

SECOND REGULAR SESSION

HOUSE BILL NO. 1202

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES DUSENBERG (Sponsor), WILSON (119), THRELKELD,
SUTHERLAND, SCHAAF, BROWN AND DOUGHERTY (Co-sponsors).

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STEPHEN S. DAVIS, Chief Clerk

3606L.011

AN ACT

To repeal sections 210.104, 210.106, 210.107, 307.178, and 476.385, RSMo, and to enact in lieu thereof four 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, 210.106, 210.107, 307.178, and 476.385, RSMo, are
2 repealed and four new sections enacted in lieu thereof, to be known as sections 210.106,
3 307.178, 307.179, and 476.385, to read as follows:

210.106. In no event shall failure to employ a child passenger restraint system required
2 by section [210.104] **307.179** provide the basis for a claim of civil liability or negligence or
3 contributory negligence of any person in any action for damages by reason of injury sustained
4 by a child; nor shall such failure to employ such child passenger restraint system be admissible
5 as evidence in the trial of any civil action.

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

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 proposed language.

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
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 five years of age or weighing at least forty pounds but
18 less than sixty pounds shall be secured in a child passenger restraint system or booster seat
19 appropriate for that child;

20 (3) Children at least six years of age, or at least sixty pounds, shall be secured by
21 a vehicle safety belt, child passenger restraint system, or booster seat;

22 (4) A child weighing more than forty pounds, who would otherwise be required to
23 be secured in a booster seat, may be transported in the back seat of a motor vehicle while
24 wearing only a lap belt if the back seat of the motor vehicle is not equipped with a
25 combination lap and shoulder belt for booster seat installation.

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30 charges shall be dismissed or withdrawn if the person prior to or at his or her hearing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

33 citation.

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

38 **5. Every car rental agency doing business within Missouri shall inform its**
39 **customers of the requirements of this section and shall provide for rental of an appropriate**
40 **child passenger safety restraint system.**

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

476.385. 1. The judges of the supreme court may appoint a committee consisting of at
2 least seven associate circuit judges, who shall meet en banc and establish and maintain a
3 schedule of fines to be paid for violations of sections [210.104,] 577.070[,] and 577.073, RSMo,
4 and chapters 252, 301, 302, 304, 306, 307 and 390, RSMo, with such fines increasing in
5 proportion to the severity of the violation. The associate circuit judges of each county may meet
6 en banc and adopt the schedule of fines and participation in the centralized bureau pursuant to
7 this section. Notice of such adoption and participation shall be given in the manner provided by
8 supreme court rule. Upon order of the supreme court, the associate circuit judges of each county
9 may meet en banc and establish and maintain a schedule of fines to be paid for violations of
10 municipal ordinances for cities, towns and villages electing to have violations of its municipal
11 ordinances heard by associate circuit judges, pursuant to section 479.040, RSMo; and for traffic
12 court divisions established pursuant to section 479.500, RSMo. The schedule of fines adopted
13 for violations of municipal ordinances may be modified from time to time as the associate circuit
14 judges of each county en banc deem advisable. No fine established pursuant to this subsection
15 may exceed the maximum amount specified by statute or ordinance for such violation.

16 2. In no event shall any schedule of fines adopted pursuant to this section include
17 offenses involving the following:

