

FIRST REGULAR SESSION

HOUSE BILL NO. 466

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES DUSENBERG, AVERY, RIBACK WILSON (25),
SUTHERLAND, THRELKELD, YATES, SCHAAF, COOPER (155) (Co-sponsors), BROWN, SMITH (14),
JACKSON, VIEBROCK, PAGE AND SCHOEMEHL.

Read 1st time February 13, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1476L.011

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Section A. Sections 210.104, 210.107, and 307.178, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 307.178 and 307.179, to read as follows:

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

5 2. Each driver, except persons employed by the United States Postal Service while
6 performing duties for that federal agency which require the operator to service postal boxes from
7 their vehicles, or which require frequent entry into and exit from their vehicles, and front seat
8 passenger of a passenger car manufactured after January 1, 1968, operated on a street or highway
9 in this state, and persons less than eighteen years of age operating or riding in a truck, as defined
10 in section 301.010, RSMo, on a street or highway of this state shall wear a properly adjusted and
11 fastened safety belt that meets federal National Highway, Transportation and Safety Act
12 requirements]; except that, a child less than four years of age shall be protected as required] **or**
13 **as provided** in section [210.104, RSMo] **307.179**. No person shall be stopped, inspected, or
14 detained solely to determine compliance with this subsection. The provisions of this section

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is new proposed language.

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

20 3. Each driver of a motor vehicle transporting a child four years of age or more[, but less
21 than sixteen years of age,] shall secure the child in a properly adjusted and fastened [safety belt]
22 **restraint pursuant to section 307.179.**

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

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

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

34 5. Each driver who violates the provisions of subsection 2 or [3] 7 of this section is guilty
35 of an infraction for which a fine not to exceed ten dollars may be imposed. All other provisions
36 of law and court rules to the contrary notwithstanding, no court costs shall be imposed on any
37 person due to a violation of this section. In no case shall points be assessed against any person,
38 pursuant to section 302.302, RSMo, for a violation of this section.

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

44 7. If there are more persons than there are seat belts in the enclosed area of a motor
45 vehicle, then the [driver and] passengers [are not in violation of this section] **who are unable**
46 **to wear seat belts shall sit in the area behind the front seat of the motor vehicle unless the**
47 **motor vehicle is designed only for a front-seated area. This subsection shall not apply to**
48 **passengers who are accompanying a driver of a motor vehicle who is licensed pursuant to**
49 **section 302.178, RSMo.**

307.179. 1. As used in this section, the following terms shall mean:

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

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

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

10 2. Every person transporting a child under the age of sixteen years shall be
11 responsible, when transporting such child in a motor vehicle operated by that person on
12 the streets or highways of this state, for providing for the protection of such child as
13 follows:

14 (1) Children less than four years of age regardless of weight, or children weighing
15 less than forty pounds regardless of age shall be secured in a child passenger restraint
16 system appropriate for that child;

17 (2) Children four through six years of age or children weighing at least forty
18 pounds but less than sixty-five pounds, or children less than four feet nine inches tall shall
19 be secured in a child passenger restraint system or booster seat appropriate for that child;

20 (3) Children at least seven years of age or at least sixty-five pounds shall be secured
21 by a vehicle safety belt.

22 3. Any person who violates this section is guilty of an infraction and, upon
23 conviction, may be punished by a fine of not more than twenty-five dollars and court costs.
24 In no case shall points be assessed against any person, pursuant to section 302.302, RSMo,
25 for violation of this section. If a person receives a citation for violating this section, the
26 charges shall be dismissed or withdrawn if the person prior to or at his or her hearing
27 provides evidence of acquisition of a child passenger restraint system or child booster seat
28 which is satisfactory to the court or the party responsible for prosecuting the person's
29 citation.

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

33 5. The provisions of this section shall not apply to any public carrier for hire or to
34 school buses as defined in section 301.010, RSMo, unless such school bus has been
35 equipped with safety belts or is required to be equipped with safety belts pursuant to
36 federal motor vehicle safety standards.

37 6. The department of public safety shall initiate and develop a program of public

38 **information to develop understanding of and ensure compliance with the provisions of this**
39 **section. The department of public safety may promulgate rules and regulations for the**
40 **enforcement of this section. Any rule or portion of a rule, as that term is defined in section**
41 **536.010, RSMo, that is created under the authority delegated in this section shall become**
42 **effective only if it complies with and is subject to all of the provisions of chapter 536,**
43 **RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are**
44 **nonseverable and if any of the powers vested with the general assembly pursuant to**
45 **chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule**
46 **are subsequently held unconstitutional, then the grant of rulemaking authority and any**
47 **rule proposed or adopted after August 28, 2003, shall be invalid and void.**

2 [210.104. 1. Every person transporting a child under the age of four years
3 shall be responsible, when transporting such child in a motor vehicle operated by that
4 person on the streets or highways of this state, for providing for the protection of
5 such child. Such child shall be protected by a child passenger restraint system
6 approved by the department of public safety.

7 2. Any person who violates this section is guilty of an infraction and, upon
8 conviction, may be punished by a fine of not more than twenty-five dollars and court
9 costs.

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

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

Section B. Section A of this act shall become effective January 1, 2004.