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**FISCAL IMPACT STATEMENT**

**LS 6853**

**BILL NUMBER:** HB 1339

**NOTE PREPARED:** Apr 2, 2009

**BILL AMENDED:** Mar 26, 2009

**SUBJECT:** Motor Vehicle Child Restraint Systems.

**FIRST AUTHOR:** Rep. Welch

**FIRST SPONSOR:** Sen. Wyss

**BILL STATUS:** As Passed Senate

**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 person presents a certificate issued by a physician, physician's assistant, or advanced practice nurse stating 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, or a medical condition.

*Special Purpose Bus Operators:* It requires the Department of Education (DOE) by September 1, 2009, to develop and implement a plan to promote safe driving practices for drivers of special purpose buses. 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 DOE to develop and implement a plan to promote safe driving practices for

special purpose bus drivers.

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 skills of these drivers.

**Explanation of State Revenues:** *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. The bill also provides for a Class C infraction for knowingly, intentionally, or recklessly violating certain provisions regarding the safe-driving plan for special purpose bus drivers.

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.

#### Background -

(Revised) *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.

Indiana has received funds as a primary enforcement state under SAFETEA-LU, Section 406. In a preliminary review of a 2007 bill, the NHTSA indicate that state law may not comply with Section 406 criteria because the medical exemption for safety belt usage did not require a written documentation from a physician. The bill would require the courts or police to consider such documentation.

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:**

**Explanation of Local Revenues:** *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.

**State Agencies Affected:** DOE.

**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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