

**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 Children, Families, and Elder Affairs

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BILL: SB 1374

INTRODUCER: Senator Perry

SUBJECT: Child Restraint Requirements

DATE: March 17, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Cox	CF	<b>Favorable</b>
2.			TR	
3.			RC	

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**I. Summary:**

SB 1374 amends current law relating to child restraint requirements while transporting a child in a motor vehicle. The bill increases the age of children which must use a crash-tested, federally-approved child restraint device from age five years or younger to age seven years or younger.

For children under the age of 3, the bill specifically requires the use of a rear-facing five-point harness. For children age 3 through 4, the bill requires the use of a forward-facing or rear-facing five-point harness. For children aged 5 through 7, the bill requires the use of a booster seat which:

- Incorporates the use of the motor vehicle’s safety belt; or
- Is a forward-facing or rear-facing five-point harness.

The fiscal impact on private sector sales of child restraint devices is indeterminate. The bill will likely have an indeterminate but insignificant fiscal impact on local governments and the Department of Highway Safety and Motor Vehicles (DHSMV). See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2023.

**II. Present Situation:**

**Child Restraint Devices or “Car Seats” and National Highway Traffic Safety Administration Recommendations**

Car seats available on the market offer a variety of choices. The best choice, according to the National Highway Traffic Safety Administration (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, the 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. The NHTSA also recommends keeping a child in the back seat at least through the age of 12.<sup>1</sup>

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

- Rear-facing car seats have a harness that, 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 raise the height of the child to position the seat belt so that it fits properly over the stronger parts of a child's body.
- Seat belts.<sup>2</sup>

The 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 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>3</sup>

For children one through three years old, the 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, the NHTSA recommends a forward-facing seat with a harness and tether.<sup>4</sup>

For children four through seven years, the 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 the NHTSA recommends the booster seat still be installed properly in the back seat of the vehicle.<sup>5</sup>

For children eight through 12 years, the 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 for the NHTSA 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. The NHTSA notes the child should still ride in the back seat of the vehicle "because it's safer there."<sup>6</sup>

### **Child Passenger Safety**

According to the Center for Disease Control and Prevention (CDC), motor vehicle injuries are a

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<sup>1</sup> The NHTSA, *Car Seats and Booster Seats*, available at <https://www.nhtsa.gov/equipment/car-seats-and-booster-seats#age-size-rec> (last visited March 13, 2023).

<sup>2</sup> The NHTSA, *Car Seat Types*, available at <https://www.nhtsa.gov/equipment/car-seats-and-booster-seats#find-right-car-seat-car-seat-types> (last visited March 13, 2023).

<sup>3</sup> *Id.*

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

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

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

leading cause of death among children in the U.S.<sup>7</sup> The CDC data for 2020 indicates that 607 child passengers ages 12 and under were killed in automobile crashes in the U.S.<sup>8</sup> Of the children killed in a crash, 38% were not buckled in.<sup>9</sup>

The CDC reports that the:

- Use of a car seat reduces the risk for of injury children by 71 to 82 percent in passenger vehicles compared to seat belt use alone.
- Use of a booster seat reduces the risk for serious injury by 45 percent for children aged four to eight 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.<sup>10</sup>

A study of five states that increased the age requirement to seven or eight years for car seat or booster seat use found that the rate of children using car seats and booster seats increased nearly three times. Further, the rate of children who sustained fatal or incapacitating injuries was reduced by 17 percent.<sup>11</sup>

The CDC has produced guidelines for parents and caregivers that are based on stages, including the use of a:

- Rear-facing car seat, for children birth to age two.
- Forward-facing car seat in the back seat, until at least age five or when they reach the upper weight or height limit of seat.<sup>12</sup>
- Booster seat, until a seat belts fit properly.<sup>13</sup>

A 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>14</sup>

### **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.<sup>15</sup> Many laws require all children to ride in the rear seat whenever possible, and most states permit children over a particular age, height

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<sup>7</sup> The CDC, *Child Passenger Safety: Get the Facts – The Scope of the Problem*, available at [http://www.cdc.gov/motorvehiclesafety/child\\_passenger\\_safety/cps-factsheet.html](http://www.cdc.gov/motorvehiclesafety/child_passenger_safety/cps-factsheet.html) (last visited March 13, 2023).

