

SECOND REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 710

92ND GENERAL ASSEMBLY

Reported from the Committee on Transportation, March 4, 2004, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bill No. 710, adopted March 31, 2004.

Taken up for Perfection March 31, 2004. Bill declared Perfected and Ordered Printed, as amended.

2638S.06P

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 210.104, 210.107, 300.330, 300.410, 307.178, 307.180, 565.024, 565.060, and 565.070, RSMo, and to enact in lieu thereof seventeen new sections relating to motor vehicle safety, with penalty provisions and an effective date for certain sections.

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

Section A. Sections 210.104, 210.107, 300.330, 300.410, 307.178, 307.180, 565.024, 565.060, and 565.070, RSMo, are repealed and seventeen new sections enacted in lieu thereof, to be known as sections 300.330, 300.410, 300.411, 304.675, 304.677, 304.678, 307.156, 307.178, 307.179, 307.180, 307.189, 307.191, 537.038, 565.024, 565.060, 565.070, and 1, to read as follows:

300.330. The driver of a **motor** vehicle shall not drive within any sidewalk area except as a permanent or temporary driveway. **A designated bicycle lane shall not be obstructed by a parked or standing motor vehicle or other stationary object. A motor vehicle may be driven in a designated bicycle lane only for the purpose of a lawful maneuver to cross the lane or provide for safe travel. In making an otherwise lawful maneuver that requires traveling in or crossing a designated bicycle lane, the driver of a motor vehicle shall yield to any bicycle in the lane.**

300.410. Notwithstanding the foregoing provisions of sections 300.155 to 300.410, every driver of a vehicle shall exercise the highest degree of care to avoid colliding with any pedestrian [upon any roadway and shall give warning by sounding the horn when necessary], **any person propelling or a passenger on a human powered vehicle, or any person operating or a passenger on a motorcycle,** and shall exercise [proper precaution] the

highest degree of care upon observing any child or any confused or incapacitated person upon a roadway.

300.411. 1. When passing a bicycle, a person operating a motor vehicle shall exercise the highest degree of care by leaving a safe distance between the motor vehicle and the bicycle of not less than three feet until the motor vehicle is safely past the overtaken bicycle.

2. When passing a pedestrian in or near a roadway, a person operating a vehicle shall exercise the highest degree of care by operating at a safe speed and leaving a safe distance between the vehicle and the pedestrian, and in no event less than three feet, until the vehicle is safely past the pedestrian.

304.675. 1. The governing body of a county or municipality may establish a maximum speed limit within a school zone not less than twenty miles per hour. Such speed limit shall be in force only during those times thirty minutes before, during, and thirty minutes after the periods of time when students are arriving at a regularly scheduled school session and leaving a regularly scheduled school session. As used in this section, the term "school zone" means property on which a school building is located and the sections of street or highway on or adjacent to the school property that are designated by signs indicating that it is a school and showing the posted limit or a section of street or highway where a school crossing is located that is designated by signs indicating that it is a school crossing and showing the posted speed limit. The state highways and transportation commission may approve a speed limit in a school zone not lower than twenty miles per hour on state or federal highways before the same shall become effective.

2. The governing body of a county or municipality may establish a speed limit within a school zone lower than twenty miles per hour if it finds, in conjunction with the school board, that a lower limit is needed to promote public safety, and the governing body of a county or municipality may extend the hours which the school zone speed limit is in force, if it finds, in conjunction with the school board, that extended hours for the school zone speed limit are needed to promote public safety. The establishment of any speed limit within a school zone lower than twenty miles per hour shall be in accordance with sections 304.010, 304.120, and 304.130.

3. The governing body of a county or municipality may provide that fines for any traffic violation within a school zone during the hours when the school zone speed limit is in effect shall be double the usual amount, and may erect signs in school zones indicating that fines are doubled.

304.677. Notwithstanding any other provisions of the law to the contrary,

every driver of a vehicle shall exercise the highest degree of care to avoid colliding with any pedestrian, any person propelling or a passenger on a human powered vehicle, or any person operating or a passenger on a motorcycle, and shall exercise proper precaution upon observing any child or any obviously confused, incapacitated, or intoxicated person.

