

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1211 Child Restraint Requirements  
**SPONSOR(S):** Transportation & Modals Subcommittee, Beltran and others  
**TIED BILLS:**           **IDEN./SIM. BILLS:** CS/SB 1374

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Modals Subcommittee	16 Y, 0 N, As CS	Johnson	Hinshelwood
2) Infrastructure Strategies Committee	18 Y, 0 N	Lewis	Harrington

### SUMMARY ANALYSIS

Under Florida law, every operator of a motor vehicle, with some exceptions, while transporting a child in a motor vehicle operated on the roadways, streets, or highways of this state, must, if the child is 5 years of age or younger, provide for protection of the child by properly using a crash-tested, federally approved child restraint device.

For children 3 years of age and younger, such restraint device must be a separate carrier or a vehicle manufacturer's integrated child seat. For children aged 4 through 5 years, a separate carrier, an integrated child seat, or a child booster seat may be used. A violation is a moving violation, and 3 points are assessed against the violator's driver license. The statutory base fine is \$60, but with additional fees and court costs, the total penalty may be up to \$158. However, in lieu of the specified penalty and the assessment of points, a violator may elect, with a court's approval, to participate in a child restraint safety program. Upon completing such program, the specified penalty and associated costs may be waived at the court's discretion, and the assessment of points is waived.

The bill increases from 5 years to 7 years the age through which a child must be in a crash-tested federally approved child restraint device. The bill provides that a child through 2 years of age must be in a restraint device with a rear-facing five-point harness. For children aged 3 through 4 years, the child must be in a forward-facing or rear-facing five-point harness. For children aged 5 through 7, the child must be in a booster seat that incorporates the motor vehicle's safety belt or must be in a forward-facing five-point harness.

The statute's current exceptions and penalties remain in place.

The bill has no fiscal impact on local governments and an indeterminate fiscal impact on the state and the private sector.

The bill has an effective date of October 1, 2023.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

##### Florida's Child Restraint Requirements

Section 316.613, F.S., provides Florida's child restraint requirements. Under this law, every operator of a motor vehicle, while transporting a child in a motor vehicle operated on the roadways, streets, or highways of this state, must, if the child is 5 years of age or younger, provide for protection of the child by properly using a crash-tested, federally approved child restraint device.<sup>1</sup>

For children 3 years of age and younger, such restraint device must be a separate carrier or a vehicle manufacturer's integrated child seat.<sup>2</sup>

For children aged 4 through 5 years, a separate carrier, an integrated child seat, or a child booster seat may be used. However, the requirement to use a child restraint device does not apply when a safety belt is used 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.<sup>3</sup>

The Department of Highway Safety and Motor Vehicles (DHSMV) must provide notice of the requirement for child restraint devices, which notice must accompany the delivery of each motor vehicle license tag.<sup>4</sup>

As used in s. 316.613, F.S., the term "motor vehicle" means a motor vehicle<sup>5</sup> that is operated on the roadways, streets, and highways of the state, but the term does not include:

- A school bus.
- A bus used for the transportation of persons for compensation, other than a bus regularly used to transport children to or from school 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, a moped, a bicycle, or an electric bicycle.<sup>6</sup>

The failure to provide and use a child passenger restraint is not considered comparative negligence, nor is such failure admissible as evidence in the trial of any civil action with regard to negligence.<sup>7</sup>

It is the Legislature's intent that all state, county, and local law enforcement agencies, and safety councils, in recognition of the problems with child death and injury from unrestrained occupancy in motor vehicles, conduct a continuing safety and public awareness campaign as to the magnitude of the problem.<sup>8</sup>

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<sup>1</sup> S. 316.613(1)(a), F.S.

<sup>2</sup> S. 316.613(1)(a)1, F.S.

<sup>3</sup> S. 316.613(1)(a)2, F.S.

<sup>4</sup> S. 316.613(1)(b), F.S.

<sup>5</sup> Section 316.003(46), F.S., defines the term "motor vehicle" to mean a self-propelled vehicle not operated upon rails or guideway, but not including any bicycle, electric bicycle, motorized scooter, electric personal assistive mobility device, mobile carrier, personal delivery device, swamp buggy, or moped.

<sup>6</sup> S. 316.613(2), F.S.

<sup>7</sup> S. 316.613(3), F.S.

<sup>8</sup> S. 316.613(4), F.S.

Any person who violates the child restraint law commits a moving violation, punishable as provided in ch. 318, F.S.,<sup>9</sup> and must have 3 points assessed against his or her driver license.<sup>10</sup> The statutory base fine is \$60,<sup>11</sup> but with additional fees and court costs, the total penalty may be up to \$158.<sup>12</sup>

