

CHAPTER 294

MOTOR VEHICLES AND TRAFFIC REGULATION

SENATE BILL 10-110

BY SENATOR(S) Williams;
 also REPRESENTATIVE(S) Ryden, Court, Hullinghorst, Judd, Levy, Middleton, Rice, Apuan, Fischer, King S., Labuda, Todd,
 Vaad, Vigil.

AN ACT

CONCERNING THE ENFORCEMENT OF OFFENSES INVOLVING FAILURE OF CERTAIN PERSONS TO PROPERLY RESTRAIN A CHILD IN A VEHICLE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly finds that changing the restraint device requirements for children will improve the safety for children while riding in a vehicle. Most children outgrow conventional car seats when they are about three to four years of age; however, they are still not tall enough to fit properly in a vehicle belt, so they are likely to put the shoulder belt under the arm or behind the back to prevent it from rubbing against the neck. They also tend to slouch or slide forward, causing the lap belt to ride up on the abdomen. This improper belt use can result in severe injuries or even ejection from the vehicle.

(2) Therefore, the general assembly finds an appropriate child restraint device should be used until the lap and shoulder belt fit the child properly.

SECTION 2. 42-4-236 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

42-4-236. Child restraint systems required - definitions - exemptions. (1) As used in this section, unless the context otherwise requires:

(a.8) "MOTOR VEHICLE" MEANS A PASSENGER CAR; A PICKUP TRUCK; OR A VAN, MINIVAN, OR SPORT UTILITY VEHICLE WITH A GROSS VEHICLE WEIGHT RATING OF LESS THAN TEN THOUSAND POUNDS. "MOTOR VEHICLE" DOES NOT INCLUDE MOTORCYCLES, LOW-POWER SCOOTERS, MOTORSCOOTERS, MOTORBICYCLES, MOTORIZED BICYCLES, AND FARM TRACTORS AND IMPLEMENTS OF HUSBANDRY

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

DESIGNED PRIMARILY OR EXCLUSIVELY FOR USE IN AGRICULTURAL OPERATIONS.

SECTION 3. 42-4-236 (1) (a), (1) (a.3), (1) (a.7), (1) (b), (2), (3), (8), and (9), Colorado Revised Statutes, are amended, and the said 42-4-236 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

42-4-236. Child restraint systems required - definitions - exemptions - repeal. (1) As used in this section, unless the context otherwise requires:

(a) "Child care center" means a facility required to be licensed under the "Child Care Licensing Act", article 6 of title 26, C.R.S.

~~(a.3) "Child booster seat" means a child passenger restraint system that meets the federal motor vehicle safety standards set forth in section 49 CFR 571.213, as amended, that is designed to elevate a child to properly sit in a federally approved safety belt system.~~

~~(a.7) "Child safety belt-positioning device" means a device that positions a safety belt around a child in a manner that safely restrains such child in a seating position that conforms to all applicable federal motor vehicle safety standards.~~

(b) "Safety belt" means a lap belt, a shoulder belt, or any other belt or combination of belts installed in a motor vehicle to restrain drivers and passengers, except any such belt that is physically a part of a child restraint system. "Safety belt" includes the anchorages, the buckles, and all other equipment directly related to the operation of safety belts. PROPER USE OF A SAFETY BELT MEANS THE SHOULDER BELT, IF PRESENT, CROSSES THE SHOULDER AND CHEST AND THE LAP BELT CROSSES THE HIPS, TOUCHING THE THIGHS.

(2) (a) (I) Unless exempted pursuant to subsection (3) of this section AND EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH (a), every child who is under ~~four~~ EIGHT years of age and ~~weighs under forty pounds~~, WHO IS being transported in this state in a ~~privately owned noncommercial passenger~~ MOTOR vehicle or in a vehicle operated by a child care center, ~~shall be provided with one of the following child restraint systems suitable for the child's size and shall be properly fastened into such child restraint system which is in a seating position which is equipped with a safety belt or other means to secure the system according to the manufacturer's instructions:~~ SHALL BE PROPERLY RESTRAINED IN A CHILD RESTRAINT SYSTEM, ACCORDING TO THE MANUFACTURER'S INSTRUCTIONS.

~~(II)~~ (II) If the child is less than one year of age and weighs less than twenty pounds, the child shall be properly restrained in a rear-facing child restraint system IN A REAR SEAT OF THE VEHICLE.

~~(III)~~ (III) If the child is one year of age or older, but less than four years of age, and weighs less than forty pounds, but at least twenty pounds, the child shall be properly restrained in a REAR-FACING OR forward-facing child restraint system.

(b) Unless excepted pursuant to subsection (3) of this section, every child who is at least ~~four~~ EIGHT years of age ~~or weighs forty pounds or more~~, BUT LESS THAN

SIXTEEN YEARS OF AGE WHO IS BEING TRANSPORTED IN THIS STATE IN A ~~privately owned noncommercial~~ MOTOR VEHICLE OR IN A VEHICLE OPERATED BY A CHILD CARE CENTER, ~~shall be properly secured by one of the following safety devices approved for a child of such age or weight by the United States department of transportation, or in a safety belt, whichever is appropriate for the child:~~ SHALL BE PROPERLY RESTRAINED IN A SAFETY BELT OR CHILD RESTRAINT SYSTEM ACCORDING TO THE MANUFACTURER'S INSTRUCTIONS.