- 18 (1) Any violation resulting in personal injury or property damage to another person;
19 (2) Operating a motor vehicle while intoxicated or under the influence of intoxicants or
20 drugs;
21 (3) Operating a vehicle with a counterfeited, altered, suspended or revoked license;
22 (4) Fleeing or attempting to elude an officer.
- 23 3. There shall be a centralized bureau to be established by supreme court rule in order
24 to accept pleas of not guilty or guilty and payments of fines and court costs for violations of the
25 laws and ordinances described in subsection 1 of this section, made pursuant to a schedule of
26 fines established pursuant to this section. The centralized bureau shall collect, with any plea of
27 guilty and payment of a fine, all court costs which would have been collected by the court of the
28 jurisdiction from which the violation originated.
- 29 4. If a person elects not to contest the alleged violation, the person shall send payment
30 in the amount of the fine and any court costs established for the violation to the centralized
31 bureau. Such payment shall be payable to the "central violations bureau", shall be made by mail
32 or in any other manner established by the centralized bureau, and shall constitute a plea of guilty,
33 waiver of trial and a conviction for purposes of section 302.302, RSMo, and for purposes of
34 imposing any collateral consequence of a criminal conviction provided by law. Notwithstanding
35 any provision of law to the contrary, the prosecutor shall not be required to sign any information,
36 ticket or indictment if disposition is made pursuant to this subsection. In the event that any
37 payment is made pursuant to this section by credit card or similar method, the centralized bureau
38 may charge an additional fee in order to reflect any transaction cost, surcharge or fee imposed
39 on the recipient of the credit card payment by the credit card company.
- 40 5. If a person elects to plead not guilty, such person shall send the plea of not guilty to
41 the centralized bureau. The bureau shall send such plea and request for trial to the prosecutor
42 having original jurisdiction over the offense. Any trial shall be conducted at the location
43 designated by the court. The clerk of the court in which the case is to be heard shall notify in
44 writing such person of the date certain for the disposition of such charges. The prosecutor shall
45 not be required to sign any information, ticket or indictment until the commencement of any
46 proceeding by the prosecutor with respect to the notice of violation.
- 47 6. In courts adopting a schedule of fines pursuant to this section, any person receiving
48 a notice of violation pursuant to this section shall also receive written notification of the
49 following:
- 50 (1) The fine and court costs established pursuant to this section for the violation or
51 information regarding how the person may obtain the amount of the fine and court costs for the
52 violation;
- 53 (2) That the person must respond to the notice of violation by paying the prescribed fine

54 and court costs, or pleading not guilty and appearing at trial, and that other legal penalties
55 prescribed by law may attach for failure to appear and dispose of the violation. The supreme
56 court may modify the suggested forms for uniform complaint and summons for use in courts
57 adopting the procedures provided by this section, in order to accommodate such required written
58 notifications.

59 7. Any moneys received in payment of fines and court costs pursuant to this section shall
60 not be considered to be state funds, but shall be held in trust by the centralized bureau for benefit
61 of those persons or entities entitled to receive such funds pursuant to this subsection. All
62 amounts paid to the centralized bureau shall be maintained by the centralized bureau, invested
63 in the manner required of the state treasurer for state funds by sections 30.240, 30.250, 30.260
64 and 30.270, RSMo, and disbursed as provided by the constitution and laws of this state. Any
65 interest earned on such fund shall be payable to the director of the department of revenue for
66 deposit into a revolving fund to be established pursuant to this subsection. The state treasurer
67 shall be the custodian of the revolving fund, and shall make disbursements, as allowed by lawful
68 appropriations, only to the judicial branch of state government for goods and services related to
69 the administration of the judicial system.

70 8. Any person who receives a notice of violation subject to this section who fails to
71 dispose of such violation as provided by this section shall be guilty of failure to appear provided
72 by section 544.665, RSMo; and may be subject to suspension of driving privileges in the manner
73 provided by section 302.341, RSMo. The centralized bureau shall notify the appropriate
74 prosecutor of any person who fails to either pay the prescribed fine and court costs, or plead not
75 guilty and request a trial within the time allotted by this section, for purposes of application of
76 section 544.665, RSMo. The centralized bureau shall also notify the department of revenue of
77 any failure to appear subject to section 302.341, RSMo, and the department shall thereupon
78 suspend the license of the driver in the manner provided by section 302.341, RSMo, as if notified
79 by the court.

80 9. In addition to the remedies provided by subsection 8 of this section, the centralized
81 bureau and the courts may use the remedies provided by sections 488.010 to 488.020, RSMo,
82 for the collection of court costs payable to courts, in order to collect fines and court costs for
83 violations subject to this section.

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

2 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.]

12

2 [210.107. The department of public safety shall initiate and
3 develop a program of public information to develop understanding of,
4 and ensure compliance with the provisions of sections 210.104 to
5 210.107. The department of public safety shall, within thirty days of
6 September 28, 1983, promulgate standards for the performance,
7 design, and installation of passenger restraint systems for children
8 under four years of age in accordance with federal motor vehicle
9 safety standards and shall approve those systems which meet such
10 standards. No rule or portion of a rule promulgated under the
11 authority of sections 210.104 to 210.107 shall become effective
12 unless it has been promulgated pursuant to the provisions of section
13 536.024, RSMo.]

13

Section B. The enactment of section 307.179, the repeal and reenactment of sections
2 210.106, 307.178, and 476.385, and the repeal of sections 210.104 and 210.107 of section A of
3 this act shall become effective January 1, 2005.