

**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.)

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Prepared By: The Professional Staff of the Committee on Infrastructure and Security

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BILL: SB 158

INTRODUCER: Senator Perry and others

SUBJECT: Child Restraint Requirements

DATE: January 16, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Hendon</u>	<u>CF</u>	<b>Favorable</b>
2.	<u>Price</u>	<u>Miller</u>	<u>IS</u>	<b>Pre-meeting</b>
3.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 158 amends current law relating to child restraint requirements while transporting a child in a motor vehicle. The bill increases from age five years or younger, to age six years or younger, the age of children which must use a crash-tested, federally-approved child restraint device. The bill also increases from age four through five years, to age four through six years, the age of a child for which use of a separate carrier, an integrated child seat, or a child booster seat is authorized.

The fiscal impact on private sector sales of child restraint devices is indeterminate. See the “Fiscal Impact Statement” for additional information. The bill will likely not have a fiscal impact on the public sector.

The bill takes effect July 1, 2020.

**II. Present Situation:**

**Child Passenger Safety**

According to the Center for Disease Control and Prevention (CDC), “Child Passenger Safety: Fact Sheet,” motor vehicle injuries are a leading cause of death among children in the U.S.

- Use of a car seat reduces the risk for death to infants (aged less than 1 year) by 71 to 84 percent in passenger vehicles.
- Use of a booster seat reduces the risk for serious injury by 45 percent for children aged 4-8 years when compared with seat belt use alone).
- For older children and adults, use of a seat belt reduces the risk for death and serious injury by approximately one-half.

A study of five states that increased the age requirement to 7 or 8 years for car seat/booster seat use found that the rate of children using car seats and booster seats increased nearly three times and the rate of children who sustained fatal or incapacitating injuries decreased by 17 percent.<sup>1</sup>

The CDC has produced the following guidelines for parents and caregivers:

### **Child Seat Stages:**

- *Birth up to age 2*—Rear-facing car seat.
- *Age 2 up to at least age 5*—Forward-facing car seat. When a child outgrows a rear-facing seat, he or she should be buckled in a forward-facing car seat, in the back seat, until at least age 5 or when they reach the upper weight or height limit of seat.
- *Age 5 up until seat belts fit properly*—booster seat. Once a child outgrows a forward-facing seat, (by reaching the upper height or weight limit of their seat) he or she should be buckled in a belt positioning booster seat until seat belts fit properly.
- *Once seat belts fit properly without a booster seat*—Child no longer needs to use a booster seat once seat belts fit them properly. The seat belt fits properly when the lap belt lays across the upper thighs (not the stomach) and the shoulder belt lays across the chest (not the neck). The recommended height for proper seat belt fit is 57 inches tall.<sup>2</sup>

### **Child Restraint Devices or “Car Seats” and U.S.D.O.T. Recommendations**

Car seats available on the market offer a variety of choices. The best choice, according to NHTSA, is a selection based on a given child’s age and size, which complies with the specific car seat manufacturer’s instructions for height and weight limits, and is properly installed in accordance with the vehicle’s owner’s manual. Further, for maximum safety, NHTSA recommends keeping a child in a car seat for as long as possible, provided the child does not exceed the manufacturer’s height and weight limitations. NHTSA also recommends keeping a child in the back seat at least through the age of 12.<sup>3</sup>

Car seats are generally available in four types, with variations in each type:

- Rear-facing car seats have a harness and, in a crash, cradles and moves with a child to reduce the stress to the child’s neck and spinal cord,
- Forward-facing car seats have a harness and tether that limits a child’s forward movement during a crash,
- Booster seats position the seat belt so that it fits properly over the stronger parts of a child’s body, and
- Seat belts.<sup>4</sup>

NHTSA recommends that a child from birth through 12 months should always ride in a rear-facing car seat, noting that convertible and all-in-one versions of these seats usually have higher

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<sup>1</sup> [http://www.cdc.gov/motorvehiclesafety/child\\_passenger\\_safety/cps-factsheet.html](http://www.cdc.gov/motorvehiclesafety/child_passenger_safety/cps-factsheet.html) (last visited October 2, 2019).