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

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> The CDC, *Child Passenger Safety Infographics*, available at [https://www.cdc.gov/vitalsigns/childpassengersafety/infographic.html#:~:text=The%20recommended%20height%20for%20proper%20seat%20belt%20fit%20is%2057%20inches%20tall.&text=Children%20no%20longer%20need%20to,chest%20\(not%20the%20neck\)](https://www.cdc.gov/vitalsigns/childpassengersafety/infographic.html#:~:text=The%20recommended%20height%20for%20proper%20seat%20belt%20fit%20is%2057%20inches%20tall.&text=Children%20no%20longer%20need%20to,chest%20(not%20the%20neck)) (last visited March 13, 2023).

<sup>15</sup> The Governors Highway Safety Association, *Child Passenger Safety*, available at <https://www.ghsa.org/state-laws/issues/child%20passenger%20safety> (last visited March 13, 2023).

or weight to use an adult safety belt.<sup>16</sup> 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, must be in a harness restraint – either a rear-facing or forward-facing car seat. All children under age eight and under sixty pounds must use a child restraint – either a car seat, or a booster seat secured by a lap-and-shoulder belt.<sup>17</sup>

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 four 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 nine years of age and measuring less than four feet nine inches in height, are required to be in a child booster seat that meets the federal motor vehicle safety standards.<sup>18</sup>

48 states, the District of Columbia, and Puerto Rico require booster seats for children who have outgrown their car seats but are still too small for adult seat belts, and only two states (Florida and South Dakota) do not have legal requirements for booster seats.<sup>19</sup>

## Florida Law

### *Safety Belt Use Under 18*

Section 316.614(4)(a), F.S., prohibits a person from operating a motor vehicle<sup>20</sup> or autocycle<sup>21</sup> 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. 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.
- 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.<sup>22</sup>

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<sup>16</sup> *Id.*

<sup>17</sup> Conn. Gen. Stat. § 14-100a (2022)

<sup>18</sup> Tenn. Code Ann. § 55-9-602 (2022)

<sup>19</sup> The Bump, *A State by State Look at Car Seat and Booster Seat Laws*, available at <https://www.thebump.com/a/car-seat-laws> and available at <https://www.thebump.com/a/car-seat-laws> (last visited March 13, 2023).

<sup>20</sup> Section 316.003(46), 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.”

<sup>21</sup> Section 316.003(2), F.S., defines “autocycle” as “a three-wheeled motorcycle that has two wheels in the front and one wheel in the back; is equipped with a roll cage or roll hoops, a seat belt for each occupant, antilock brakes, a steering wheel, and seating that does not require the operator to straddle or sit astride it; and is manufactured in accordance with the applicable federal motorcycle safety standards in 49 C.F.R. part 571 by a manufacturer registered with the National Highway Traffic Safety Administration.”

<sup>22</sup> Section 316.614(3)(a), F.S.

The term “safety belt” is defined as a seat belt assembly that meets the requirements established under Federal Motor Vehicle Safety Standard No. 208, 49 C.F.R. s. 571.208.<sup>23</sup>

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

Section 316.613, F.S., 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. The device must be a separate carrier or a vehicle manufacturer’s integrated child seat for children through three years of age.<sup>24</sup> A separate carrier, an integrated child seat, or a child booster seat may be used for children aged four through five years. However, the requirement does not apply in certain circumstances, including 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>25</sup>

A violation of s. 316.613, F.S., is a moving violation punishable by a penalty of \$60 plus any applicable local court costs.<sup>26</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.<sup>27</sup>

### ***School Buses***

Section 316.6145, F.S., requires each school bus<sup>28</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.<sup>29</sup> Each school district is required to prioritize the allocation of buses equipped with safety belts or restraint systems to children in elementary schools.<sup>30</sup> However, the provisions of s. 316.613, F.S., relating to child safety

<sup>23</sup> Section 316.614(3)(b), F.S.

