

SECOND REGULAR SESSION

# HOUSE BILL NO. 1391

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES DENISON (Sponsor), SATER, FLOOK, SKAGGS, LeVOTA, VIEBROCK, SCHLOTTACH, THRELKELD, PRATT, JOHNSON (47), WETER, CORCORAN, BROWN (30), FAITH, FARES, WILSON (130), LOW (39), BLAND AND BROWN (50) (Co-sponsors).

Read 1st time January 12, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3249L.011

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### AN ACT

To repeal sections 210.104, 210.106, 210.107, and 307.178, RSMo, and to enact in lieu thereof three new sections relating to the use of safety belts, with penalty provisions and an effective date.

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

Section A. Sections 210.104, 210.106, 210.107, and 307.178, RSMo, are repealed and  
2 three new sections enacted in lieu thereof, to be known as sections 210.106, 307.178 and  
3 307.179, 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, RSMo**, provide the basis for a claim of civil liability or negligence  
3 or 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

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.

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 in  
13 section [210.104, RSMo] **307.179**. No person shall be stopped, inspected, or detained solely to  
14 determine compliance with this subsection. The provisions of this section shall not be applicable  
15 to persons who have a medical reason for failing to have a seat belt fastened about their body,  
16 nor shall the provisions of this section be applicable to persons while operating or riding a motor  
17 vehicle being used in agricultural work-related activities. Noncompliance with this subsection  
18 shall not 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 **restraint under section 307.179**.

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

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

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

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

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

43 [7. If there are more persons than there are seat belts in the enclosed area of a motor  
44 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 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, shall be secured in  
15 a child passenger restraint system appropriate for that child;

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

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

22 (4) Children at least eighty pounds, children more than four feet, nine inches in  
23 height, or children eight years of age or older shall be secured by a vehicle safety belt.

24 3. Any person who violates this section is guilty of an infraction and, upon  
25 conviction, may be punished by a fine of not more than fifty dollars. Court costs shall be  
26 charged for a violation of this section. In no case shall points be assessed against any  
27 person under section 302.302, RSMo, for violation of this section.

28 4. The provisions of this section shall not apply to any public carrier for hire. The  
29 provisions of this section shall not apply to students four years of age or older who are  
30 passengers on a school bus as defined in section 301.010, RSMo.

31 5. The department of public safety shall initiate and develop a program of public  
32 information to develop understanding of, and ensure compliance with the provisions of this  
33 section. The department of public safety may promulgate rules and regulations for the  
34 enforcement of this section. Any rule or portion of a rule, as that term is defined in section

35 **536.010, RSMo, that is created under the authority delegated in this section shall become**  
 36 **effective only if it complies with and is subject to all of the provisions of chapter 536,**  
 37 **RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are**  
 38 **nonseverable and if any of the powers vested with the general assembly pursuant to**  
 39 **chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule**  
 40 **are subsequently held unconstitutional, then the grant of rulemaking authority and any**  
 41 **rule proposed or adopted after August 28, 2007, shall be invalid and void.**

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

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

10 3. The provisions of sections 210.104 to 210.107 shall not apply to any  
 11 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  
 4 compliance with the provisions of sections 210.104 to 210.107. The department  
 5 of public safety shall, within thirty days of September 28, 1983, promulgate  
 6 standards for the performance, design, and installation of passenger restraint  
 7 systems for children under four years of age in accordance with federal motor  
 8 vehicle safety standards and shall approve those systems which meet such  
 9 standards. No rule or portion of a rule promulgated under the authority of  
 10 sections 210.104 to 210.107 shall become effective unless it has been  
 11 promulgated pursuant to the provisions of section 536.024, RSMo.]

Section B. Section A of this act shall become effective January 1, 2007.

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