<sup>2</sup> *Id.*

<sup>3</sup> NHTSA, *Car Seats and Booster Seats*, available at <https://www.nhtsa.gov/equipment/car-seats-and-booster-seats#age-size-rec> (last viewed October 2, 2019).

<sup>4</sup> *Id.*

height and weight limits for the rear-facing position, which facilitates keeping a child in a rear-facing position for a longer period of time.<sup>5</sup>

For children one through three years old, NHTSA suggests keeping a child in a rear-facing seat until the child reaches the top height or weight limit indicated by the car seat's manufacturer. Once either limit is exceeded, NHTSA recommends a forward-facing seat with a harness and tether.<sup>6</sup>

For children four through seven years, NHTSA advises a child should be kept in a forward-facing car seat with a harness and tether until the child reaches the top height or weight limit set by the car seat's manufacturer. Again, once either limit is exceeded, the child should be transported in a booster seat, but NHTSA recommends the booster seat still be installed properly in the back seat of the vehicle.<sup>7</sup>

For children eight through 12 years, NHTSA recommends keeping a child in a booster seat until the child is big enough to fit in a seat belt properly. Proper fit in a seat belt means that the lap belt lies snugly across the upper thighs, not the stomach, and the shoulder belt lies snugly across the shoulder and chest, not across the neck or face. NHTSA notes the child should still ride in the back seat of the vehicle "because it's safer there."<sup>8</sup>

## **Florida Law**

### ***Safety Belt Use Under 18***

Section 316.614(4)(a), F.S., prohibits a person from operating a motor vehicle or autocycle in this state unless each passenger and the operator of the vehicle or autocycle under the age of 18 years are restrained by a safety belt or by a child restraint device, if applicable.

### ***Child Restraint Requirements***

Section 316.613, F.S., requires every operator of a motor vehicle<sup>9</sup> operated on the roadways, streets, or highways of this state to provide for protection of a child who is five years of age or younger by properly using a crash-tested, federally approved child restraint device:

- For children through three years of age, the device must be a separate carrier or a vehicle manufacturer's integrated child seat.

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<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> Section 316.003(42), F.S., defines "motor vehicle," except for purposes of the payment of tolls, as "a self-propelled vehicle not operated upon rails or guideway, but not including any bicycle, motorized scooter, electric personal assistive mobility device, mobile carrier, personal delivery device, swamp buggy, or moped." As used in s. 316.613, F.S., the term "motor vehicle" does not include:

- A school bus as defined in s. 316.003, F.S.
- A bus used for the transportation of persons for compensation, other than a bus regularly used to transport children to or from school, as defined in s. 316.615(1)(b), F.S., or in conjunction with school activities.
- A farm tractor or implement of husbandry.
- A truck having a gross vehicle weight rating of more than 26,000 pounds.
- A motorcycle, moped, or bicycle.

- For children aged four through five years, a separate carrier, an integrated child seat, or a child booster seat may be used. However, the requirement does not apply when a safety belt is used as required in s. 316.614(4)(a), F.S., and the child:
  - Is being transported gratuitously by an operator who is not a member of the child’s immediate family;
  - Is being transported in a medical emergency situation involving the child; or
  - Has a medical condition that necessitates an exception as evidenced by appropriate documentation from a health care professional.

A person who violates the provisions of s. 316.613, F.S., commits a moving violation punishable by a penalty of \$60 plus any applicable local court costs.<sup>10</sup> In addition, the violator will have three points assessed against his or her driver license. In lieu of the monetary penalty and the assessment of points, a violator may elect to participate in a child restraint safety program, with the approval of the court with jurisdiction over the violation. After completing the program, the court may waive the monetary penalty, and must waive the assessment of points.

Current law also addresses use of safety belts or other restraint systems on school buses and on child-care facility vehicles.

