

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 Health and Human Services Appropriations Committee

BILL: CS/CS/SB 1234

INTRODUCER: Health and Human Services Appropriations Committee, Judiciary Committee, and Senator Garcia

SUBJECT: Child Care Facilities/Licensing Standards

DATE: April 13, 2010 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hansson</u>	<u>Walsh</u>	<u>CF</u>	Fav/1 amendment
2.	<u>Maclure</u>	<u>Maclure</u>	<u>JU</u>	Fav/CS
3.	<u>Hardy</u>	<u>Hansen</u>	<u>HA</u>	Fav/CS
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill creates minimum requirements for licensure of child care facilities relating to window blinds and other window coverings and prohibits the use of certain types of window blinds and window coverings that pose a risk of strangulation to young children. The bill requires the Department of Children and Families (DCF) to review and consider recommendations of the U.S. Consumer Product Safety Commission relating to window blinds and window coverings.

The bill also requires child care facilities to properly retrofit existing window blinds, window coverings, pull cords, or inner cords by January 1, 2011. 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 bill also permits DCF to provide information on reduced-cost or no-cost options for retrofitting or replacing unsafe window blinds and window coverings, and mandates DCF to adopt rules to administer these new requirements.

No fiscal impact is anticipated as a result of this legislation.

The bill substantially amends section 402.305, Florida Statutes.

II. Present Situation:

Licensing Standards for Child Care Facilities

The Department of Children and Families (DCF or the department) 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 that 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 The department currently regulates more than 8,362 child care arrangements, including child care facilities, large family child care homes, family day care homes, and registered homes.² In addition, six counties in the state which conduct their own licensure of homes currently license 4,292 child care arrangements.³

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 U.S. Consumer Products Safety Commission (CPSC or commission)⁴ has been investigating window covering hazards and working with the Window Covering Safety Council (council) to increase safety of window coverings and blinds. Additionally the council provides consumers with free repair kits that make window coverings and blinds safer.⁵ 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 commission found that the formation of loops in the pull cords and inner cords likely caused the strangulation.⁶

Since 2006, the CPSC has received reports of five deaths and 16 near strangulations from Roman shades and three deaths from roll-up blinds. Roman shades have a looped pull cord and exposed

¹ Section 402.302(2), F.S.

² Florida Dep't of Children and Families, *DCF Quick Facts*, 7 (Dec. 31, 2009), <http://www.dcf.state.fl.us/publications/docs/quickfacts.pdf>, (last visited Mar. 20, 2010). Section 402.313(1)(a), F.S., provides that family day care homes may be registered and not licensed under certain conditions.

³ Health Care Services Policy Committee, Florida House of Representatives, Staff Analysis on HB 487, 2 (Jan. 26, 2010) (referencing e-mail from James Cheatham, dated Jan. 28, 2010, on file with the Health Care Services Policy Committee), <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=h0487.HCS.doc&DocumentType=Analysis&BillNumber=0487&Session=2010>.

⁴ The U.S. Consumer Product Safety Commission 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. s. 2051(a).

⁵ U.S. Consumer Product Safety Commission, Press Release, "Window Covering Safety Council Recalls to Repair All Roman and Roll-Up Blinds Due to Risk of Strangulation" (Dec. 15, 2009), <http://www.cpsc.gov/cpsc/pub/prere1/prhtml10/10073.html> (last visited Mar. 20, 2010).

⁶ U.S. Consumer Products Safety Commission, *Children Can Strangle in Window Coverings Cords*, <http://www.cpsc.gov/cpsc/pub/pubs/cords.html> (last visited Mar. 20, 2010).

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.⁷

On December 15, 2009, the CPSC and the council 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 5 million Roman shades and 3 million roll-up blinds are sold yearly.⁸

III. Effect of Proposed Changes:

This bill creates minimum requirements for licensure of child care facilities relating to window blinds and other window coverings, and mandates DCF to adopt rules to administer these new requirements. 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. This change will not affect registered family day care homes, because they are not required to comply with most licensing standards.⁹

The bill also requires the Department of Children and Families (DCF) to review and consider recommendations of the U.S. 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 also requires child care facilities to properly retrofit existing window blinds, window coverings, pull cords, or inner cords by January 1, 2011. 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 bill also permits DCF to provide information on reduced-cost or no-cost options for retrofitting or replacing unsafe window blinds and window coverings. Although the bill does not specify, it appears from the context that the intention is to authorize DCF to provide this information to, at a minimum, child care facilities.

The bill provides a short title for the legislation as the “John F. Serrano, Rachel Lou Napier, and Alexandra Ali Safety and Accountability Act.”¹⁰

The bill provides an effective date of July 1, 2010.

⁷ U.S. Consumer Product Safety Commission, *supra* note 5.

⁸ *Id.*

⁹ Child care personnel in family day care homes are subject to the personnel-screening provisions of the statute governing child care facility licensure. *See* ss. 402.313(3) and 402.305(2), F.S.

¹⁰ Rachel Lou Napier, a resident of Miami-Dade County, became entangled in the inner cords of custom-cut mini-blinds, while in her crib, which choked her. She is currently disabled and requires constant care. John F. Serrano was a boy from Broward County who died when he became entangled in a window cord. Alexandra Ali was a girl from Miami-Dade County who died when she became entangled in a window blind cord while in her crib.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of the bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill creates additional equipment standards for licensed child care facilities which are not addressed in current law or rule. The bill will affect 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. Although the Window Covering Safety Council provides free kits for retrofitting unsafe blinds,¹¹ child care facilities may incur costs to replace or retrofit existing equipment by a certain date.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

Lines 50-51 provide that “cordless window blinds *are recommended* and are in compliance with this subsection.” It may not be clear who is recommending cordless window blinds. The Legislature may wish to amend this language to state simply that: “Cordless window blinds are in compliance with this subsection.”

On lines 65-67, the bill does not specify to whom the Department of Children and Families may provide information regarding retrofitting or replacing window blinds and coverings. If the intent

¹¹ See Window Covering Safety Council, *Order Free Retro Kit*, <http://www.windowcoverings.org/> (last visited Mar. 20, 2010).

is for the department to provide this information to child care facilities, the Legislature may wish to amend the bill accordingly.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health and Human Services Appropriations Committee on April 13, 2010:

The committee substitute mandates the Department of Children and Family Services to adopt rules for administering the requirement that child care facilities retrofit existing blinds, coverings, pull cords, or inner cords, as prescribed in this bill, by January 1, 2011.

CS by Judiciary on March 18, 2010:

The committee substitute removes from the bill the provisions holding child care facilities civilly liable for acts that result from failure to properly retrofit window blinds and window coverings by January 1, 2011. Instead, the committee substitute specifies that the facilities must retrofit existing blinds, coverings, pull cords, or inner cords, as prescribed by the bill, by January 1, 2011.

- B. **Amendments:**

None.