

FIRST REGULAR SESSION

SENATE BILL NO. 549

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATORS GOODE, SIMS, BENTLEY, HOUSE AND DOUGHERTY.

Read 1st time February 22, 2001, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

2040S.011

AN ACT

To repeal sections 210.104, 210.107, 302.302 and 307.178, RSMo 2000, and to enact in lieu thereof five new sections relating to child restraint systems, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 210.104, 210.107, 302.302 and 307.178, RSMo 2000, are repealed and five new sections enacted in lieu thereof, to be known as sections 210.104, 210.105, 210.107, 302.302 and 307.178, to read as follows:

210.104. 1. **As used in sections 210.104 to 210.107, the following terms shall mean:**

(1) **"Child booster seat", a specially designed seating system which meets the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213, as amended, that is designed to elevate a child to properly sit in a federally approved safety belt system;**

(2) **"Child passenger restraint system", a specially designed seating system which meets the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213, as amended, and which is either permanently affixed to a motor vehicle or is affixed to such vehicle by a safety belt or a universal attachment system;**

(3) **"Driver", a person who drives or is in actual physical control of a motor vehicle;**

(4) **"Motor vehicle", any motor vehicle having a gross vehicle weight of ten thousand pounds or less that is required to be equipped with safety belts by the Federal Motor Vehicle Safety Standard No. 208.**

2. Every person transporting a child under the age of [four] **sixteen** years shall be

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

responsible, when transporting such child in a motor vehicle operated by that person on the streets or highways of this state, for providing for the protection of such child. [Such child shall be protected by a child passenger restraint system approved by the department of public safety.

2.] 3. For children less than four years of age regardless of weight or for children weighing less than forty pounds regardless of age, a child passenger restraint system appropriate for that child shall be used. If the child is at least four years of age but less than eight years of age or weighs at least forty pounds but less than eighty pounds, the child shall be properly restrained in a properly secured child booster seat.

4. Any person who violates this section is guilty of an infraction and, upon conviction, may be punished by a fine of not more than [twenty-five] one hundred dollars and court costs. If a person receives a citation for violating this section, the court shall dismiss the charges if the person prior to or at his or her hearing displays evidence of acquisition of a child passenger restraint system or child booster seat to the court. Sufficient evidence shall include a receipt mailed to the appropriate clerk of the court which evidences purchase, rental transferral from another child seat owner (purchased by a notarized letter) or bailment from a bona fide loaner program of a child passenger restraint system or child booster seat.

5. Every car rental agency doing business in the state of Missouri shall inform its customers of the requirements of this section and shall provide for rental an appropriate child passenger safety restraint system.

[3.] **6.** The provisions of sections 210.104 to 210.107 shall not apply to any public carrier for hire.

210.105. 1. There is hereby created in the state treasury for use by the department of public safety a fund to be known as the "Child Occupant Trust Fund". All judgments collected pursuant to this section, appropriations of the general assembly, federal grants, private donations and any other moneys designated for the child occupant protection public education program established pursuant to section 210.107 shall be deposited in the fund. Moneys deposited in the fund shall, upon appropriation by the general assembly to the department of public safety, be received and expended by the department of public safety for the purpose of funding the child occupant protection public education program and car seat loaner program established pursuant to section 210.107. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any unexpended balance in the child occupant trust fund at the end of any biennium shall not be transferred to the general revenue fund.

2. Any person who violates section 210.104 shall have a judgment entered against the defendant in favor of the state of child occupant trust fund, in the amount of twenty-five dollars.

3. The judgments collected pursuant to this section shall be paid into the state treasury to the credit of the child occupant trust fund created in this section. Any court clerk receiving funds pursuant to judgments entered pursuant to this section shall collect and disburse such amounts as provided in sections 488.010 to 488.020, RSMo.

