

Bill Summary for HB3104 / *SB2606

This bill would make various revisions to the state seat belt laws, as discussed below. This bill would add to the seat belt laws a provision to prohibit an operator of a motor vehicle from allowing anyone to ride on any portion of a vehicle that is not a passenger seating position, including cargo-carrying areas of any truck, pickup truck, or trailer and prohibit a passenger from riding in a non-passenger seating area of a vehicle. A violation would be a Class C misdemeanor. Under present law, a violation of the seat belt law is a secondary offense which means a person may only be issued a citation for violation if the person is stopped and issued a citation for another offense (a primary offense) such as speeding. Under this bill, violation of the seat belt law would be a primary offense; therefore, a law enforcement officer could stop a vehicle and issue a citation based solely on the seat belt violations. Under present law, only the driver and those passengers who occupy the front seat of the vehicle must comply with safety belt requirements; for 16 and 17 year old passengers the requirement applies regardless of if the passenger is in the front seat or back seat. Under this bill, the seat belt law would apply to the operator of the vehicle and all passengers (except for children who are subject to other provisions in the law governing passenger safety and restraining/child safety seats).

Under present law, a violation of the seat belt law is a Class C misdemeanor. All proceeds from the fines are deposited in the state general fund and designated for the exclusive use of the division of vocational rehabilitation to assist eligible handicapped individuals who have been severely injured in motor vehicle accidents. A person charged with a violation may, in lieu of appearance in court, submit a fine of \$10.00 for a first violation, and \$20.00 on second and subsequent violations to the clerk of the court which has jurisdiction of such offense within the county in which the offense charged is alleged to have been committed. If the person is charged with a violation of requirement governing 16 and 17 year old drivers and passengers, the person may, in lieu of appearance in court, submit a fine of \$20.00 to the clerk of the court which has jurisdiction of such offense within the county in which the offense charged is alleged to have been committed; however, the revenue generated by \$10.00 of the \$20.00 fine for a person's first conviction for such violation is deposited in the state general fund without being designated for any specific purpose and the remaining \$10.00 of such \$20.00 fine for such person's first conviction is deposited in the state general fund and designated for the exclusive use of the division of vocational rehabilitation. The revenue generated from such person's second or subsequent conviction is deposited in the state general fund and designated for the exclusive use of the division of vocational rehabilitation. This bill would rewrite the above-described provisions regarding fines. Under this bill, all of the proceeds from fines would be deposited in the state general fund with \$20.00 of each fine being designated for the exclusive use of the division of vocational rehabilitation for the persons described above. This bill would establish the fine for violations to be at least \$50.00 but no more than \$100. This bill would delete the present law provisions whereby seat belt violation fines are exempt from litigation taxes and that exempt seat belt violations from the provisions whereby points are added to a driver's record for traffic violations to assign points for the purpose of suspension or revocation of a license.

Under this bill, a violation of the seat belt law would count as two points against the driver's record. This bill would exempt the following from the seat belt requirement and the prohibition contained in this bill regarding persons riding in a non-passenger area of a motor vehicle: motor vehicles that are not required to be equipped with seat belts by federal motor vehicle standards; and vehicles that are driven under 15 miles per hour as long as they are used in a parade, hayride, or crossing a road or highway to get from one field to another. ON MAY 12, 2004, THE HOUSE ADOPTED AMENDMENTS #1, #2, #3, AND #4 AND PASSED HOUSE BILL 3104, AS AMENDED. AMENDMENT #1 rewrites this bill to make violation of the seat belt law a primary offense (i.e., this amendment removes the present law provision whereby an officer may only issue a citation for a seatbelt violation if the officer stops the motor vehicle and issues a citation for some other offense). AMENDMENT #2 restricts the requirement that no person may operate a passenger motor vehicle unless that person and all passengers over four years of age are restrained by a safety belt to only those times in which the vehicle is on a highway. This amendment would exempt from the seat belt law vehicles being operated under 15 miles per hour if it is used in a parade, hayride, or crossing a highway from one field to another. AMENDMENT #3 prohibits an insurance company from using a record of conviction of a seatbelt violation to adjust the rate of an insured. AMENDMENT #4 requires the department of safety to file a report by March 1 of each year to the 104th, 105th, and 106th general assemblies on data collected for the prior five years by the department relating to violation of the seat belt laws. The data submitted by the department would include the number of persons cited, their race,

ethnicity, sex, age, and any other information the department decides is relevant. ON MAY 20, 2004, THE SENATE SUBSTITUTED HOUSE BILL 3104 FOR SENATE BILL 2606, ADOPTED AMENDMENTS #2 AND #4, AND PASSED HOUSE BILL 3104, AS AMENDED. AMENDMENT #2 replaces the prohibition on insurance companies using records of conviction for any seat belt violation with a directive that the department of safety not report seat belt violation convictions except for law enforcement or governmental purposes. AMENDMENT #4 specifies that receipt of a citation or warrant for arrest for failure to wear a seat belt would be inadmissible in a civil action, except under certain circumstances. Under present law, evidence of failure to wear a seat belt is not admissible in a civil action except that such evidence may be admitted in a civil action as to the causal relationship between non-compliance and the injuries alleged, if the following conditions have been satisfied: (1) The plaintiff has filed a products liability claim; (2) the defendant alleging non-compliance with this chapter shall raise this defense in its answer or timely amendment thereto in accordance with the rules of civil procedure; and (3) each defendant seeking to offer evidence alleging non-compliance with this chapter has the burden of proving non-compliance, that compliance would have reduced injuries and the extent of the reduction of such injuries. These present law provisions would also apply regarding the receipt of a citation or warrant for arrest for failure to wear a seat belt.