

SECOND REGULAR SESSION

# SENATE BILL NO. 916

## 93RD GENERAL ASSEMBLY

INTRODUCED BY SENATORS KOSTER, STOUFFER, KENNEDY, GRIESHEIMER,  
WHEELER, RIDGEWAY, DOUGHERTY AND BRAY.

Read 1st time January 19, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

4376L.01I

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Section A. Sections 210.104, 210.107, and 307.178, RSMo, are repealed  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

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  
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] **or as provided** in section  
16 [210.104, RSMo] **307.182**. No person shall be stopped, inspected, or detained

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

17 solely to determine compliance with this subsection. The provisions of this  
18 section shall not be applicable to persons who have a medical reason for failing  
19 to have a seat belt fastened about their body, nor shall the provisions of this  
20 section be applicable to persons while operating or riding a motor vehicle being  
21 used in agricultural work-related activities. Noncompliance with this subsection  
22 shall not constitute probable cause for violation of any other provision of law.

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

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

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

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

39         5. **Except as otherwise provided for in section 307.182,** each driver  
40 who violates the provisions of subsection 2 [or 3] of this section is guilty of an  
41 infraction for which a fine not to exceed ten dollars may be imposed. All other  
42 provisions of law and court rules to the contrary notwithstanding, no court costs  
43 shall be imposed on any person due to a violation of this section. In no case shall  
44 points be assessed against any person, pursuant to section 302.302, RSMo, for a  
45 violation of this section.

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

52         [7. If there are more persons than there are seat belts in the enclosed

53 area of a motor vehicle, then the driver and passengers are not in violation of this  
54 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, or children weighing at least forty pounds but less than eighty  
26 pounds, or 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.  
31 This subsection shall only apply to the use of a child passenger  
32 restraint system or vehicle safety belt for children less than sixteen  
33 years of age being transported in a motor vehicle.

34 3. Any driver who violates subdivision (1), (2), or (3) of  
35 subsection 2 of this section is guilty of an infraction and, upon

36 conviction, may be punished by a fine of not more than twenty-five  
37 dollars and court costs. Any driver who violates subdivision (4) of  
38 subsection 2 of this section shall be subject to the penalty in subsection  
39 5 of section 307.178. If a driver receives a citation for violating  
40 subdivision (1), (2), or (3) of subsection 2 of this section, the charges  
41 shall be dismissed or withdrawn if the driver prior to or at his or her  
42 hearing provides evidence of acquisition of a child passenger restraint  
43 system or child booster seat which is satisfactory to the court or the  
44 party responsible for prosecuting the driver's citation.

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

49 5. The provisions of this section shall not apply to any public  
50 carrier for hire.

51 6. The department of public safety shall initiate and develop a  
52 program of public information to develop understanding of, and ensure  
53 compliance with, the provisions of this section. The department of  
54 public safety may promulgate rules and regulations for the enforcement  
55 of this section. Any rule or portion of a rule, as that term is defined in  
56 section 536.010, RSMo, that is created under the authority delegated in  
57 this section shall become effective only if it complies with and is  
58 subject to all of the provisions of chapter 536, RSMo, and, if applicable,  
59 section 536.028, RSMo. This section and chapter 536, RSMo, are  
60 nonseverable and if any of the powers vested with the general assembly  
61 under chapter 536, RSMo, to review, to delay the effective date or to  
62 disapprove and annul a rule are subsequently held unconstitutional,  
63 then the grant of rulemaking authority and any rule proposed or  
64 adopted after August 28, 2006, shall be invalid and void.

[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  
5 child. Such child shall be protected by a child passenger restraint  
6 system approved by the department of public safety.

7 2. Any person who violates this section is guilty of an  
8 infraction and, upon conviction, may be punished by a fine of not

9 more than twenty-five dollars and court costs.

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

[210.107. The department of public safety shall initiate and  
2 develop a program of public information to develop understanding  
3 of, and ensure compliance with the provisions of sections 210.104  
4 to 210.107. The department of public safety shall, within thirty  
5 days of September 28, 1983, promulgate standards for the  
6 performance, design, and installation of passenger restraint  
7 systems for children under four years of age in accordance with  
8 federal motor vehicle safety standards and shall approve those  
9 systems which meet such standards. No rule or portion of a rule  
10 promulgated under the authority of sections 210.104 to 210.107  
11 shall become effective unless it has been promulgated pursuant to  
12 the provisions of section 536.024, RSMo.]

Section B. Section A of this act shall become effective January 1, 2007.

Bill ✓

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