### ***School Buses***

Section 316.6145, F.S., requires each school bus<sup>11</sup> purchased new after December 31, 2000, and used to transport students in grades pre-K through 12 be equipped with safety belts or with any other federally approved restraint system in a number sufficient to allow each student being transported to use a separate safety belt or restraint system. Enacted in 1999, the statute requires each school district to prioritize the allocation of buses equipped with safety belts or restraint systems to children in elementary schools.<sup>12</sup> However, the provisions of s. 316.613, F.S., relating to child safety restraints, do not apply to school buses, as they are excluded from the definition of “motor vehicle” for purposes of that section.<sup>13</sup>

### ***Child Care Facility Vehicles***

Section 402.305(1), F.S., requires the Florida Department of Children and Families (DCF) to establish licensing standards that each licensed child care facility must meet regardless of the origin or source of the fees used to operate the facility or the type of children served. Section 402.305(10), F.S., requires the minimum standards, among other items, to include requirements

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<sup>10</sup> Section 318.18(3)(a), F.S.

<sup>11</sup> As used in that section, “school bus” means one that is owned, leased, operated, or contracted by a school district.

<sup>12</sup> Section 1006.25(2), F.S., requires each school bus regularly used for the transportation of prekindergarten disability program and K-12 public school students to and from school or to and from school activities, and owned, operated, rented, contracted, or leased by any district school board to comply with the applicable federal motor vehicle safety standards. Subsection (4) of that section requires students be transported only in designated seating positions, except in specified emergency situations, and use the occupant crash protection system provided by the manufacturer. The Department of Education posts on its website guidelines providing “clarification and interpretation of the NHTSA Guidelines, and additional background and Department of Education recommendations regarding technical and operational issues associated with transporting pre-school age students.” See Florida Department of Education, *Florida Guidelines for Seating of Pre-school Age Children in School Buses*, available at <http://www.fldoe.org/schools/healthy-schools/transportation/> (last viewed October 2, 2019).

<sup>13</sup> Section 316.613(2)(a), F.S.

for child restraints or seat belts in vehicles used by child care facilities<sup>14</sup> and large family child care homes<sup>15</sup> to transport children.

Pursuant to that direction, DCF's Florida Administrative Code Rule 65C-22.001(6)(e)<sup>16</sup> requires each child transported in a child care facility vehicle or a large family child care home vehicle to be in an individual, factory-installed seat belt or a federally approved child restraint.

### III. Effect of Proposed Changes:

**Section 1** amends s. 316.613, F.S., by increasing from five years of age or younger, to six years of age or younger, the requirement to provide for protection of a child by properly using a crash-tested, federally approved child restraint device. The bill also increases from age four through five years, to age four through six years, the authorization to use a separate carrier, an integrated child seat, or a child booster seat. Children being transported in a child restraint device in compliance with the current provisions of s. 316.613(1)(a) and (1)(a)2., F.S., must be kept in that (or another) compliant device for one additional year. Because Florida's child restraint requirements are based solely on the child's age, the result may or may not always be consistent with NHTSA's recommendations, which instead focus on the actual weight and height of the child being transported.

The requirement to protect children aged through three years with a separate carrier or a vehicle manufacturer's integrated child seat remains unchanged.

**Section 2** provides an effective date of July 1, 2020.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

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<sup>14</sup> Section 402.302(1), F.S., defines "child care" to mean "the care, protection, and supervision of a child, for a period of less than 24 hours a day on a regular basis, which supplements parental care, enrichment, and health supervision for the child, in accordance with his or her individual needs, and for which a payment, fee, or grant is made for care." Subsection (2) of that section defines "child care facility" to include "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."

<sup>15</sup> Section 402.302, F.S., defines "large family child care home" to mean "an occupied resident 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, with one of the two personnel being the owner or occupant of the residence."

<sup>16</sup> See Florida Department of Children and Families, *Chapter 65C-22 Florida Administrative Code Child Care Standards*, available online at <http://ccrain.fl-dcf.org/documents/2/470.pdf> (last viewed October 2, 2019).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Currently compliant child restraint devices may have to be replaced due to a defect occurring within the additional year of use required by the bill, or new devices may be purchased, for example, to replace a worn restraint device. However, the fiscal impact on private sector sales of child restraint devices is indeterminate.

C. Government Sector Impact:

The bill is not expected to have a fiscal impact on the government sector.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 316.613 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.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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