210.107. The department of public safety shall initiate and develop a program of public information to develop understanding of, and ensure compliance with the provisions of sections 210.104 to 210.107. **The department of public safety shall conduct an educational campaign using all available methods to raise public awareness of the importance of properly restraining child passengers and the value of seatbelts to adult motorists. The department shall also establish a statewide safety seat loaner program to supply low-income families with child safety seats and to provide education in the use of such seats. The department shall report to the transportation committees of the general assembly on the campaign and results observed on the highways. The first report is due December 1, 2002, and annually thereafter.** The department of public safety shall, within thirty days of [September 28, 1983] **August 28, 2001**, promulgate standards for the performance, design, and installation of passenger restraint systems for children [under four years of age] **less than sixteen years of age** in accordance with federal motor vehicle safety standards and shall approve those systems which meet such standards. [No rule or portion of a rule promulgated under the authority of sections 210.104 to 210.107 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.] **Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2001, shall be invalid and void.**

302.302. 1. The director of revenue shall put into effect a point system for the suspension and revocation of licenses. Points shall be assessed only after a conviction or forfeiture of collateral. The initial point value is as follows:

- (1) Any moving violation of a state law or county or municipal or federal traffic ordinance or regulation not listed in this section, other than a violation of vehicle equipment provisions or a court-ordered supervision as provided in section 302.303 2 points
(except any violation of municipal stop sign ordinance

where no accident is involved	1 point)
(2) Speeding	
In violation of a state law	3 points
In violation of a county or municipal ordinance	2 points
(3) Leaving the scene of an accident in violation of section 577.060, RSMo	12 points
In violation of any county or municipal ordinance	6 points
(4) Careless and imprudent driving in violation of subsection 4 of section 304.016, RSMo	4 points
In violation of a county or municipal ordinance	2 points
(5) Operating without a valid license in violation of subdivision (1) or (2) of subsection 1 of section 302.020:	
(a) For the first conviction	2 points
(b) For the second conviction	4 points
(c) For the third conviction	6 points
(6) Operating with a suspended or revoked license prior to restoration of operating privileges	12 points
(7) Obtaining a license by misrepresentation	12 points
(8) For the first conviction of driving while in an intoxicated condition or under the influence of controlled substances or drugs	8 points
(9) For the second or subsequent conviction of any of the following offenses however combined: driving while in an intoxicated condition, driving under the influence of controlled substances or drugs or driving with a blood alcohol content of ten-hundredths of one percent or more by weight	12 points
(10) For the first conviction for driving with blood alcohol content ten-hundredths of one percent or more by weight	
In violation of state law	8 points
In violation of a county or municipal ordinance or federal law or regulation	8 points

- (11) Any felony involving the use of a motor vehicle 12 points
- (12) Knowingly permitting unlicensed operator to operate a motor vehicle 4 points
- (13) For a conviction for failure to maintain financial responsibility pursuant to county or municipal ordinance or pursuant to section 303.025, RSMo 4 points
- (14) For a conviction for failing to properly restrain a child pursuant to section 210.104, RSMo 2 points**

2. The director shall, as provided in subdivision (5) of subsection 1 of this section, assess an operator points for a conviction pursuant to subdivision (1) or (2) of subsection 1 of section 302.020, when the director issues such operator a license or permit pursuant to the provisions of sections 302.010 to 302.340.

3. An additional two points shall be assessed when personal injury or property damage results from any violation listed in subsection 1 of this section and if found to be warranted and certified by the reporting court.

4. When any of the acts listed in subdivision (2), (3), (4) or (8) of subsection 1 of this section constitutes both a violation of a state law and a violation of a county or municipal ordinance, points may be assessed for either violation but not for both. Notwithstanding that an offense arising out of the same occurrence could be construed to be a violation of subdivisions (8), (9) and (10) of subsection 1 of this section, no person shall be tried or convicted for more than one offense pursuant to subdivisions (8), (9) and (10) of subsection 1 of this section for offenses arising out of the same occurrence.

