

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 Rules

BILL: SB 252

INTRODUCER: Senator Stewart

SUBJECT: Child Care Facilities

DATE: March 29, 2021

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|-----------|------------------|
| 1. | <u>Delia</u> | <u>Cox</u> | <u>CF</u> | Favorable |
| 2. | <u>Proctor</u> | <u>Vickers</u> | <u>TR</u> | Favorable |
| 3. | <u>Delia</u> | <u>Phelps</u> | <u>RC</u> | Favorable |

I. Summary:

SB 252 creates the “Child Safety Alarm Act” and requires that after January 1, 2022, vehicles used by child care facilities to transport children must be equipped with an approved alarm system that prompts the driver to inspect the vehicle for the presence of children before leaving the area. This change is in response to reported deaths of small children who are left in vehicles during periods of hot weather.

The bill requires the Department of Children and Families (DCF) to adopt minimum safety standards for reliable alarm systems and maintain a list of alarm manufacturers and alarm systems that are approved to be installed in vehicles.

The bill also provides rulemaking authority.

The bill is expected to have a significant fiscal impact on private entities. See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2021.

II. Present Situation:

Death by hyperthermia, or vehicular heat stroke deaths, have become more prevalent since federal law required that children ride in the backseat due to the danger of front passenger seat airbags.¹ The national average number of these deaths is 39 per year.² Fifty-five percent of hyperthermia deaths involve children under the age of one, and eighty-eight percent involve

¹ See Gene Weingarten, *Fatal Distraction: Forgetting a Child in the Backseat of a Car is a Horrifying Mistake. Is it a Crime?*, The Washington Post, Mar. 8, 2009, available at <http://www.washingtonpost.com/wp-dyn/content/article/2009/02/27/AR2009022701549.html> (last visited January 27, 2021).

² See Kids and Cars.org, *Children Vehicular Heatstroke Deaths by Year*, available at <https://www.kidsandcars.org/how-kids-get-hurt/heat-stroke/> (last visited January 27, 2021).

children under the age of three.³ Between 1998 and 2021, Florida has the second highest number of child deaths from vehicular heat stroke.⁴ In 2020, 24 children fell victim to vehicular heat stroke deaths nationwide.⁵ Three of these 24 deaths in 2020 occurred in Florida.⁶

Technology Based Prevention

Automobile Manufacturers

The auto industry has been aware of the problem for years and has researched ways to solve this problem. General Motors (GM) tried over ten years ago to find a solution, but found the results were unreliable. At the 2002 New York Auto Show, GM revealed a new mechanism capable of identifying the heartbeat of a child left in a car and measure the temperature of the vehicle. Once the heartbeat was detected, the mechanism prompted the car to activate its horn to alert individuals nearby. GM later reported that the system was abandoned after it was found "not reliable enough to put into production."⁷

Ford was another automaker who attempted to develop such a system. However, a decade after starting, the technology isn't available on any automobile as a factory standard feature or option. Auto safety groups have called for manufacturers to do more, but for several reasons including cost, technology, liability and privacy issues, there is still no foolproof way of preventing overheating deaths or warning of the possibility before they happen.⁸

In 2016, GM announced it would introduce a new safety system to remind drivers to check for children in the rear seats and that features could be developed later to detect forgotten children.⁹ Later that same year, the National Highway Traffic Safety Administration (NHTSA) said it didn't plan to require automakers to add in-vehicle technology that would alert those who leave young children behind in hot cars.¹⁰

Aftermarket Systems

There are numerous aftermarket warning systems that alert a parent to a child left in a safety seat, shopping cart, or elsewhere, but federal regulators have questioned their efficacy.¹¹

³ See Kids and Cars.org, *Fact Sheet*, available at <https://www.kidsandcars.org/wp-content/uploads/2020/01/Heatstroke-fact-sheet.pdf> (last visited January 27, 2021).

⁴ National Safety Council, *Hot Car Deaths*, available at <https://injuryfacts.nsc.org/motor-vehicle/motor-vehicle-safety-issues/hotcars/> (last visited January 27, 2021).

⁵ *Id.*

⁶ *Id.*

⁷ Paul Eisenstein, *Death in Hot Cars: Why Can't the Automakers Prevent the Danger?* July 14, 2014, available at <http://www.nbcnews.com/storyline/hot-cars-and-kids/death-hot-cars-why-cant-automakers-prevent-danger-n152911> (last visited January 27, 2021).

⁸ *Id.*

⁹ David Shepardson, *GM has a way to help prevent drivers from forgetting children in the back seat*, Business Insider, January 12, 2016, available at <https://www.businessinsider.com/r-gm-unveils-technology-to-help-avoid-child-heatstroke-deaths-2016-1> (last visited January 27, 2021).

