

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 1676

INTRODUCER: Senator Sachs

SUBJECT: Child Transportation Safety

DATE: January 26, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	Pre-meeting
2.			AED	
3.			AP	

I. Summary:

SB 1676 creates the “Haile Brockington Act” and requires that by January 1, 2017, specified vehicles used to transport children must be equipped with an approved alarm system that prompts the driver to check the interior and exterior of the vehicle for the presence of children before leaving the area. Those include:

- Vehicles used by public entities or private organizations for hire, including schools, camps and churches.
- Vehicles used by child care facilities and large family child care homes.
- School buses.

The bill requires the Department of Motor Vehicles and Highway Safety (DMVHS), the Department of Children and Families (DCF), and the State Board of Education (BOE) to adopt rules to administer the new requirement and maintain a list of alarm manufacturers and alarm systems that are approved to be installed in vehicles under their respective jurisdictions.

The bill is expected to have a significant fiscal impact on private entities and school districts.

The bill has an effective date of July 1, 2016.

II. Present Situation:

Child Heat Stroke Deaths in Vehicles

In August 2010, 2 1/2 year old Haile Brockington died after being left in her car seat for nearly six hours in the back of a van used by a Palm Beach County child care facility. According to the National Weather Service in Miami, the weather that day reached a high of 91 degrees, but

temperatures in an enclosed vehicle climb much higher.¹ The child care facility was licensed by DCF and had no violations against it at the time of the incident.²

“Death by hyperthermia” or vehicular heat stroke deaths have become much more prevalent since Federal law required that children ride in the backseat due to the danger of front passenger seat airbags.³ The national average number of these deaths is 37 per year.⁴ Thirty-one percent of hyperthermia deaths involve children under the age of one.⁵ Between 1998 and 2015, Florida has the second highest number of child deaths from vehicular heat stroke.⁶

Technology Based Prevention

Automobile Manufacturers

The auto industry has been aware of the problem for years. General Motors (GM) tried over 10 years ago to find a solution, but found the results were unreliable. At the 2002 New York Auto Show, GM unveiled a system that would be able to detect the heartbeat of a child left in a car and then measure the vehicle’s temperature. If it was becoming dangerously hot, it would sound the horn to alert a parent or passersby. GM later reported that the system was abandoned after it was found “not reliable enough to put into production.”⁷

Ford was among the other automakers who also expressed interest in developing such a system, but a decade later, the technology isn’t available on any automobile as a factory standard feature or option. Auto safety groups have called for manufacturers to do more, but for several reasons including cost, technology, liability and privacy issues, there is still no foolproof way of preventing overheating deaths or warning of the possibility before they happen.⁸

One industry expert believes it shouldn't cost more than a few dollars per vehicle, because of the sophisticated computers already on cars. The Center for Automotive Research reported that cost might not be as much a problem as the possibility of errors.⁹

¹ Julius Whigham II and Eliot Kleinberg, *Girl, 2 1/2, found dead in van at Delray Beach day care center*, THE PALM BEACH POST, Aug. 5, 2010 (updated Aug. 12, 2010), available at <http://www.palmbeachpost.com/news/girl-1-1-2-found-dead-in-van-843774.html> (last visited January 21, 2016).

² *Id.*

³ See Kids and Cars.org, *Fact Sheet*, available at <http://www.kidsandcars.org/userfiles/dangers/heat-stroke/heat-stroke-fact-sheet.pdf> (last visited January 21, 2016); see also Gene Weingarten, *Fatal Distraction: Forgetting a Child in the Backseat of a Car is a Horrifying Mistake. Is it a Crime?*, THE WASHINGTON POST, Mar. 8, 2009, at W08, available at <http://www.washingtonpost.com/wp-dyn/content/article/2009/02/27/AR2009022701549.html> (last visited January 21, 2016).

⁴ *Id.*

⁵ *Id.*

⁶ California Department of Meteorology and Climate Science, *Heatstroke Deaths of Children in Vehicles by State*, available at <http://noheatstroke.org/state.htm> (last visited January 21, 2016).

⁷ Paul Eisenstein, *Death in Hot Cars: Why Can't the Automakers Prevent the Danger?* July 14, 2014, available at <http://www.nbcnews.com/storyline/hot-cars-and-kids/death-hot-cars-why-cant-automakers-prevent-danger-n152911> (last visited January 21, 2016).

⁸ *Id.*

⁹ *Id.*

As recently as this week, General Motors announced it will introduce a new safety system to remind drivers to check for children in the rear seats, and that it could eventually develop features to detect forgotten children.¹⁰

Aftermarket Systems

There are a number of aftermarket warning systems that alert a parent if they've left a child in a safety seat or shopping cart or somewhere else. But federal regulators have questioned their efficacy.

