

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 822

AN ACT

To repeal section 307.178, RSMo, and to enact in lieu thereof one new section relating to the admissibility of failure to wear a safety belt as evidence in certain civil actions, with an existing penalty provision.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Section 307.178, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 307.178,
3 to read as follows:

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

10 2. Each driver, except persons employed by the United
11 States Postal Service while performing duties for that federal
12 agency which require the operator to service postal boxes from
13 their vehicles, or which require frequent entry into and exit
14 from their vehicles, and front seat passenger of a passenger car
15 manufactured after January 1, 1968, operated on a street or
16 highway in this state, and persons less than eighteen years of

1 age operating or riding in a truck, as defined in section
2 301.010, on a street or highway of this state shall wear a
3 properly adjusted and fastened safety belt that meets federal
4 National Highway, Transportation and Safety Act requirements. No
5 person shall be stopped, inspected, or detained solely to
6 determine compliance with this subsection. The provisions of
7 this section and section 307.179 shall not be applicable to
8 persons who have a medical reason for failing to have a seat belt
9 fastened about their body, nor shall the provisions of this
10 section be applicable to persons while operating or riding a
11 motor vehicle being used in agricultural work-related activities.
12 Noncompliance with this subsection shall not constitute probable
13 cause for violation of any other provision of law. The
14 provisions of this subsection shall not apply to the transporting
15 of children under sixteen years of age, as provided in section
16 307.179.

17 3. Each driver of a motor vehicle transporting a child less
18 than sixteen years of age shall secure the child in a properly
19 adjusted and fastened restraint under section 307.179.

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

26 (1) Parties seeking to introduce evidence of the failure to
27 wear a safety belt in violation of this section must first
28 introduce expert evidence proving that a failure to wear a safety

1 belt contributed to the injuries claimed by plaintiff;

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

8 5. Notwithstanding any other provision of law to the
9 contrary, subsection 4 of this section shall not apply to any
10 action arising out of the design, construction, manufacture,
11 distribution, or sale of a passenger car. In such actions
12 arising out of the design, construction, manufacture,
13 distribution, or sale of a passenger car, a plaintiff's failure
14 to wear a properly adjusted and fastened safety belt shall be
15 admissible for any purpose, including as evidence of comparative
16 negligence or fault, causation, absence of a defect or hazard,
17 and failure to mitigate damages.

18 6. Except as otherwise provided for in section 307.179,
19 each person who violates the provisions of subsection 2 of this
20 section is guilty of an infraction for which a fine not to exceed
21 ten dollars may be imposed. All other provisions of law and
22 court rules to the contrary notwithstanding, no court costs shall
23 be imposed on any person due to a violation of this section. In
24 no case shall points be assessed against any person, pursuant to
25 section 302.302, for a violation of this section.

26 [6.] 7. The state highways and transportation commission
27 shall initiate and develop a program of public information to
28 develop understanding of, and ensure compliance with, the

1 provisions of this section. The commission shall evaluate the
2 effectiveness of this section and shall include a report of its
3 findings in the annual evaluation report on its highway safety
4 plan that it submits to NHTSA and FHWA pursuant to 23 U.S.C. 402.

5 [7.] 8. If there are more persons than there are seat belts
6 in the enclosed area of a motor vehicle, then the passengers who
7 are unable to wear seat belts shall sit in the area behind the
8 front seat of the motor vehicle unless the motor vehicle is
9 designed only for a front-seated area. The passenger or
10 passengers occupying a seat location referred to in this
11 subsection is not in violation of this section. This subsection
12 shall not apply to passengers who are accompanying a driver of a
13 motor vehicle who is licensed under section 302.178.

14