304.678. When passing a bicycle, a person operating a motor vehicle shall exercise the highest degree of care by leaving a safe distance between the motor vehicle and the bicycle, and in no event less than three feet, until the motor vehicle is safely past the bicycle.

307.156. Any person, firm, or corporation which owns or operates a business engaged in whole or in part in servicing motor vehicles and installs or purports to install an airbag in a motor vehicle and either: 1) installs an airbag that does not meet all applicable federal safety regulations for an airbag installed in a vehicle of that make, model, and year; or 2) installs an airbag which has previously been installed in another motor vehicle without disclosing in writing to the owner or lessee of the vehicle receiving such airbag installation that a used airbag has been installed in it, shall be guilty of a class D felony.

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, **however, nothing shall prohibit a law enforcement officer from enforcing the provisions of this section if the violation is clearly visible to the officer without stopping the vehicle**. 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 **or for a search of the driver, passenger, or vehicle.**

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] **fifteen** 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. 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.

307.180. As used in sections 307.180 to 307.193:

(1) The word "bicycle" shall mean every vehicle propelled solely by human power upon which any person may ride, having two tandem wheels, **or two parallel wheels and one forward or rear wheel, all of which are more than fourteen inches in diameter,** except scooters and similar devices;

(2) The term "motorized bicycle" shall mean any two- or three-wheeled device having an automatic transmission and a motor with a cylinder capacity of not more than fifty cubic centimeters, which produces less than three gross brake horsepower, and is capable of propelling the device at a maximum speed of not more than thirty miles per hour on level ground. A motorized bicycle shall be considered a motor vehicle for purposes of any homeowners' or renters' insurance policy.

307.189. Any provision of section 307.188 to the contrary notwithstanding:

(1) A person operating a bicycle or human-powered vehicle approaching a stop sign shall slow down and, if required for safety, stop before entering the intersection. After slowing to a reasonable speed or stopping, the person shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time the person is moving across or within the intersection or junction of highways, except that a person after slowing to a reasonable speed and yielding the right-of-way if required, may cautiously make a turn or proceed through the intersection without stopping;

(2) A person operating a bicycle or human-powered vehicle approaching a steady red traffic-control signal shall stop before entering the intersection, except that a person after slowing to a reasonable speed and yielding the right-of-way if required, may cautiously make a right-hand turn without stopping.

307.191. Bicycle travel on the shoulder of the roadway shall be permitted except where local regulations or regulations established by the state highways and transportation commission prohibit such shoulder travel. Places where shoulder bicycle travel is prohibited shall be clearly marked with signs. Where bicycle travel on shoulders is permitted, bicycle travel on shoulders shall not be

required, except on limited access highways, where bicycle travel may be permitted only on shoulders.

537.038. Every driver of a vehicle shall exercise the highest degree of care to avoid colliding with any pedestrian, any person propelling or a passenger on a human powered vehicle, or any person operating or a passenger on a motorcycle and thereby causing bodily injury or death to such person.

565.024. 1. A person commits the crime of involuntary manslaughter in the first degree if [he] **the person**:

(1) Recklessly causes the death of another person; or

(2) While in an intoxicated condition operates a motor vehicle in this state and, when so operating, acts with criminal negligence to cause the death of any person **or**;

(3) In operating a vehicle, recklessly causes the death of another person. For purposes of this subdivision, recklessness shall be presumed if it is shown that the person knowingly operated a vehicle in a manner inconsistent with the requirement of section 304.678, RSMo, or otherwise in an unsafe manner, or in a manner inconsistent with the requirements of local, state, or federal traffic law. The person's prior record of traffic violations and collisions may be used as evidence which may establish a pattern, and thus the person's knowledge of habitual unsafe or illegal vehicle operation and conscious disregard of the substantial and unjustifiable risk of such operation.

2. Involuntary manslaughter in the first degree is a class C felony.

3. A person commits the crime of involuntary manslaughter in the second degree if:

(1) [He] **The person** acts with criminal negligence to cause the death of any person;

or

(2) The person operates a vehicle in a manner that violates local, state, or federal traffic law or regulation, and such violation causes or contributes to the death of any person.

