

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Background

Licensing Standards for Child Care Facilities

The Department of Children and Families (DCF) establishes licensing standards that each licensed child care facility in the state must meet under the authority of s. 402.305, F.S. A child care facility generally includes 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.¹ DCF currently licenses 6,453 child care arrangements which include child care facilities, large family child care homes and family day care homes.^{2,3} In addition, six counties in the state which conduct their own licensure of homes currently license 4,292 child care arrangements.⁴

The statutory licensing standards for child care facilities are extensive and include standards for physical facilities. However, current standards for licensed child care providers do not address blinds or window coverings.

Window Blinds and Coverings

For the past 15 years, the Consumer Products Safety Commission (CPSC)⁵ has been investigating window covering hazards and working with the Window Covering Safety Council (WCSC) to increase safety of window coverings and blinds. Additionally the WCSC provides consumers with free repair kits

¹ s. 402.302(2), F.S.

² DCF Quick Facts, January 1, 2009.

³ s. 402.313(1)(a), F.S., provides that family day care homes may be registered and not licensed under certain conditions.

⁴ Email from James Cheatham dated January 28, 2010, on file with committee.

⁵ The *Consumer Products Safety Commission* (CPSC) was established in 1972 when Congress passed the Consumer Product Safety Act. In passing the act, Congress intended to protect the public against unreasonable risks of injuries associated with consumer products. (15 U.S.C. § 2051(a))

that make window coverings and blinds safer.⁶ From 1991 to 2000, the CPSC received 160 reports of strangulations involving cords on window blinds. Of those 160 reports, 140 involved the outer pull cords, and 20 involved the inner cords that run through the blind slats. The CPSC found that the formation of loops in the pull cords and inner cords likely caused the strangulation.⁷

Since 2006, the CPSC received reports of five deaths and sixteen near strangulations from Roman shades and three deaths from roll-up blinds.⁸ Roman shades have a looped pull cord and exposed inner cords on the back of the shade. Roll-up blinds have a looped cord and two lifting cord loops that pass around the bottom rail of the blind.⁹

On December 15, 2009, the CPSC and the WCSC announced a voluntary recall to repair millions of Roman shades and roll-up blinds to eliminate the risk of strangulation to young children. The CPSC estimates that approximately five million Roman shades and three million roll-up blinds are sold yearly.¹⁰

Effect of Proposed Changes

This bill creates minimum requirements for licensure of child care facilities relating to window blinds and other window coverings. The effect of this change will create additional equipment standards for licensed child care facilities that are not addressed in current law or rule. This law will affect 10,745 licensed child care providers, requiring them to examine their blinds and window coverings and to replace or retrofit window blinds or other window coverings as needed to comply with the new licensing standard. The Window Covering Safety Council (WCSC) albeit provides free kits for retrofitting unsafe blinds, this change may place costs on child care facilities by requiring them to replace or retrofit existing equipment by a certain date.

The intent of the bill is to eliminate the risk of strangulation of children in licensed child care facilities by prohibiting child care facilities from using window blinds and coverings that contain cords with loops. The effect of this change will not have an impact on registered family child care homes since they are not required to comply with licensing standards.

The bill also requires DCF to review and consider recommendations of the Consumer Product Safety Commission (CPSC) relating to window blinds and window coverings. The effect of this change will require DCF to consider CPSC recommendations when promulgating rules to address blind and window covering requirements.

The bill appears to impose a strict civil liability against a child care facility for any act that results from not properly retrofitting existing window blinds, window coverings, pull cords, or inner cords by January 1, 2011. Strict liability imposes liability regardless of fault.¹¹ Thus, in a strict liability cause of action, a plaintiff does not have to prove that the defendant was negligent in order to recover damages.¹²

⁶ "Window Covering Safety Council Recalls to Repair All Roman and Roll-Up Blinds Due to Risk of Strangulation." U.S. Consumer Products Safety Commission, December 12, 2009. <http://www.cpsc.gov/cpsc/pub/prerel/prhtml10/10073.html> (last visited 1/27/10).

⁷ "Children Can Strangle in Window Coverings Cords." U.S. Consumer Products Safety Commission. <http://www.cpsc.gov/cpsc/pub/cords.html> (Last visited January 27, 2010).

⁸ "Window Covering Safety Council Recalls to Repair All Roman and Roll-Up Blinds Due to Risk of Strangulation." U.S. Consumer Products Safety Commission, December 12, 2009. <http://www.cpsc.gov/cpsc/pub/prerel/prhtml10/10073.html> (last visited 1/27/10).

⁹ "Risk of Strangulation Prompts Recall of Window Blinds Sold at Cost Plus and World Market Stores." U.S. Consumer Product Safety Commission, January 13, 2009. <http://www.cpsc.gov/cpsc/pub/prerel/prhtml09/09090.html> (Last visited January 27, 2010).

¹⁰ "Window Covering Safety Council Recalls to Repair All Roman and Roll-Up Blinds Due to Risk of Strangulation." U.S. Consumer Products Safety Commission, December 12, 2009. <http://www.cpsc.gov/cpsc/pub/prerel/prhtml10/10073.html> (last visited 1/27/10).

¹¹ *Black's Law Dictionary* 1422 (6th ed. 1990).

¹² See 6 Fla. Practice, *Personal Injury and Wrongful Death Actions* § 13:16 (2008-2009 ed.). This does not mean that the plaintiff may not have to prove other issues in order to prevail in a strict liability case

The bill provides a definition for “properly retrofit” to mean to modify in a way that eliminates long dangling cords or the formation of inner or outer cord loops that pose a risk of strangulation. The effect of this change will provide clear instruction to child care facility providers on the actions needed by the January 1, 2011 deadline.

The bill also permits DCF to provide information to child care facilities on reduced-cost or no-cost options for retrofitting or replacing unsafe window blinds and window coverings. The effect of this change will help ensure that both citizens and child care facilities are aware of reduced-cost or no-cost methods to retrofit or replace unsafe window blinds and coverings. Such awareness will allow child care facilities to possibly avoid unnecessary costs of replacement and retrofitting.

B. SECTION DIRECTORY:

Section 1. Creates a title to the act

Section 2. Amends s.420.305; relating to licensing standards; child care facilities.

Section 3. Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate impact. Licensed child care facilities will be required to replace or retrofit blinds and window coverings as needed to comply with the standards in this act. This could affect as many as 10,745 child care providers. An estimate of this impact is not available at this time.

D. FISCAL COMMENTS:

The bill may create fiscal impacts on private child care facilities which have to replace and retrofit unsafe window blind and window coverings.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

Lines 55-60 appears to create strict civil liability for child care facilities from acts that result from not properly replacing or retrofitting unsafe blinds or window coverings by January 1, 2011.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES