

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 916**  
**93RD GENERAL ASSEMBLY**

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Reported from the Committee on Transportation, February 23, 2006, with recommendation that the Senate Committee Substitute do pass.

4376S.04C

TERRY L. SPIELER, Secretary.

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**AN ACT**

To repeal sections 210.104, 210.106, 210.107, and 307.178, RSMo, and to enact in lieu thereof three new sections relating to child safety restraints, with penalty provisions.

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

Section A. Sections 210.104, 210.106, 210.107, and 307.178, RSMo, are  
2 repealed and three new sections enacted in lieu thereof, to be known as sections  
3 210.106, 307.178 and 307.182, to read as follows:

210.106. In no event shall failure to employ a child passenger restraint  
2 system required by section [210.104] **307.182, RSMo**, provide the basis for a  
3 claim of civil liability or negligence or contributory negligence of any person in  
4 any action for damages by reason of injury sustained by a child; nor shall such  
5 failure to employ such child passenger restraint system be admissible as evidence  
6 in the trial of any civil action.

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

6 2. Each driver, except persons employed by the United States Postal  
7 Service while performing duties for that federal agency which require the  
8 operator to service postal boxes from their vehicles, or which require frequent  
9 entry into and exit from their vehicles, and front seat passenger of a passenger  
10 car manufactured after January 1, 1968, operated on a street or highway in this

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

11 state, and persons less than eighteen years of age operating or riding in a truck,  
12 as defined in section 301.010, RSMo, on a street or highway of this state shall  
13 wear a properly adjusted and fastened safety belt that meets federal National  
14 Highway, Transportation and Safety Act requirements[; except that, a child less  
15 than four years of age shall be protected as required in section 210.104, RSMo].  
16 No person shall be stopped, inspected, or detained solely to determine compliance  
17 with this subsection. The provisions of this section shall not be applicable to  
18 persons who have a medical reason for failing to have a seat belt fastened about  
19 their body, nor shall the provisions of this [section] **subsection** be applicable to  
20 persons while operating or riding a motor vehicle being used in agricultural  
21 work-related activities. Noncompliance with this subsection shall not constitute  
22 probable cause for violation of any other provision of law. **The provisions of**  
23 **this subsection shall not apply to the transporting of children under**  
24 **sixteen years of age, as provided in section 307.182.**

25 3. Each driver of a motor vehicle transporting a child [four years of age  
26 or more, but] less than sixteen years of age[,] shall secure the child in a properly  
27 adjusted and fastened [safety belt] **restraint under section 307.182.**

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

33 (1) Parties seeking to introduce evidence of the failure to wear a safety  
34 belt in violation of this section must first introduce expert evidence proving that  
35 a failure to wear a safety belt contributed to the injuries claimed by plaintiff;

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

41 5. **Except as otherwise provided for in section 307.182,** each  
42 [driver] **person** who violates the provisions of subsection 2 [or 3] of this section  
43 is guilty of an infraction for which a fine not to exceed ten dollars may be  
44 imposed. All other provisions of law and court rules to the contrary  
45 notwithstanding, no court costs shall be imposed on any person due to a violation  
46 of this section. In no case shall points be assessed against any person, pursuant

47 to section 302.302, RSMo, for a violation of this section.

48         6. The [department of public safety] **state highways and**  
49 **transportation commission** shall initiate and develop a program of public  
50 information to develop understanding of, and ensure compliance with, the  
51 provisions of this section. The [department of public safety] **commission** shall  
52 evaluate the effectiveness of this section and shall include a report of its findings  
53 in the annual evaluation report on its highway safety plan that it submits to  
54 NHTSA and FHWA pursuant to 23 U.S.C. 402.

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

**307.182. 1. As used in this section, the following terms shall**  
2 **mean:**

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

7         (2) "Child passenger restraint system", a seating system which  
8 meets the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R.  
9 571.213, as amended, and which is either permanently affixed to a  
10 motor vehicle or is affixed to such vehicle by a safety belt or a  
11 universal attachment system;

12         (3) "Driver", a person who is in actual physical control of a motor  
13 vehicle.

14         2. Every driver transporting a child under the age of sixteen  
15 years shall be responsible, when transporting such child in a motor  
16 vehicle operated by that driver on the streets or highways of this state,  
17 for providing for the protection of such child as follows:

18         (1) Children less than four years of age, regardless of weight,  
19 shall be secured in a child passenger restraint system appropriate for  
20 that child;

21         (2) Children weighing less than forty pounds, regardless of age,  
22 shall be secured in a child passenger restraint system appropriate for  
23 that child;

24         (3) Children at least four years of age but less than eight years  
25 of age, and children weighing at least forty pounds but less than eighty  
26 pounds, and children less than four feet, nine inches tall, shall be

27 secured in a child passenger restraint system or booster seat  
28 appropriate for that child;

29 (4) Children at least eighty pounds or children more than four  
30 feet, nine inches in height shall be secured by a vehicle safety belt or  
31 booster seat appropriate for that child.

32 (5) A child who otherwise would be required to be secured in a  
33 booster seat may be transported in the back seat of a motor vehicle  
34 while wearing only a lap belt if the back seat of the motor vehicle is not  
35 equipped with a combination lap and shoulder belt for booster seat  
36 installation.

37 This subsection shall only apply to the use of a child passenger  
38 restraint system or vehicle safety belt for children less than sixteen  
39 years of age being transported in a motor vehicle.

40 3. Any driver who violates subdivision (1), (2), or (3) of  
41 subsection 2 of this section is guilty of an infraction and, upon  
42 conviction, may be punished by a fine of not more than fifty dollars and  
43 court costs. Any driver who violates subdivision (4) of subsection 2 of  
44 this section shall be subject to the penalty in subsection 5 of section  
45 307.178. If a driver receives a citation for violating subdivision (1), (2),  
46 or (3) of subsection 2 of this section, the charges shall be dismissed or  
47 withdrawn if the driver prior to or at his or her hearing provides  
48 evidence of acquisition of a child passenger restraint system or child  
49 booster seat which is satisfactory to the court or the party responsible  
50 for prosecuting the driver's citation.

51 4. The provisions of this section shall not apply to any public  
52 carrier for hire. The provisions of this section shall not apply to  
53 students four years of age or older who are passengers on a school bus  
54 as defined in section 301.010, RSMo.

55 5. No citation shall be issued for a violation of subdivision (3) of  
56 subsection 2 of this section until after December 31, 2006.

57 6. The highways and transportation commission shall initiate  
58 and develop a program of public information to develop understanding  
59 of, and ensure compliance with, the provisions of this section.

[210.104. 1. Every person transporting a child under the  
2 age of four years shall be responsible, when transporting such child  
3 in a motor vehicle operated by that person on the streets or  
4 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.]

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