A preliminary assessment performed on technology devices aimed at helping to prevent a child from being unintentionally left in a hot car concluded that they are not reliable and limited in their effectiveness, according to a new study by the National Highway Traffic Safety Administration (NHTSA) and the Children's Hospital of Philadelphia.¹¹

The study found several limitations in these products after conducting tests, including inconsistencies in arming sensitivity, variations in warning signal distance, potential interference from other electronic devices, children inadvertently disarming the device by slumping over or sleeping out of position, and limitations in the products' susceptibility to misuse or other common scenarios, such as an apple juice spill. Many of the products tested require a lot of set-up work by caregivers and parents, potentially giving them a false sense of security. What's more, since the devices are restraint-based, they wouldn't address the 20 to 40 percent of kids who are killed in hot cars when they enter a vehicle without adult permission.¹²

For now, experts suggest parents take several steps to keep their kids safe such as placing a purse or briefcase in the back seat to ensure no child is accidentally left in the vehicle, writing a note or using a stuffed animal placed in the driver's view to indicate a child is in the car seat.¹³

Licensing Standards for Child Care Facilities and Large Family Child Care Homes

The Department of Children and Families (DCF or department) establishes licensing standards that each licensed child care facility in the state must meet.¹⁴ A child care facility is defined in

¹⁰ David Shepardson, GM has a way to help prevent drivers from forgetting children in the back seat, Business Insider, January 12, 2016. Available at <http://www.businessinsider.com/r-gm-unveils-technology-to-help-avoid-child-heatstroke-deaths-2016-1> (last visited January 22, 2016).

¹¹ Consumer Reports, *Warning systems to detect children left in hot cars found unreliable, study finds*, available at <http://www.consumerreports.org/cro/news/2012/08/warning-systems-to-detect-children-left-in-hot-cars-found-unreliable-study-finds/index.htm> (last visited January 22, 2016).

¹² Ryan Jaslow, *Gov't study: Devices that alert parents they left a child in a car deemed unreliable*, CBS News, July 31, 2012, available at <http://www.cbsnews.com/news/govt-study-devices-that-alert-parents-they-left-a-child-in-car-deemed-unreliable/> (last visited January 22, 2016).

¹³ National Highway Traffic Safety Association, *NHTSA and Safe Kids Worldwide Announce New Partnership to Prevent Child Heatstroke Deaths in Hot Cars*, July 26, 2012, available at <http://www.nhtsa.gov/About+NHTSA/Press+Releases/NHTSA+and+Safe+Kids+Worldwide+Announce+New+Partnership+to+Prevent+Child+Heatstroke+Deaths+in+Hot+Cars> (last visited January 22, 2016).

¹⁴ See s. 402.305, F.S.

Florida law as “any child care center or child care arrangement which provides child care for more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit.”¹⁵

A large family child care home is defined as an occupied residence in which child care is regularly provided for children from at least two unrelated families, which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit, and which has at least two full-time child care personnel on the premises during the hours of operation.¹⁶

The department currently oversees 6,178 licensed child care entities including child care facilities, large family child care homes and family day care homes.¹⁷ In addition, there are homes that are only registered by the agency, facilities that are exempt from licensure due to a religious affiliation¹⁸ and homes currently licensed by five counties in the state.¹⁹ Of these homes, 2,362 child care facilities and large family child care homes regulated by the department report that they transport children.²⁰

Statutory licensing standards for child care facilities are extensive and reference transportation and vehicles, including the requirement that minimum standards include accountability for children being transported.²¹ The Florida Administrative Code provides requirements for licensed child care facilities and large family child care homes to follow in relation to vehicles that are owned, operated, or regularly used by the facility or home, as well as vehicles that provide transportation through a contract or agreement with an outside entity.²²

Providers are required to maintain a driver’s log for all children being transported. This log must include the child’s name, date, time of departure, time of arrival, signature of driver, and signature of second staff member to verify the driver’s log and that all children have left the vehicle. Upon arrival at the destination, the driver of the vehicle must mark each child off the log as the child departs the vehicle, conduct a physical inspection and visual sweep of the vehicle, and sign, date, and record the driver’s log immediately to verify all children were accounted for and that the sweep was conducted. Upon arrival at the destination, a second staff member must also conduct a physical inspection and visual sweep of the vehicle and sign, date, and record the driver’s log to verify all children were accounted for and that the driver’s log is complete.²³

Current standards for child care facilities and large family child care homes do not address alarm systems in vehicles, however, in 2012, the Palm Beach County Child Care Licensing Program adopted, through a local county ordinance, standards requiring child care programs which

¹⁵ See s. 402.302(2), F.S.

