

SECOND REGULAR SESSION

HOUSE BILL NO. 1614

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE VAN SCHOIACK.

4118H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 307.178 and 307.179, RSMo, and to enact in lieu thereof one new section relating to seat belts, with penalty provisions.

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

Section A. Sections 307.178 and 307.179, RSMo, are repealed and one new section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

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 or a
8 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 a
14 child passenger restraint system appropriate for that child;

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

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.

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

23 (5) A child who otherwise would be required to be secured in a booster seat may be
24 transported in the back seat of a motor vehicle while wearing only a lap belt if the back seat of
25 the motor vehicle is not equipped with a combination lap and shoulder belt for booster seat
26 installation;

27 (6) When transporting children in the immediate family when there are more children
28 than there are seating positions in the enclosed area of a motor vehicle, the children who are
29 not able to be restrained by a child safety restraint device appropriate for the child shall sit in
30 the area behind the front seat of the motor vehicle unless the motor vehicle is designed only
31 for a front seat area. The driver transporting children referred to in this subsection is not in
32 violation of this section.

33

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

36 3. Any driver who violates subdivision (1), (2), or (3) of subsection 2 of this section is
37 guilty of an infraction and, upon conviction, may be punished by a fine of not more than fifty
38 dollars and court costs. Any driver who violates subdivision (4) of subsection 2 of this
39 section ~~[shall be subject to the penalty in subsection 6 of section 307.178]~~ **is guilty of an**
40 **infraction and, upon conviction, may be punished by a fine of not more than ten dollars**
41 **and court costs.** If a driver receives a citation for violating subdivision (1), (2), or (3) of
42 subsection 2 of this section, the charges shall be dismissed or withdrawn if the driver prior to
43 or at his or her hearing provides evidence of acquisition of a child passenger restraint system
44 or child booster seat which is satisfactory to the court or the party responsible for prosecuting
45 the driver's citation.

46 4. The provisions of this section shall not apply to any public carrier for hire. The
47 provisions of this section shall not apply to students four years of age or older who are
48 passengers on a school bus designed for carrying eleven passengers or more and which is
49 manufactured or equipped pursuant to Missouri Minimum Standards for School Buses as
50 school buses are defined in section 301.010.

51 5. The highways and transportation commission shall initiate and develop a program
52 of public information to develop understanding of, and ensure compliance with, the
53 provisions of this section.

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

7 ~~2. Each driver, except persons employed by the United States Postal~~
8 ~~Service while performing duties for that federal agency which require the~~
9 ~~operator to service postal boxes from their vehicles, or which require frequent~~
10 ~~entry into and exit from their vehicles, and front seat passenger of a passenger~~
11 ~~car manufactured after January 1, 1968, operated on a street or highway in this~~
12 ~~state, and persons less than eighteen years of age operating or riding in a truck,~~
13 ~~as defined in section 301.010, on a street or highway of this state shall wear a~~
14 ~~properly adjusted and fastened safety belt that meets federal National~~
15 ~~Highway, Transportation and Safety Act requirements. No person shall be~~
16 ~~stopped, inspected, or detained solely to determine compliance with this~~
17 ~~subsection. The provisions of this section and section 307.179 shall not be~~
18 ~~applicable to persons who have a medical reason for failing to have a seat belt~~
19 ~~fastened about their body, nor shall the provisions of this section be applicable~~
20 ~~to persons while operating or riding a motor vehicle being used in agricultural~~
21 ~~work-related activities. Noncompliance with this subsection shall not~~
22 ~~constitute probable cause for violation of any other provision of law. The~~
23 ~~provisions of this subsection shall not apply to the transporting of children~~
24 ~~under sixteen years of age, as provided in section 307.179.~~

25 ~~3. Each driver of a motor vehicle transporting a child less than sixteen~~
26 ~~years of age shall secure the child in a properly adjusted and fastened restraint~~
27 ~~under section 307.179.~~

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

34 ~~(1) Parties seeking to introduce evidence of the failure to wear a safety~~
35 ~~belt in violation of this section must first introduce expert evidence proving~~
36 ~~that a failure to wear a safety belt contributed to the injuries claimed by~~
37 ~~plaintiff;~~

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

43 ~~5. Notwithstanding any other provision of law to the contrary,~~
44 ~~subsection 4 of this section shall not apply to any action arising out of the~~
45 ~~design, construction, manufacture, distribution, or sale of a motor vehicle, as~~
46 ~~defined in section 301.010, factory equipped with a safety belt. In such~~
47 ~~actions arising out of the design, construction, manufacture, distribution, or~~
48 ~~sale of a motor vehicle, a plaintiff's failure to wear a properly adjusted and~~
~~fastened safety belt shall be admissible as evidence of comparative negligence~~

49 or fault, causation, absence of a defect or hazard, and failure to mitigate
50 damages.

51 ~~6. Except as otherwise provided for in section 307.179, each person~~
52 ~~who violates the provisions of subsection 2 of this section is guilty of an~~
53 ~~infraction for which a fine not to exceed ten dollars may be imposed. All other~~
54 ~~provisions of law and court rules to the contrary notwithstanding, no court~~
55 ~~costs shall be imposed on any person due to a violation of this section. In no~~
56 ~~case shall points be assessed against any person, pursuant to section 302.302,~~
57 ~~for a violation of this section.~~

58 ~~7. The state highways and transportation commission shall initiate and~~
59 ~~develop a program of public information to develop understanding of, and~~
60 ~~ensure compliance with, the provisions of this section. The commission shall~~
61 ~~evaluate the effectiveness of this section and shall include a report of its~~
62 ~~findings in the annual evaluation report on its highway safety plan that it~~
63 ~~submits to NHTSA and FHWA pursuant to 23 U.S.C. Section 402.~~

64 ~~8. If there are more persons than there are seat belts in the enclosed~~
65 ~~area of a motor vehicle, then the passengers who are unable to wear seat belts~~
66 ~~shall sit in the area behind the front seat of the motor vehicle unless the motor~~
67 ~~vehicle is designed only for a front-seated area. The passenger or passengers~~
68 ~~occupying a seat location referred to in this subsection is not in violation of~~
69 ~~this section. This subsection shall not apply to passengers who are~~
70 ~~accompanying a driver of a motor vehicle who is licensed under section~~
71 ~~302.178.]~~

✓