

1 SB397  
2 138488-2  
3 By Senators Figures, Smith, Irons, Beasley, Fielding, Dunn,  
4 Ross, Brewbaker, Holtzclaw, Reed, Bussman, Marsh, Smitherman,  
5 Sanders, Coleman, Singleton, Ward, Glover, Bedford, Waggoner,  
6 Taylor, Scofield, Dial, Williams, Orr, Beason, Holley, McGill,  
7 Blackwell, Allen, Whatley, Pittman, Brooks, Keahey, and  
8 Sanford  
9 RFD: Children, Youth Affairs, and Human Resources  
10 First Read: 15-MAR-12

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8 SYNOPSIS: This bill would prohibit children day care  
9 providers from leaving a child unattended in a  
10 motor vehicle, unless the child is supervised by  
11 person of a certain age, and would determine  
12 penalties for a first, second, or subsequent  
13 conviction when the child is injured or fatally  
14 injured.

15 Amendment 621 of the Constitution of Alabama  
16 of 1901, now appearing as Section 111.05 of the  
17 Official Recompilation of the Constitution of  
18 Alabama of 1901, as amended, prohibits a general  
19 law whose purpose or effect would be to require a  
20 new or increased expenditure of local funds from  
21 becoming effective with regard to a local  
22 governmental entity without enactment by a 2/3 vote  
23 unless: it comes within one of a number of  
24 specified exceptions; it is approved by the  
25 affected entity; or the Legislature appropriates  
26 funds, or provides a local source of revenue, to  
27 the entity for the purpose.

1                   The purpose or effect of this bill would be  
2                   to require a new or increased expenditure of local  
3                   funds within the meaning of the amendment. However,  
4                   the bill does not require approval of a local  
5                   governmental entity or enactment by a 2/3 vote to  
6                   become effective because it comes within one of the  
7                   specified exceptions contained in the amendment.

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9                   A BILL  
10                  TO BE ENTITLED  
11                  AN ACT

12  
13                  Relating to children; to prohibit children day care  
14                  providers from leaving a child unattended in a motor vehicle,  
15                  unless the child is supervised by a person of a certain age,  
16                  and would determine penalties for a first, second, or  
17                  subsequent conviction when the child is injured or fatally  
18                  injured; and in connection therewith would have as its purpose  
19                  or effect the requirement of a new or increased expenditure of  
20                  local funds within the meaning of Amendment 621 of the  
21                  Constitution of Alabama of 1901, now appearing as Section  
22                  111.05 of the Official Recompilation of the Constitution of  
23                  Alabama of 1901, as amended.

24                  BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25                  Section 1. This act shall be known and cited as the  
26                  "Amiyah White Unattended Children in Motor Vehicle Safety  
27                  Act."

1           Section 2. (a) For purposes of this act, the term  
2 "motor vehicle" shall mean any motor vehicle as defined in  
3 Section 32-1-1.1 of the Code of Alabama 1975.

4           (b) (1) A licensed day care center, a licensed child  
5 care facility, or any other child care service that is exempt  
6 from licensing pursuant to Section 38-7-3 of the Code of  
7 Alabama 1975, or an employee thereof, or a person for hire  
8 responsible for a child 12 years of age or younger shall not  
9 leave the child in a motor vehicle unattended unless the child  
10 is supervised by a person who is 14 years of age or older.

11           (2) A person violating this section shall be fined  
12 not less than two thousand dollars (\$2,000), except if a  
13 person has a prior conviction or adjudication under this  
14 section, the offense is a Class C misdemeanor.

15           (3) For purposes of determining prior conviction or  
16 adjudication pursuant to subdivision (2), conviction in  
17 municipal court shall be included.

18           (4) If the child receives physical injury as a  
19 result of a violation of this section, the person violating  
20 this section is guilty of a Class A misdemeanor.

21           (5) If the child receives serious physical injury as  
22 a result of a violation of this section, the person violating  
23 this section is guilty of a Class C felony.

24           (6) If the child is fatally injured as a result of a  
25 violation of this section, the person violating this section  
26 is guilty of a Class B felony.

1           Section 3. Notwithstanding the foregoing, nothing in  
2 this act shall limit any existing cause of action or right to  
3 bring a cause of action. A violation of this act shall not be  
4 considered evidence of contributory negligence and the  
5 liability of an insurer shall not be limited or mitigated.

6           Section 4. Although this bill would have as its  
7 purpose or effect the requirement of a new or increased  
8 expenditure of local funds, the bill is excluded from further  
9 requirements and application under Amendment 621, now  
10 appearing as Section 111.05 of the Official Recompilation of  
11 the Constitution of Alabama of 1901, as amended, because the  
12 bill defines a new crime or amends the definition of an  
13 existing crime.

14           Section 5. This act shall become effective on the  
15 first day of the third month following its passage and  
16 approval by the Governor, or its otherwise becoming law.