

FIRST REGULAR SESSION

HOUSE BILL NO. 288

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES FRASER (Sponsor), OXFORD, PAGE, DONNELLY,
BROWN (50) AND SCHOEMEHL (Co-sponsors).

Read 1st time January 20, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0861L.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Section A. Sections 210.104, 210.107, and 307.178, RSMo, are repealed and two new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
15 shall not be applicable to persons who have a medical reason for failing to have a seat belt

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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. **Except as otherwise provided for in section 307.179**, each driver who violates the
35 provisions of subsection 2 [or 3] of this section is guilty of an infraction for which a fine not to
36 exceed ten dollars may be imposed. All other provisions of law and court rules to the contrary
37 notwithstanding, no court costs shall be imposed on any person due to a violation of this section.
38 In no case shall points be assessed against any person, pursuant to section 302.302, RSMo, for
39 a violation of this section.

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

45 [7. If there are more persons than there are seat belts in the enclosed area of a motor
46 vehicle, then the driver and passengers are not in violation of this section.]

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

13 (1) **Children less than four years of age, regardless of weight, shall be secured in**
14 **a child passenger restraint system appropriate for that child;**

15 (2) **Children weighing less than forty pounds, regardless of age, shall be secured in**
16 **a child passenger restraint system appropriate for that child;**

17 (3) **Children at least four years of age but less than eight years of age, or children**
18 **weighing at least forty pounds but less than eighty pounds, or children less than four feet**
19 **nine inches tall, shall be secured in a child passenger restraint system or booster seat**
20 **appropriate for that child;**

21 (4) **Children at least eighty pounds or children more than four feet nine inches in**
22 **height shall be secured by a vehicle safety belt.**

23

24 **This subsection shall only apply to the use of a child passenger restraint system or vehicle**
25 **safety belt for children less than sixteen years of age being transported in a motor vehicle.**

26 **3. Any driver who violates subdivision (1), (2), or (3) of subsection 2 of this section**
27 **is guilty of an infraction and, upon conviction, may be punished by a fine of not more than**
28 **twenty-five dollars and court costs. Any driver who violates subdivision (4) of subsection**
29 **2 of this section shall be subject to the penalty in subsection 5 of section 307.178. If a driver**
30 **receives a citation for violating subdivision (1), (2), or (3) of subsection 2 of this section, the**
31 **charges shall be dismissed or withdrawn if the driver prior to or at his or her hearing**
32 **provides evidence of acquisition of a child passenger restraint system or child booster seat**
33 **which is satisfactory to the court or the party responsible for prosecuting the driver's**
34 **citation.**

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

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

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**
41 **this section. The department of public safety may promulgate rules and regulations for the**

42 **enforcement of this section. Any rule or portion of a rule, as that term is defined in section**
 43 **536.010, RSMo, that is created under the authority delegated in this section shall become**
 44 **effective only if it complies with and is subject to all of the provisions of chapter 536,**
 45 **RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are**
 46 **nonseverable and if any of the powers vested with the general assembly pursuant to**
 47 **chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule**
 48 **are subsequently held unconstitutional, then the grant of rulemaking authority and any**
 49 **rule proposed or adopted after August 28, 2005, shall be invalid and void.**

50 [210.104. 1. Every person transporting a child under the age of four years
 51 shall be responsible, when transporting such child in a motor vehicle operated by that
 52 person on the streets or highways of this state, for providing for the protection of
 53 such child. Such child shall be protected by a child passenger restraint system
 54 approved by the department of public safety.

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

58 3. The provisions of sections 210.104 to 210.107 shall not apply to any
 59 public carrier for hire.]
 60

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, 2006.