

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 533 Child Restraint Requirements

SPONSOR(S): Beltran and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 158

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	14 Y, 0 N	Roth	Vickers
2) Children, Families & Seniors Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Florida law requires every operator of a motor vehicle 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 as follows:

- For children through three years of age, the device must be a separate carrier or a vehicle manufacturer's integrated child seat.
- For children aged four through five years, a separate carrier, an integrated child seat, or a child booster seat may be used.

The bill increases 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.

To the extent there is an increase in the number of traffic citations issued because of the change in child safety restraint requirements, state and local governments may realize a positive fiscal impact from these additional revenues. See Fiscal Analysis for additional details.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Child Passenger Safety

Motor vehicle injuries are a leading cause of death among children in the United States.¹ However, use of a car seat reduces the risk of death to children by 71 to 82 percent, when compared with seat belt use alone.² Additionally, the use of a booster seat reduces the risk of serious injury by 45 percent for children aged 4-8 years.³

A study of five states that increased the age requirement to 7 or 8 years for car seats and booster seats 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.⁴

The National Highway Traffic Safety Administration (NHTSA), the Center for Disease Control Prevention, and the American Academy of Pediatrics (AAP) have produced guidelines for parents and caregivers to make sure their children are secured appropriately for their age, height, and weight. For instance, AAP's guidelines are:

- All infants and toddlers should ride in a rear-facing car safety seat (CSS) until they are 2 years of age or until they reach the highest weight or height allowed by the manufacturer of their CSS.
- All children 2 years or older, or those younger than 2 years who have outgrown the rear-facing weight or height limit for their CSS, should use a forward-facing CSS with a harness for as long as possible, up to the highest weight or height allowed by the manufacturer of their CSS.
- All children whose weight or height is above the forward-facing limit for their CSS should use a belt-positioning booster seat until the vehicle lap-and-shoulder seat belt fits properly, typically when they have reached 4 feet 9 inches in height and are between 8 and 12 years of age.
- When children are old enough and large enough to use the vehicle seat belt alone, they should always use lap-and-shoulder seat belts for optimal protection.
- All children younger than 13 years should be restrained in the rear seats of vehicles for optimal protection.⁵

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.⁶ Car seats are generally available in three 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; and
- Booster seats position the seat belt so that it fits properly over the stronger parts of a child's body.⁷

¹ Centers for Disease Control and Prevention, *Child Passenger Safety: Get the Facts*, available at http://www.cdc.gov/motorvehiclesafety/child_passenger_safety/cps-factsheet.html (last visited October 16, 2019).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ American Academy of Pediatrics, *Child Passenger Safety*, April 2011, available at <https://pediatrics.aappublications.org/content/127/4/788> (last visited October 18, 2019).

⁶ National Highway Traffic Safety Administration, *Car Seats and Booster Seats*, available at <https://www.nhtsa.gov/equipment/car-seats-and-booster-seats#age-size-rec> (last viewed October 18, 2019).

⁷ *Id.*

Florida Law

Child Restraint Requirements

Florida law requires every operator of a motor vehicle⁸ 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.
- 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.⁹

A person who violates Florida's child restraint requirements, commits a moving violation punishable by a penalty of \$60 plus any applicable local court costs.¹⁰ In addition, the violator will have three points assessed against his or her driver license.¹¹ 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.¹² In 2019, there were 8,394 child restraint device violations.¹³

Safety Belt Use Under 18

Florida law 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.¹⁴

School Buses

Florida law requires each school bus¹⁵ 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.¹⁶ 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.¹⁷

⁸ 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.

⁹ Section 316.613, F.S.

¹⁰ Section 318.18(3)(a), F.S.

¹¹ Section 322.27(3)(d)7., F.S.

¹² Section 316.613(5), F.S.

¹³ Email from Kevin Jacobs, Deputy Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, (February 4, 2020).

¹⁴ Section 316.614(4)(a), F.S.

¹⁵ As used in that section, "school bus" means one that is owned, leased, operated, or contracted by a school district.

¹⁶ Section 316.6145, F.S.

¹⁷ 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

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.¹⁸

Child Care Facility Vehicles

Florida law 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.¹⁹ Section 402.305(10), F.S., requires the minimum standards, among other items, to include requirements for child restraints or seat belts in vehicles used by child care facilities²⁰ and large family child care homes²¹ to transport children.

Pursuant to that direction, DCF’s Florida Administrative Code Rule 65C-22.001(6)(e) 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.

Child Restraint Requirements in Other States

The 50 states and the District of Columbia all have laws requiring some type of child restraint seats for children under a certain age, height, or weight. The majority of states require child restraint seats until age six or seven.²² Additionally, many states require rear facing child restraint seats for children under a certain age and weight.²³

For example, the state of Connecticut requires children under the age of two or under thirty pounds to ride rear facing in a child restraint system equipped with a five-point harness. Children under the age of five, but not under the age of two, or under forty pounds, but not under thirty pounds, are required to be in a forward facing child restraint system equipped with a five-point harness. All children under age eight and under sixty pounds must be in some type of child restraint seat including a booster seat.²⁴

Tennessee requires children under the age of one, or weighing less than twenty pounds, to ride rear-facing in a child restraint system that meets federal motor vehicle safety standards. Children age one through three years old and weighing more than twenty pounds are required to ride in a child safety restraint system (rear facing or forward facing) that meets federal motor vehicle safety standards. Children age four through eight years of age and measuring less than four feet nine inches in height, are required to be in a child restraint seat, including a belt positioning booster seat system, that meets the federal motor vehicle safety standards.²⁵

Effect of Proposed Changes

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.fl DOE.org/schools/healthy-schools/transportation/> (last viewed October 22, 2019).

¹⁸ Section 316.613(2)(a), F.S.

¹⁹ Section 402.305(1), F.S.

²⁰ 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.”

²¹ 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.”

²² AAA Digest of Motor Laws, *Child Passenger Safety*, available at <https://drivinglaws.aaa.com/tag/child-passenger-safety/> (last visited October 21, 2019).

²³ *Id.*

²⁴ Conn. Gen. Stat. § 14-100a (2019)

²⁵ Tenn. Code Ann. § 55-9-602 (2019)

The bill 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) and (1)(a)2., F.S., must be kept in that (or another) compliant device for one additional year.

B. SECTION DIRECTORY:

Section 1: Amends s. 316.613, F.S., relating to child restraint requirements.

Section 2: Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

To the extent there is an increase in the number of traffic citations issued due to the new child safety restraint requirements, the state may realize additional revenues. However, the fiscal impact cannot be quantified and is indeterminate.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

To the extent there is an increase in the number of traffic citations issued due to the new child safety restraint requirements, local governments may realize additional revenues. However, the fiscal impact cannot be quantified and is indeterminate.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The change in child safety restraint requirements may result in more motorists being assessed traffic fines, and may require motorists to purchase new child safety restraint seats.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

There is no rulemaking authority granted in the bill, nor is there a need for rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.