

SECOND REGULAR SESSION

SENATE BILL NO. 710

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATORS GOODE AND BRAY.

Pre-filed December 1, 2003, and ordered printed.

TERRY L. SPIELER, Secretary.

2638S.04I

AN ACT

To repeal sections 210.104, 210.107, and 307.178, RSMo, and to enact in lieu thereof two new sections relating to child safety restraints, with penalty provisions and an effective date.

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

Section A. Sections 210.104, 210.107, and 307.178, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 307.178 and 307.179, to read as follows:

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 years of age shall be protected as required] **or as provided** in section [210.104, RSMo] **307.179**. 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

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

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 pursuant to section 307.179.**

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] 7** of this section is guilty of an infraction for which a fine not to exceed ten 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] who are unable to wear seat belts, shall sit in the area behind the front seat of the motor vehicle unless the motor vehicle is designed only for a front-seated area. This subsection shall not apply to passengers who are accompanying a driver of a motor vehicle who is licensed pursuant to section 302.178, RSMo.**

307.179. 1. As used in this section, the following terms shall mean:

(1) "Child booster seat", a 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 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 is in actual physical control of a motor vehicle.

2. Every person transporting a child under the age of sixteen years shall be 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 as follows:

(1) Children less than four years of age, regardless of weight, or children weighing less than forty pounds, regardless of age, shall be secured in a child passenger restraint system appropriate for that child;

(2) Children four through five years of age or weighing at least forty pounds but less than sixty pounds shall be secured in a child passenger restraint system or booster seat appropriate for that child;

(3) Children at least six years of age, or at least sixty pounds, shall be secured by a vehicle safety belt, child passenger restraint system, or booster seat;

(4) A child weighing more than forty pounds, who would otherwise be required to be secured in a booster seat, may be transported in the back seat of a motor vehicle while wearing only a lap belt if the back seat of the motor vehicle is not equipped with a combination lap and shoulder belt for booster seat installation.

3. 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 dollars and court costs. In no case shall points be assessed against any person, pursuant to section 302.302, RSMo, for violation of this section. If a person receives a citation for violating this section, the charges shall be dismissed or withdrawn if the person prior to or at his or her hearing provides evidence of acquisition of a child passenger restraint system or child booster seat which is satisfactory to the court or the party responsible for prosecuting the person's citation.

4. The provisions of this section shall not apply to any public carrier for hire or to school buses as defined in section 301.010, RSMo, unless such school bus has been equipped with safety belts or is required to be equipped with safety belts pursuant to federal motor vehicle safety standards.

5. Every car rental agency doing business within Missouri shall inform its customers of the requirements of this section and shall provide for rental of an

appropriate child passenger safety restraint system.

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 may promulgate rules and regulations for the enforcement of this section. 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, 2003, shall be invalid and void.

[210.104. 1. Every person transporting a child under the age of four years shall be 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. 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 dollars and court costs.

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

[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, within thirty days of September 28, 1983, promulgate standards for the performance, design, and installation of passenger restraint systems for children under four 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.]

Section B. The enactment of section 307.179, the repeal and reenactment of section 307.178, and the repeal of sections 210.104 and 210.107 of section A of this act shall become effective January 1, 2005.