

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 Transportation

BILL: CS/SB 1374

INTRODUCER: Transportation Committee and Senator Perry

SUBJECT: Child Restraint Requirements

DATE: April 5, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Cox</u>	<u>CF</u>	Favorable
2.	<u>Jones</u>	<u>Vickers</u>	<u>TR</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1374 amends current law relating to child restraint requirements while transporting a child in a motor vehicle. The bill increases the age that children 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 three years old, the bill specifically requires the use of a rear-facing five-point harness. For children aged three through four years, the bill requires the use of a forward-facing or rear-facing five-point harness. For children aged five through seven years, the bill requires the use of a booster seat that:

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

The bill may have an indeterminate impact on the private and government sector. See Section V. Fiscal Impact Statement.

The bill is effective October 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 12.¹

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.²

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.³

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.⁴

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.⁵

¹ 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 29, 2023).

² 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 29, 2023).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

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.”⁶

Child Passenger Safety

According to the Center for Disease Control and Prevention (CDC), motor vehicle injuries are a leading cause of death among children in the U.S.⁷ The CDC data for 2020 indicates that 607 child passengers ages 12 and under were killed in automobile crashes in the U.S.⁸ Of the children killed in a crash, 38 percent were not buckled in.⁹

The CDC reports that the:

- Use of a car seat reduces the risk for injury of 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.¹⁰

A study of five states that increased the age requirement to seven or eight years of age 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.¹¹

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 the child reaches the upper weight or height limit of the seat.¹²
- Booster seat, until a seat belts fit properly.¹³

A child no longer needs to use a booster seat once a seat belt fits them properly. The seat belt fits properly when the lap belt lays across the upper thighs (not the stomach) and the shoulder belt

⁶ *Id.*

⁷ 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 (last visited March 29, 2023).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

lays across the chest (not the neck). The recommended height for proper seat belt fit is 57 inches tall.¹⁴

Child Restraint Requirements in Other States

All 50 states and the District of Columbia have laws requiring some type of child restraint seats for children under a certain age, height, or weight.¹⁵ Many laws require all children to ride in the rear seat whenever possible, and most states permit children over a particular age, height or weight to use an adult safety belt.¹⁶ 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.¹⁷

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.¹⁸

At least 26 states have rear-facing child restraint requirements. Most require children under the age of two years old to be in a rear-facing child restraint device, and provide exceptions for children who reach a certain height or weight, or exceed the manufacturer’s recommended height or weight limit of the child restraint device.¹⁹

Forty-eight 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.²⁰

¹⁴ 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 29, 2023).

¹⁵ The Governors Highway Safety Association, *Child Passenger Safety*, available at <https://www.ghsa.org/state-laws/issues/child%20passenger%20safety> (last visited March 29, 2023).

¹⁶ *Id.*

¹⁷ Conn. Gen. Stat. § 14-100a (2022)

¹⁸ Tenn. Code Ann. § 55-9-602 (2022)

¹⁹ Insurance Institute of Highway Safety, *Seat belt and child seat laws by state* (March 2023), available at <https://www.iihs.org/topics/seat-belts/seat-belt-law-table> (last visited March 29, 2023).

²⁰ The Bump, *A State by State Look at Car Seat and Booster Seat Laws*, available at <https://www.thebump.com/a/car-seat-laws> (last visited March 29, 2023).

Child Restraint Requirements in Florida

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.²¹ 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.²²

A violation of s. 316.613, F.S., is a moving violation punishable by a penalty of \$60 plus applicable local court costs, which may increase the total penalty to \$158.²³ In addition, the violator will have three points assessed against his or her driver license.²⁴ 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.²⁵

Safety Belt Use Under 18

Section 316.614(4)(a), F.S., prohibits a person from operating a motor vehicle²⁶ or autocycle²⁷ 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.²⁸

²¹ Section 316.613(1)(a)1., F.S.

²² Section 316.613(1)(a)2., F.S.

²³ Section 316.613(5), F.S. and Court Clerks and Comptrollers, *Distribution Schedule* (December 2022), available at https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/advisories/2022/22bull098_attach_2_2022_dist.pdf at 45 (last visited March 29, 2023).

²⁴ Points on a driver license are set forth in s. 322.27(3), F.S.

²⁵ Section 316.613(3), F.S.

²⁶ 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."

²⁷ 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."

²⁸ 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. 571.208.²⁹

School Buses

Section 316.6145, F.S., requires each school bus³⁰ 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.³¹ Each school district is required to prioritize the allocation of buses equipped with safety belts or restraint systems to children in elementary schools.³² 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.³³

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 facilities³⁴ and large family child care homes³⁵ to transport children.

²⁹ Section 316.614(3)(b), F.S.

³⁰ 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.”

³¹ Section 316.6145(1), F.S.

³² 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 Age Children in School Buses*, available at <https://www.fldoe.org/core/fileparse.php/7585/urlt/0085488-flguidelines.pdf> (last visited March 29, 2023).

³³ Section 316.613(2)(a), F.S.

³⁴ 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.”

³⁵ Section 402.302(11), F.S., defines “large family child care home” to mean “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, with one of the two personnel being the owner or occupant of the residence.”

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.³⁶

III. Effect of Proposed Changes:

The bill amends s. 316.613, F.S., increasing the age children 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 aged through three years be secured with a separate carrier or an integrated child seat and instead requires that children aged through two years be secured using a rear-facing five-point harness.

The bill also eliminates the requirement that children aged four through five years be secured with a separate carrier, an integrated child seat, or a child booster seat, and replaces this provision with the following requirements:

- Children aged three through four years must be secured with a forward-facing or rear-facing five-point harness; and
- Children aged five through seven years 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), F.S., or with a forward-facing five-point harness.

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 October 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.

³⁶ See Rule 65C-22.001(6)(e), F.A.C.

E. **Other Constitutional Issues:**

None identified.

V. **Fiscal Impact Statement:**

A. **Tax/Fee Issues:**

None.

B. **Private Sector Impact:**

The bill may have an indeterminate fiscal impact on the private sector. The bill may require individuals to purchase new child restraint devices to meet the statutory requirements. However, such devices will likely increase safety for children in motor vehicles.

Drivers transporting children in violation of the child restraint requirements may be subject to a fine of up to \$158.

C. **Government Sector Impact:**

The bill may have an indeterminate fiscal impact on state and local government. Law enforcement agencies will need to train officers on the changes made by the bill. To the extent that the bill increases the number of violations issued, the bill may have a positive fiscal impact on state and local government that receive such fines.

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 Substantial Changes:**

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

CS by Transportation on April 4, 2023:

The CS changes the effective date of the bill from July to October 1, 2023.

B. **Amendments:**

None.

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