that the six-month "moratorium" on citations for these offenses would reduce total forfeiture and surcharge revenues by about \$57,000. Of this amount, about \$32,000 would be general fund revenue, while the rest would be local revenue, common school fund revenue, or state program revenue.

The Department estimates that answering inquiries from law enforcement officers to see whether a person has been previously been issued a written warning for a child safety restraint violation during the initial six-month period would cost \$1,900. The Department indicates, however, that this cost could be absorbed with the budget of the Division of Motor Vehicles.

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