<sup>24</sup> Section 316.613(1)(a)1., F.S.

<sup>25</sup> Section 316.613(1)(a)2., F.S.

<sup>26</sup> Section 316.613(5), F.S.

<sup>27</sup> *Id.*

<sup>28</sup> Section 316.6145(1)(b), F.S., defines a “school bus” to mean “one that is owned, leased, operated, or contracted by a school district.”

<sup>29</sup> Section 316.6145(1), F.S.

<sup>30</sup> Section 316.6145(4), F.S. 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 (DOE) posts on its website guidelines providing “clarification and interpretation of the NHTSA Guidelines, and additional background and the DOE recommendations regarding technical and operational issues associated with transporting pre-school age students.” See The Department of Education, *Florida Guidelines for Seating of Pre-school*

restraints, do not apply to school buses, as they are excluded from the definition of “motor vehicle” for purposes of that section.<sup>31</sup>

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

Section 402.305(1), F.S., requires the 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 for child restraints or seat belts in vehicles used by child care facilities<sup>32</sup> and large family child care homes<sup>33</sup> to transport children.

Pursuant to that direction, each child transported in a child care facility vehicle or a large family child care home vehicle is required to be in an individual, factory-installed seat belt or a federally approved child restraint.<sup>34</sup>

### **III. Effect of Proposed Changes:**

The bill amends s. 316.613, F.S., increasing the age of children which must use a crash-tested, federally-approved child restraint device from age five years or younger to age seven years or younger. The bill eliminates the requirement that children age 4 through 5 be secured with a separate carrier or an integrated child seat and instead requires that children age 3 through 4 to be secured using a rear-facing five-point harness.

The bill also eliminates the requirement that children age 4 through 5 be secured with the age of a child for which use of a separate carrier, an integrated child seat, or a child booster seat. The bill replaces this provision with the following requirements:

- Children age 3 through 4 must be secured with a forward-facing or rear-facing five-point harness; and
- Children age 5 through 7 must be secured with a child booster seat that incorporates the use of the motor vehicle’s safety belt as that term is defined in s. 316.614(3)(b) or must be a forward-facing five-point harness.

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*Age Children in School Buses*, available at <https://www.fldoe.org/core/fileparse.php/7585/urlt/0085488-flguidelines.pdf> (last visited March 13, 2023).

<sup>31</sup> Section 316.613(2)(a), F.S.

<sup>32</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>33</sup> Section 402.302(11), 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>34</sup> See Rule 65C-22.001(6)(e), F.A.C.

Because Florida's child restraint requirements are based solely on the child's age, the result may or may not always be consistent with the NHTSA's recommendations, which instead focus on the actual weight and height of the child being transported.

The bill is effective July 1, 2023.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

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:

Compliant child restraint devices may have to be replaced due any defects or wear and tear occurring within the additional year of use required by the bill. However, the fiscal impact on private sector sales of child restraint devices is indeterminate.

Increasing the age a child must be in a child restraint from age five to age seven may result in an increase in the number of child restraint violations issued to drivers.

C. Government Sector Impact:

The DHSMV estimated that increasing the age a child must be in a child restraint from age five to age seven may result in an increase in the number of child restraint violations

issued to drivers, which would likely result in an indeterminate, positive fiscal impact to local governments.<sup>35</sup>

The DHSMV also advised it will have to make updates to the Driver Handbook, driver license knowledge test questions bank, communication educational material, and driver improvement course curriculums to reflect the changes in the bill. In addition, the Division of Motorist Services will have to modify the Uniform Traffic Guide, Appendix C, to reflect the changes in the bill. Accordingly, the bill may result in an indeterminate, likely insignificant negative fiscal impact to the DHSMV.<sup>36</sup>

**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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<sup>35</sup> The Department of Highway Safety and Motor Vehicles, Agency Analysis of Senate Bill 380 (2021), January 5, 2021 (On file with the Senate Committee on Transportation).

<sup>36</sup> *Id.*