¹⁶ See s. 402.302(11), F.S.

¹⁷ Florida Department of Children and Families, *DCF Quick Facts*, 7 (Quarter 1, Fiscal Year 2015-2016), available at <http://www.dcf.state.fl.us/general-information/quick-facts/cc/> (last visited January 21, 2016).

¹⁸ See s. 402.316, F.S.

¹⁹ See s. 402.306, F.S. Those five counties are Broward, Hillsborough, Palm Beach, Pinellas and Sarasota.

²⁰ Florida Department of Children and Families, *2016 Agency Legislative Bill Analysis, SB 1676*, January 16, 2016. On file with the Senate Committee on Children, Families and Elder Affairs.

²¹ See s. 402.305, F.S.

²² See 65C-22.001(6) and 65C-20.13(8), F.A.C.

²³ *Id.*

transport children to install alarms in their vehicles. Additionally, Broward County followed with an ordinance that went into effect on July 1, 2013.²⁴

III. Effect of Proposed Changes:

Section 1 designates the act as the “Haile Brockington Act.”

Section 2 amends s. 316.6135, F.S., relating to leaving children unattended or unsupervised in motor vehicles, to require vehicles used to transport children by public entities or private organizations for hire, including schools, camps and churches, be equipped with an approved alarm system that prompts the driver to check the interior and exterior of the vehicle for the presence of children before leaving the area. The bill requires the DMVHS to adopt rules to administer the new requirement and maintain a list of alarm manufacturers and alarm systems that are approved to be installed in vehicles covered by the requirement.

Section 3 amends s 402.305, F.S., relating to licensing standards for child care facilities, to require vehicles used to transport children by child care facilities and large family child care homes be equipped with an approved alarm system that prompts the driver to check the interior and exterior of the vehicle for the presence of children before leaving the area. The bill requires DCF to adopt rules to administer the new requirement and maintain a list of alarm manufacturers and alarm systems that are approved to be installed in vehicles covered by the requirement.

Section 4 amends s. 1006.22, F.S., relating to safety and health of students being transported, to require all school buses be equipped with an approved alarm system that prompts the driver to check the interior and exterior of the vehicle for the presence of children before leaving the area. The bill requires the DOE to adopt rules to administer the new requirement and maintain a list of alarm manufacturers and alarm systems that are approved to be installed in vehicles covered by the requirement.

Section 5 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

²⁴ Florida Department of Children and Families, *2016 Agency Legislative Bill Analysis, SB 1676*, January 16, 2016. On file with the Senate Committee on Children, Families and Elder Affairs.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Child Care Providers

The department reports that the proposed bill would require approximately 2,362 child care facilities and large family child care homes regulated by the department that transport children to purchase and equip all vehicles with a device approved by the department by January 1, 2017. The department has found three products that may meet the requirements:²⁵

Device	Cost Per Unit	Installation	Total Cost for Purchase
Kiddie Voice Child Safety Alarm by ATWEC	\$328	\$75-\$200 depending on the area	\$775,350
EP 1 by Child Check-Mate System	\$125	self-installed with manuals provided	\$295,108
Bus-Scan, The Original Seat-Check Reminder by Robotics Technologies, Inc.	\$135	self-installed with manuals provided	\$330,680

All three of these products are for commercial vehicles and it is unknown whether they are adaptable for use on personal vehicles.

C. Government Sector Impact:

Department of Children and Families

The department reports there may be minimal costs associated with rule development and maintaining the list of approved alarm manufacturers that can be absorbed within current resources.²⁶

School Districts

School districts would see increased costs similar to child care providers to comply with the requirement for alarms.

²⁵ Florida Department of Children and Families, *2016 Agency Legislative Bill Analysis, SB 1676*, January 16, 2016. On file with the Senate Committee on Children, Families and Elder Affairs.

²⁶ *Id.*

VI. Technical Deficiencies:

The proposed bill includes requirements for large family child care homes, but the placement of the language within s. 402.305(10), F.S., restricts the requirement to licensed child care facilities, not large family child care homes. The requirement may also need to be added to s. 402.3131.

VII. Related Issues:

- The requirements for vehicles used to transport children by child care providers licensed by DCF do not include those used by family day care homes.
- Sections 2, 3, and 4 of the bill do not specify who is responsible for the cost of or who is to approve the required alert systems.

VIII. Statutes Affected:

This bill substantially amends ss. 316.6135, 402.305 and 1006.22 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.