

SECOND REGULAR SESSION

HOUSE BILL NO. 1165

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES DUSENBERG (Sponsor), ST. ONGE, SUTHERLAND,
BROWN (30), BIVINS AND MCGHEE (Co-sponsors).

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STEPHEN S. DAVIS, Chief Clerk

4026L.011

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.

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Section A. Sections 210.104, 210.106, 210.107, and 307.178, RSMo, are repealed and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
3 307.181, to read as follows:

210.106. In no event shall failure to employ a child passenger restraint system required
2 by section [210.104] **307.181** 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

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.

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] **sixteen** years of age shall be protected as
13 required in section [210.104, RSMo] **307.181**. 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 **or for a search of the driver, passenger, or vehicle**.

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 under section 307.181**.

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

39 6. The [department of public safety] **state highways and transportation commission**
40 shall initiate and develop a program of public information to develop understanding of, and
41 ensure compliance with, the provisions of this section. The [department of public safety]
42 **commission** shall evaluate the effectiveness of this section and shall include a report of its
43 findings in the annual evaluation report on its highway safety plan that it submits to NHTSA and
44 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] **who are unable**
47 **to wear seat belts shall sit in the area behind the front seat of the motor vehicle unless the**
48 **motor vehicle is designed only for a front-seated area. This subsection shall not apply to**
49 **passengers who are accompanying a driver of a motor vehicle who is licensed under section**
50 **302.178, RSMo.**

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

13 (1) **Children less than four years of age shall be properly secured in a child**
14 **passenger restraint system appropriate for that child, according to the child passenger**
15 **restraint system and the vehicle manufacturer's instructions;**

16 (2) **Children four through five years of age shall be properly secured in a child**
17 **passenger restraint system or a child booster seat appropriate for that child, according to**
18 **the child passenger restraint system and the vehicle manufacturer's instructions;**

19 (3) **Children six years of age or older shall be secured by a vehicle safety belt, child**
20 **passenger restraint system, or booster seat appropriate for that child, according to the**
21 **child passenger restraint system and the vehicle manufacturer's instructions;**

22 (4) **A child who would otherwise be required to be secured in a booster seat may**
23 **be transported in the back seat of a motor vehicle while wearing only a lap belt if the back**
24 **seat of the motor vehicle is not equipped with a combination lap and shoulder belt for**
25 **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, plus court**
28 **costs. In no case shall points be assessed against any person under 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. The**
35 **provisions of this section shall not apply to students four years of age or older who are**
36 **passengers on a school bus as defined in section 301.010, RSMo.**

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

40 **6. In no event shall failure to employ a child passenger restraint system required**
41 **by this section provide the basis for a claim of civil liability or negligence or contributory**
42 **negligence of any person in any action for damages by reason of injury sustained by a**
43 **child. Nor shall such failure to employ such child passenger restraint system be admissible**
44 **as evidence in the trial of any civil action.**

45 **7. The state highways and transportation commission shall initiate and develop a**
46 **program of public information to develop understanding of, and ensure compliance with**
47 **the provisions of this section. The commission may promulgate rules and regulations for**
48 **the enforcement of this section. Any rule or portion of a rule, as that term is defined in**
49 **section 536.010, RSMo, that is created under the authority delegated in this section shall**
50 **become effective only if it complies with and is subject to all of the provisions of chapter**
51 **536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536,**
52 **RSMo, are nonseverable and if any of the powers vested with the general assembly**
53 **pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and**
54 **annul a rule are subsequently held unconstitutional, then the grant of rulemaking**
55 **authority and any rule proposed or adopted after August 28, 2007, shall be invalid and**
56 **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
promulgated pursuant to the provisions of section 536.024, RSMo.]

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