~~(f) Except as otherwise provided in subparagraph (f.5) of this paragraph (b), if the child is at least four years of age but less than six years of age and is less than fifty-five inches tall, the child shall be properly restrained in a child booster seat or with a child safety belt-positioning device.~~

~~(f.5) If the child is at least four years of age but less than six years of age and is less than fifty-five inches tall, and if the child is being transported in a vehicle equipped with only a two-point-lap-belt-only system available for the child, the child shall be properly restrained with a lap belt.~~

~~(H) If the child is six years of age or older or is fifty-five inches tall or more, the child shall be properly restrained with the motor vehicle's safety belt properly adjusted and fastened around the child's body.~~

(c) IF A PARENT IS IN THE MOTOR VEHICLE, IT IS THE RESPONSIBILITY OF THE PARENT TO ENSURE THAT HIS OR HER CHILD OR CHILDREN ARE PROVIDED WITH AND THAT THEY PROPERLY USE A CHILD RESTRAINT SYSTEM OR SAFETY BELT SYSTEM. IF A PARENT IS NOT IN THE MOTOR VEHICLE, IT IS THE RESPONSIBILITY OF THE DRIVER TRANSPORTING A CHILD OR CHILDREN, SUBJECT TO THE REQUIREMENTS OF THIS SECTION, TO ENSURE THAT SUCH CHILDREN ARE PROVIDED WITH AND THAT THEY PROPERLY USE A CHILD RESTRAINT SYSTEM OR SAFETY BELT SYSTEM.

(3) Except as provided in section 42-2-105.5 (4), the requirements of subsection (2) of this section shall not apply to a child who:

(a) Repealed.

(b) IS LESS THAN EIGHT YEARS OF AGE AND IS BEING TRANSPORTED IN A MOTOR VEHICLE AS A RESULT OF A MEDICAL OR OTHER LIFE-THREATENING EMERGENCY AND A CHILD RESTRAINT SYSTEM IS NOT AVAILABLE;

(c) IS BEING TRANSPORTED IN A COMMERCIAL MOTOR VEHICLE, AS DEFINED IN SECTION 42-2-402 (4) (a), THAT IS OPERATED BY A CHILD CARE CENTER; OR

(d) IS THE DRIVER OF A MOTOR VEHICLE AND IS SUBJECT TO THE SAFETY BELT REQUIREMENTS PROVIDED IN SECTION 42-4-237;

(e) WEIGHS MORE THAN FORTY POUNDS AND IS BEING TRANSPORTED IN A MOTOR VEHICLE IN WHICH THE REAR SEAT OF THE VEHICLE WAS NOT EQUIPPED AT THE TIME OF MANUFACTURE WITH COMBINATION LAP AND SHOULDER BELTS; OR

(f) IS BEING TRANSPORTED IN A MOTOR VEHICLE THAT IS OPERATED IN THE BUSINESS OF TRANSPORTING PERSONS FOR COMPENSATION OR HIRE BY OR ON BEHALF

OF A MOTOR VEHICLE CARRIER AS DEFINED IN SECTION 40-10-101 (4) (a), C.R.S., A CONTRACT CARRIER BY MOTOR VEHICLE AS DEFINED IN SECTION 40-11-101 (3), C.R.S., OR AN OPERATOR OF A LUXURY LIMOUSINE SERVICE AS DEFINED IN SECTION 40-16-101 (3.3), C.R.S.

(8) The fine may be waived if the ~~driver~~ DEFENDANT presents the court with satisfactory evidence of PROOF OF the acquisition, purchase, or rental of ~~an approved~~ A child restraint system by the time of the court appearance.

(9) ~~No driver in a motor vehicle shall be cited for a violation of subparagraph (f) of paragraph (b) of subsection (2) of this section unless such driver was stopped by a law enforcement officer for an alleged violation of articles 1 to 4 of this title other than a violation of this section or section 42-4-237.~~

(11) (a) FOR ONE YEAR FOLLOWING AUGUST 1, 2010, A LAW ENFORCEMENT OFFICER WHO STOPS A DRIVER OF A MOTOR VEHICLE WITH AN OCCUPANT OF THE VEHICLE IN VIOLATION OF SUBPARAGRAPH (I) OF PARAGRAPH (a) OF SUBSECTION (2) OF THIS SECTION SHALL WARN THE DRIVER THAT THE VIOLATION IS A CLASS B TRAFFIC INFRACTION AND SHALL NOT CITE THE DRIVER FOR THE VIOLATION.

(b) THIS SUBSECTION (11) IS REPEALED, EFFECTIVE AUGUST 1, 2011.

SECTION 4. Effective date - applicability. This act shall take effect August 1, 2010, and shall apply to infractions committed on or after said date.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 26, 2010