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FISCAL IMPACT STATEMENT

LS 6853

BILL NUMBER: HB 1339

NOTE PREPARED: Feb 25, 2009

BILL AMENDED: Feb 17, 2009

SUBJECT: Motor Vehicle Child Restraint Systems.

FIRST AUTHOR: Rep. Welch

FIRST SPONSOR: Sen. Wyss

BILL STATUS: As Passed House

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

Child Restraint System Laws: The bill repeals and revises the child restraint system law to eliminate certain exceptions for drivers from outside Indiana. It revises the definition of antique motor vehicle for purposes of the child restraint system law to include only motor vehicles that were manufactured without a safety belt as a part of the original manufacturer's equipment, and it revises the definition of school bus for purposes of the child restraint system law.

It specifies that a person may not be found to have violated the child restraint system law if the court determines that it would be impractical to require that a child be fastened and restrained by a child restraint system because of a physical condition, including physical deformity, a medical condition, or the size of the child.

Special Purpose Bus Operators: The bill requires the Department of Education (DOE) by July 1, 2010, to develop and implement a preservice special purpose bus operator safety education training course. It makes it a Class C infraction after July 1, 2010, for a person to knowingly, recklessly, or intentionally operate a special purpose bus for a public or nonpublic school that is accredited by the State Board of Education without having satisfactorily completed the preservice special purpose bus operator safety education training course. It requires the operator of a special purpose bus with a capacity of less than 16 passengers to: (1) hold a valid operator's, chauffeur's, public passenger chauffeur's, or commercial driver's license; and (2) meet certain requirements for a school bus driver.

Effective Date: July 1, 2009.

Explanation of State Expenditures: (Revised) *Special Purpose Bus Operators:* The bill would have minimal fiscal impact on the Department of Education to provide an additional preservice school bus driver safety course for special purpose bus operators. The Department of Education already has the classroom, facilities, and instructors available for the 40-hour driver safety course. According to a Department official, a modified version of this course would be made available to drivers of special purpose buses. The course would be a combination of on-line and hands-on training.

The bill, by extending eligibility to individuals who hold a commercial driver's license, would widen the pool of potential drivers for special purpose buses. Additionally, it probably would improve the overall safety awareness and skill of these drivers. At a minimum, it would ensure that these individuals have had a formal safety course and are physically qualified to drive a special purpose bus.

(Revised) *Background:* Under current law, the State Superintendent of Education has to provide instructors, adequate meeting facilities, registration forms, a uniform course of instructors, and all other necessary materials for a preservice school bus driver safety course. The course, which is at most 40 hours in length, must be satisfactorily completed by school bus drivers before they are allowed to transport students in a school bus within the state. Additionally, school bus drivers, at their own expense, have to pass a physical. Effective July 1, 2010, this bill extends these provisions in the current law to drivers of special purpose buses with a capacity of less than 16 passengers, except that the training course for these drivers is reduced from 40 hours to a maximum of 10 hours. Under this bill, holders of a commercial driver's license are also eligible to become drivers of special purpose buses (under the current statute only holders of an operator, chauffeur, or public passenger chauffeur license are eligible).

Explanation of State Revenues: *Class D Infractions:* The bill changes the description of vehicles for which the driver is not required to properly fasten and restrain a child under the age of 8 years in a child restraint system, a Class D infraction. The bill also repeals two Class D infractions, one for Indiana-licensed drivers and one applying to drivers other than those licensed in Indiana, for failing to place a child in a child restraint or safety belt.

On average between 2003 and 2007, there were 4,659 people a year cited for violations of the child restraint or seat belt law and about 4,603 of those were found or pled guilty. The maximum judgment for a Class D infraction is \$25, which is deposited in the state General Fund.

If a criminal action, infraction, or ordinance violation involves a traffic violation, including this proposed offense, a highway work zone fee of either 50 cents or \$25.50 is assessed

Also, a court fee of \$70 would be assessed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), the public defense administration fee (\$3), the court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund.

Federal Funds: Section 2011 of the Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA-LU) provides annual funds to states to enact and enforce a child restraint law that requires children under eight years of age to be properly restrained, unless the child is more than 65 pounds or more than 4'9" tall.

The National Highway Traffic Safety Administration (NHTSA), upon state request, found Indiana's child restraint laws noncompliant. The bill would address the specific concerns in the review letter and may enable Indiana to receive the annual funding.

(Revised) *Special Purpose Bus Operators*: The bill makes it a Class C misdemeanor to knowingly, recklessly, or intentionally operate a special purpose bus for a public or nonpublic school that is accredited by the state Board of Education without having satisfactorily completed the preservice special purpose bus operator safety education training course.

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class C misdemeanor is \$500. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Background -

Federal Funds: The SAFETEA-LU grant award is based on funds received under other sections of the SAFETEA-LU, and Indiana's award is estimated to be about \$511,000 annually.

No more than 50% of the grant may be used to fund child safety seat and restraint purchasing and distribution programs to low-income families. Other funds may be used to carry out programs such as child restraint law enforcement; child safety professional, police, fire and medical personnel, educator, and parent training; and public education.

NHTSA has indicated that the exemptions identified in the review letter do not alone render the state noncompliant.

Explanation of Local Expenditures: (Revised) *Special Purpose Bus Operators*: A Class C misdemeanor is punishable by up to 60 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: *Class D Infractions*: Local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

(Revised) *Special Purpose Bus Operators*: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive

27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: Department of Education.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Ryan Klitzsch, 317-232-1296; U.S. Department of Transportation, NHTSA review letter, August 25, 2006; BMV, Citation Report; Pete Baxter, Director of Office of School Transportation and Emergency Planning, 317-233-0858.

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