4. Involuntary manslaughter in the second degree is a class D felony.

565.060. 1. A person commits the crime of assault in the second degree if [he] **the person**:

(1) Attempts to kill or knowingly causes or attempts to cause serious physical injury to another person under the influence of sudden passion arising out of adequate cause; or

(2) Attempts to cause or knowingly causes physical injury to another person by means of a deadly weapon or dangerous instrument; or

(3) Recklessly causes serious physical injury to another person; or

(4) While in an intoxicated condition or under the influence of controlled substances or drugs, operates a motor vehicle in this state and, when so operating, acts with criminal negligence to cause physical injury to any other person than himself; or

(5) Recklessly causes physical injury to another person by means of discharge of a firearm; or

(6) In operating a vehicle, recklessly causes serious physical injury to another person. For purposes of this subdivision, recklessness shall be presumed if it is shown that the person knowingly operated a vehicle in a manner inconsistent with the requirement of section 304.678, RSMo, or otherwise in an unsafe manner inconsistent with the requirements of local, state, or federal traffic law. The person's prior record of traffic violations and collisions may be used as evidence which may establish a pattern, and thus the person's knowledge of habitual unsafe or illegal vehicle operation and conscious disregard of the substantial and unjustifiable risk of such operation.

2. The defendant shall have the burden of injecting the issue of influence of sudden passion arising from adequate cause under subdivision (1) of subsection 1 of this section.

3. Assault in the second degree is a class C felony.

565.070. 1. A person commits the crime of assault in the third degree if:

(1) The person attempts to cause or recklessly causes physical injury to another person; or

(2) With criminal negligence the person causes physical injury to another person by means of a deadly weapon; or

(3) The person purposely places another person in apprehension of immediate physical injury; or

(4) The person recklessly engages in conduct which creates a grave risk of death or serious physical injury to another person; or

(5) The person knowingly causes physical contact with another person knowing the other person will regard the contact as offensive or provocative; or

(6) The person knowingly causes physical contact with an incapacitated person, as defined in section 475.010, RSMo, which a reasonable person, who is not incapacitated, would consider offensive or provocative; or

(7) In operating a vehicle, the person recklessly causes physical injury to another person; or

(8) The person operates a vehicle in a manner that violates local, state, or federal traffic law or regulation, and causes or contributes to the serious physical injury of another person.

For purposes of subdivision (3) of this subsection, purposefulness shall be presumed if it is shown that the person knowingly operated a vehicle in a manner inconsistent with the requirement of section 304.678, RSMo, that a motorist leave a distance of at least three feet when overtaking a bicycle traveling in the same direction.

For purposes of subdivision (7) of this subsection, recklessness shall be presumed if it is shown that the person knowingly operated a vehicle in a manner inconsistent with the requirements of section 304.678, RSMo, or otherwise in an unsafe manner or in a manner inconsistent with the requirement of local, state, or federal traffic law. The person's prior record of traffic violations and collisions may be used as evidence which may establish a pattern of unsafe or illegal operation and the person's awareness of this pattern, and thus the person's knowledge of habitual unsafe or illegal vehicle operation and conscious disregard of the substantial and unjustifiable risk of such operation.

2. Except as provided in subsections 3 and 4 of this section, assault in the third degree is a class A misdemeanor.

3. A person who violates the provisions of subdivision (3) or (5) of subsection 1 of this section is guilty of a class C misdemeanor.

4. A person who has pled guilty to or been found guilty of the crime of assault in the third degree more than two times against any family or household member as defined in section 455.010, RSMo, is guilty of a class D felony for the third or any subsequent commission of the crime of assault in the third degree when a class A misdemeanor. The offenses described in this subsection may be against the same family or household member or against different family or household members.

Section 1. Whenever Missouri driving statutes are altered, the Missouri Department of Revenue shall notify licensed Missouri motorists via public service announcements or other mass communication means of said changes before those changes become effective.

[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.

Section C. The enactment of sections 304.675, 304.677, 304.678, 307.189, 307.191, and 537.038 and the repeal and reenactment of sections 300.330, 300.410, 307.180, 565.024, 565.060, and 565.070 shall become effective on January 1, 2005.

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