

SECOND REGULAR SESSION
[P E R F E C T E D]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 916
93RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR KOSTER.

Offered March 7, 2006.

Senate Substitute adopted, March 13, 2006.

Taken up for Perfection March 13, 2006. Bill declared Perfected and Ordered Printed, as amended.

TERRY L. SPIELER, Secretary.

4376S.05P

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.

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2 repealed and three new sections enacted in lieu thereof, to be known as sections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

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

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 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 area
56 of a motor vehicle, then the [driver and passengers are not in violation of this
57 section.] **passengers who are unable to wear seat belts shall sit in the**
58 **area behind the front seat of the motor vehicle unless the motor vehicle**
59 **is designed only for a front-seated area. This subsection shall not apply**
60 **to passengers who are accompanying a driver of a motor vehicle who**
61 **is licensed under section 302.178, RSMo.**

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, who also weigh at least forty pounds but less than eighty
26 pounds, and who are also 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
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.]

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