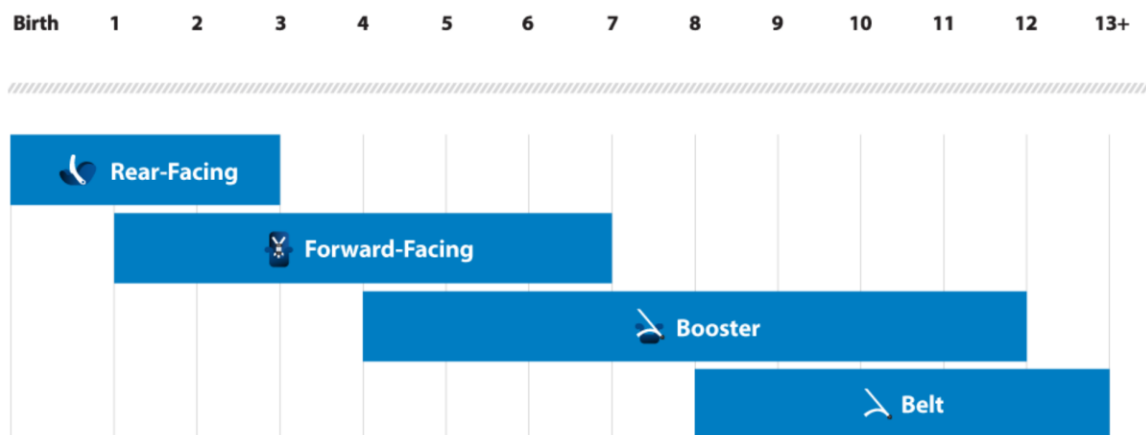
In lieu of the specified penalty and the assessment of points, a violator may elect, with the court's approval, to participate in a child restraint safety program approved by the chief judge of the circuit in which the violation occurs; and, upon completing such program, the specified penalty and associated costs may be waived at the court's discretion, and the assessment of points is waived. The child restraint safety program must use a DHSMV-approved course, and the fee for the course must bear a reasonable relationship to the cost of providing the course.<sup>13</sup>

The statutory child restraint requirements do not apply to a chauffeur-driven taxi, limousine, sedan, van, bus, motor coach, or other passenger vehicle if the operator and the motor vehicle are hired and used for the transportation of persons for compensation. It is the obligation and responsibility of the parent, guardian, or other person responsible for a child's welfare to comply with the child restraint requirement.<sup>14</sup>

### Child Restraint Recommendations

The National Highway Traffic Safety Administration (NHTSA) has child restraint recommendations based on age and size of the child as seen below.<sup>15</sup>

**Recommended car seats based on your child's age and size**



NHTSA recommends keeping a child in the car seat for as long as possible, as long as the child fits within the manufacturer's height and weight requirements, and they recommend keeping a child in the back seat at least through age 12.<sup>16</sup> Below is a summary of NHTSA's recommendations by age.<sup>17</sup>

Age	Type of Child Restraint	Recommendation
Birth - 12 months	Rear-facing car seat	Child should always ride in a rear-facing car seat.

<sup>9</sup> Points on a driver license are set forth in s. 322.27, F.S.

<sup>10</sup> This is as provided in s. 322.27, F.S.

<sup>11</sup> S. 318.18(3)(a), F.S.

<sup>12</sup> Clerk of Courts, *2022 Distribution Schedule*, p. 45.

<sup>13</sup> [https://cdn.ylaws.com/www.flclerks.com/resource/resmgr/advisories/2022/22bull098\\_attach\\_2\\_2022\\_dist.pdf](https://cdn.ylaws.com/www.flclerks.com/resource/resmgr/advisories/2022/22bull098_attach_2_2022_dist.pdf) (last visited Mar. 17, 2023).

<sup>14</sup> S. 316.613(5), F.S.

<sup>15</sup> S. 316.613(6), F.S.

<sup>16</sup> National Highway Traffic Safety Administration (NHTSA), *Car Seats and Booster Seats*, <https://www.nhtsa.gov/equipment/car-seats-and-booster-seats> (last visited Mar. 17, 2023)

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

1 - 3 years	Rear-facing or forward-facing car seat	Child should be rear-facing as long as possible. Child should remain in a rear-facing car seat until he or she reaches the top height or weight limit allowed by the car seat's manufacturer.
4 - 7 years	Forward-facing car seat	Child should be in a forward-facing car seat with a harness and tether until he or she reaches the top height or weight limit allowed by the car seat's manufacturer.
8 - 12 years	Booster seat or seat belt	Child should be in a booster seat until he or she is big enough to fit in a seat belt properly. For a seat belt to fit properly the lap belt must lie snugly across the upper thighs, not the stomach. The shoulder belt should lie snugly across the shoulder and chest and not cross the neck or face. The child should still ride in the back seat.

The American Academy of Pediatrics has issued similar guidelines regarding the use of car seats in motor vehicles.<sup>18</sup>

### Effect of the Bill

The bill amends s. 316.613, F.S., increasing from 5 years to 7 years the age through which a child must be in a crash-tested federally approved child restraint device. The bill provides that a child through 2 years of age must be in a restraint device with a rear-facing five-point harness. For children aged 3 through 4 years, the child must be in a forward-facing or rear-facing five-point harness. For children aged 5 through 7, the child must be in a booster seat that incorporates the motor vehicle's safety belt or must be in a forward-facing five-point harness.

The statute's current exceptions and penalties remain in place.

The bill has an effective date of October 1, 2023.

### B. SECTION DIRECTORY:

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

**Section 2** Provides an effective date of October 1, 2023.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DHSMV may incur costs in revising and printing its notice regarding child restraint requirements that must accompany each motor vehicle license tag. However, the cost to DHSMV is unknown.

<sup>18</sup> American Academy of Pediatrics (AAP) Updates Recommendations on Car Seats for Children, <http://www.primary-pediatrics.ucbp.org/Uploads/Public/Documents/BCP/forms/PrimaryPeds/American-Academy-of-Pediatrics-AAP-Updates-Recommendation-on-Car-Seats.pdf> (last visited Mar. 18, 2023).

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Parents may incur costs associated with the purchase of a new child safety seat to meet the statutory requirements.

**D. FISCAL COMMENTS:**

If parents are required to purchase new motor vehicle child restraint systems, those purchases are exempt from sales tax.<sup>19</sup>

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to impact county or municipal governments.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On March 29, 2023, the Transportation & Modals Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment changed the effective date of the bill from July 1, 2023, to October 1, 2023.

The staff analysis has been updated to reflect the committee substitute.