

1 SB258
2 147361-2
3 By Senators Figures, Beasley, Irons, Coleman, Dunn, Singleton,
4 Smitherman, Ward, Waggoner, Bedford, Beason, Taylor, Allen,
5 McGill, Whatley, Pittman, Keahey, Dial, Orr, Fielding, Marsh,
6 Brewbaker, Blackwell, Bussman, Sanders, Williams, Scofield and
7 Holtzclaw
8 RFD: Children, Youth Affairs, and Human Resources
9 First Read: 26-FEB-13

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

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

1 funds, or provides a local source of revenue, to
2 the entity for the purpose.

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

10
11 A BILL
12 TO BE ENTITLED
13 AN ACT
14

15 Relating to children and incapacitated persons; to
16 prohibit child and incapacitated person day care providers
17 from leaving a child or incapacitated person unattended in a
18 motor vehicle, unless the child or incapacitated person is
19 supervised by a person of a certain age; to determine
20 penalties for a first, second, or subsequent conviction when
21 the child or incapacitated person is injured or fatally
22 injured; and in connection therewith would have as its purpose
23 or effect the requirement of a new or increased expenditure of
24 local funds within the meaning of Amendment 621 of the
25 Constitution of Alabama of 1901, now appearing as Section
26 111.05 of the Official Recompilation of the Constitution of
27 Alabama of 1901, as amended.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. This act shall be known and cited as the
3 Amiyah White Act.

4 Section 2. (a) For the purposes of this act, the
5 term motor vehicle shall mean any motor vehicle as defined in
6 Section 32-1-1.1, Code of Alabama 1975, and the term
7 incapacitated person shall mean any incapacitated person as
8 defined in Section 26-2A-20, Code of Alabama 1975.

9 (b) (1) A licensed day care center, a licensed child
10 care facility, a program providing day care service to
11 incapacitated persons, or any other child care service that is
12 exempt from licensing pursuant to Section 38-7-3, Code of
13 Alabama 1975, or an employee thereof, or a person for hire
14 responsible for a child under the age of 7 or an incapacitated
15 person, shall not leave a child or an incapacitated person in
16 a motor vehicle unattended.

17 (2) A person violating this section shall be
18 punished by a fine of not less than two thousand dollars
19 (\$2,000). If a person has a prior conviction or adjudication
20 under this section, the offense is a Class C misdemeanor.

21 (3) For purposes of determining prior conviction or
22 adjudication pursuant to subdivision (2), conviction in
23 municipal court shall be included.

24 (4) If the child or incapacitated person receives
25 physical injury as a result of a violation of this section,
26 the person violating this section is guilty of a Class A
27 misdemeanor.

1 (5) If the child or incapacitated person receives
2 serious physical injury as a result of a violation of this
3 section, the person violating this section is guilty of a
4 Class C felony.

5 (6) If the child or incapacitated person is fatally
6 injured as a result of a violation of this section, the person
7 violating this section is guilty of a Class B felony.

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

13 Section 4. Although this bill would have as its
14 purpose or effect the requirement of a new or increased
15 expenditure of local funds, the bill is excluded from further
16 requirements and application under Amendment 621, now
17 appearing as Section 111.05 of the Official Recompilation of
18 the Constitution of Alabama of 1901, as amended, because the
19 bill defines a new crime or amends the definition of an
20 existing crime.

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