5. The director of revenue shall put into effect a system for staying the assessment of points against an operator. The system shall provide that the satisfactory completion of a driver-improvement program or, in the case of violations committed while operating a motorcycle, a motorcycle-rider training course approved by the director of the department of public safety, by an operator, when so ordered and verified by any court having jurisdiction over any law of this state or county or municipal ordinance, regulating motor vehicles, other than a violation committed in a commercial motor vehicle as defined in section 302.700, shall be accepted by the director in lieu of the assessment of points for a violation pursuant to subdivision (1), (2), or (4) of subsection 1 of this section or pursuant to subsection 3 of this section. For the purposes of this subsection, the driver-improvement program shall meet or exceed the standards of the National Safety Council's eight-hour "Defensive Driving Course" or, in the case of a violation which occurred during the operation of a motorcycle, the program shall meet the standards established by the director of the department of public safety pursuant to sections 302.133 to 302.138. The completion of a

driver-improvement program or a motorcycle-rider training course shall not be accepted in lieu of points more than one time in any thirty-six-month period and shall be completed within sixty days of the date of conviction in order to be accepted in lieu of the assessment of points. Every court having jurisdiction pursuant to the provisions of this subsection shall, within fifteen days after completion of the driver-improvement program or motorcycle-rider training course by an operator, forward a record of the completion to the director, all other provisions of the law to the contrary notwithstanding. The director shall establish procedures for record keeping and the administration of this subsection.

307.178. 1. As used in this section, the term "passenger car" means every motor vehicle designed for carrying ten persons or less and used for the transportation of persons; except that, the term "passenger car" shall not include motorcycles, motorized bicycles, motor tricycles and trucks with a licensed gross weight of twelve thousand pounds or more.

2. Each driver, except persons employed by the United States Postal Service while performing duties for that federal agency which require the operator to service postal boxes from their vehicles, or which require frequent entry into and exit from their vehicles, and front seat passenger of a passenger car manufactured after January 1, 1968, operated on a street or highway in this state, [and persons less than eighteen years of age operating or riding in a truck, as defined in section 301.010, RSMo,] on a street or highway of this state shall wear a properly adjusted and fastened safety belt that meets federal National Highway, Transportation and Safety Act requirements; except that, a child less than ~~four~~ **sixteen** years of age shall be protected as required in section 210.104, RSMo. No person shall be stopped, inspected, or detained solely to determine compliance with this subsection. The provisions of this section shall not be applicable to persons who have a medical reason for failing to have a seat belt fastened about their body, nor shall the provisions of this section be applicable to persons while operating or riding a motor vehicle being used in agricultural work-related activities. Noncompliance with this subsection shall not constitute probable cause for violation of any other provision of law.

3. Each driver of a motor vehicle transporting a child four years of age or more, but less than sixteen years of age, shall secure the child in a properly adjusted and fastened [safety belt] **restraint appropriate for the child's age and weight. Enforcement of this subsection and section 210.104 shall be enforced as a primary action and the driver need not be cited or charged with a violation or some other offense.**

4. In any action to recover damages arising out of the ownership, common maintenance or operation of a motor vehicle, failure to wear a safety belt in violation of this section shall not be considered evidence of comparative negligence. Failure to wear a safety belt in violation of this section may be admitted to mitigate damages, but only under the following circumstances:

(1) Parties seeking to introduce evidence of the failure to wear a safety belt in violation of this section must first introduce expert evidence proving that a failure to wear a safety belt

contributed to the injuries claimed by plaintiff;

(2) If the evidence supports such a finding, the trier of fact may find that the plaintiff's failure to wear a safety belt in violation of this section contributed to the plaintiff's claimed injuries, and may reduce the amount of the plaintiff's recovery by an amount not to exceed one percent of the damages awarded after any reductions for comparative negligence.

5. Each driver who violates the provisions of subsection 2 or 3 of this section is guilty of an infraction for which a fine not to exceed [ten] **one hundred** dollars may be imposed. All other provisions of law and court rules to the contrary notwithstanding, no court costs shall be imposed on any person due to a violation of this section. In no case shall points be assessed against any person, pursuant to section 302.302, RSMo, for a violation of this section.

6. The department of public safety shall initiate and develop a program of public information to develop understanding of, and ensure compliance with, the provisions of this section. The department of public safety shall evaluate the effectiveness of this section and shall include a report of its findings in the annual evaluation report on its highway safety plan that it submits to NHTSA and FHWA pursuant to 23 U.S.C. 402.

[7. If there are more persons than there are seat belts in the enclosed area of a motor vehicle, then the driver and passengers are not in violation of this section.]

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