¹⁰ *Id.*

¹¹ Ryan Jaslow, *Gov't study: Devices that alert parents they left a child in a car deemed unreliable*, CBS News, July 31, 2012, available at <https://www.cbsnews.com/news/govt-study-devices-that-alert-parents-they-left-a-child-in-car-deemed-unreliable/> (last visited February 1, 2021).

A preliminary assessment performed on technology devices aimed at helping to prevent a child from being unintentionally left in a hot car concluded that they are not reliable and limited in their effectiveness, according to a study by NHTSA and the Children's Hospital of Philadelphia.¹²

The study revealed as number of potential issues, including inconsistent sensitivity in the arming of the device, discrepancies in the distance of the warning signal, potential electronic interference from other devices, children accidentally disarming the alarm by slumping over or sleeping out of position, and other common scenarios, such as a spilled beverage.¹³ Installation was complex and extensive for several of the products tested. Moreover, since the devices are restraint-based, the 20 to 40 percent of children who are killed after entering a vehicle without adult permission would not be helped by these products.¹⁴

Licensing Standards for Child Care Facilities and Large Family Child Care Homes

The DCF establishes licensing standards that each licensed child care facility¹⁵ in the state must meet.¹⁶ Statutory licensing standards for child care facilities are extensive and reference transportation and vehicles, including, in part, the requirement that minimum standards include accountability for children being transported.¹⁷ The Florida Administrative Code provides requirements for licensed child care facilities and large family child care homes¹⁸ to follow in relation to vehicles that are owned, operated, or regularly used by the facility or home, as well as vehicles that provide transportation through a contract or agreement with an outside entity.¹⁹

For example, providers are required to maintain a driver's log for all children being transported. This log must include the child's name, date, time of departure, time of arrival, signature of driver, and signature of second staff member to verify the driver's log and that all children have left the vehicle.²⁰ Upon arrival at the destination, the driver of the vehicle must mark each child off the log as the child departs the vehicle, conduct a physical inspection and visual sweep of the vehicle, and sign, date, and record the driver's log immediately to verify all children were accounted for and that the sweep was conducted.²¹ Upon arrival at the destination, a second staff member must also conduct a physical inspection and visual sweep of the vehicle and sign, date,

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Section 402.302(2), F.S., defines a "child care facility" as "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." Exceptions to this definition include public and nonpublic schools and their integral programs, summer camps with children in full-time residence, summer day camps, bible schools normally conducted during vacation periods, and operators of transient establishments under certain conditions.

¹⁶ *See* Section 402.305, F.S.

¹⁷ *Id.*

¹⁸ Section 402.302(11), F.S, defines a "large family child care home", in part, as 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.

¹⁹ *See* 65C-22.001(6), F.A.C.

²⁰ *Id.*

²¹ *Id.*

and record the driver's log to verify all children were accounted for and that the driver's log is complete.²²

As of December 14, 2020, approximately 1,566 child care providers licensed by the DCF offer transportation services.²³ Current standards for child care facilities and large family child care homes do not address alarm systems in vehicles. However, Palm Beach County and Broward County have requirements similar to the one proposed in the bill.²⁴

III. Effect of Proposed Changes:

The bill provides that the act may be cited as the "Child Safety Alarm Act."

The bill amends s. 402.305, F.S., in part, to require that on or after January 1, 2022, vehicles used by child care facilities and large family child care homes to transport children must have an approved alarm system that prompts the driver to inspect the vehicle for the presence of children before leaving the area. The bill requires the DCF to adopt by rule minimum safety standards for reliable alarm systems and maintain a list of alarm manufacturers and alarm systems that are approved to be installed in vehicles.

The bill also modifies existing minimum safety standards pertaining to transportation for child care facilities. Specifically, the bill amends certain standards in s. 402.305(10), F.S., to:

- Clarify that the limitations on the number of children is related to how many may be transported within each vehicle;
- Provide that the standards must include procedures to ensure that children are not inadvertently left in vehicles when transported by the facility, rather than just procedures to avoid leaving children in vehicles; and
- Require that systems are in place to ensure accountability measures for each facility.

The bill also clarifies that child care facilities and large family child care homes are not responsible for the safe transport of children when they are being transported by a parent or guardian.

The bill is effective October 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

²² *Id.*

²³ The DCF, Agency Analysis of Senate Bill 252, p. 6 (December 14, 2020) (on file with the Senate Committee on Children, Families, and Elder Affairs)(hereinafter cited as, "The DCF Analysis").

²⁴ The DCF Analysis, p. 7.

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:

The DCF anticipates that all of the 1,566 licensed providers offering transportation services will need to purchase at least one of the alarm systems required by the bill.²⁵ The DCF estimates that the lowest cost for one of the alarms would be \$130, plus \$100 for installation for a total of \$230 and the highest cost would be \$156 plus \$450 for installation for a total of \$606.²⁶

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 402.305 of the Florida Statutes.

²⁵ The DCF Analysis, p. 6.

²⁶ *Id.*

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.

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