

FIRST REGULAR SESSION

# HOUSE BILL NO. 790

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES KRAUS (Sponsor), YATES, SMITH (14), BIVINS, WETER,  
MEINERS AND SCHNEIDER (Co-sponsors).

Read 1<sup>st</sup> time March 15, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1372L.011

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### AN ACT

To repeal section 307.178, and to enact in lieu thereof one new section relating to the failure to wear a safety belt.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 307.178, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 307.178, to read as follows:

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

2. Each driver, except persons employed by the United States Postal Service while performing duties for that federal agency which require the operator to service postal boxes from their vehicles, or which require frequent entry into and exit from their vehicles, and front seat passenger of a passenger car manufactured after January 1, 1968, operated on a street or highway in this state, and persons less than eighteen years of age operating or riding in a truck, as defined in section 301.010, RSMo, on a street or highway of this state shall wear a properly adjusted and fastened safety belt that meets federal National Highway, Transportation and Safety Act requirements; except that, a child less than four years of age shall be protected as required in section 210.104, RSMo. No person shall be stopped, inspected, or detained solely to determine compliance with this subsection. The provisions of this section shall not be applicable to persons who have a medical reason for failing to have a seat belt fastened about their body, nor shall the

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 provisions of this section be applicable to persons while operating or riding a motor vehicle  
17 being used in agricultural work-related activities. Noncompliance with this subsection shall not  
18 constitute probable cause for violation of any other provision of law.

19         3. Each driver of a motor vehicle transporting a child four years of age or more, but less  
20 than sixteen years of age, shall secure the child in a properly adjusted and fastened safety belt.

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

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

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

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

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 shall evaluate the effectiveness of this section and shall  
40 include a report of its findings in the annual evaluation report on its highway safety plan that it  
41 submits to NHTSA and FHWA pursuant to 23 U.S.C. 402.

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