

Second Regular Session  
Sixty-seventh General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0484.01 Michael Dohr

SENATE BILL 10-110

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SENATE SPONSORSHIP

Williams,

HOUSE SPONSORSHIP

Ryden, Court, Hullinghorst, Judd, Levy, Middleton, Rice

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Senate Committees  
Transportation

House Committees

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A BILL FOR AN ACT

101 CONCERNING THE ENFORCEMENT OF OFFENSES INVOLVING FAILURE  
102 OF CERTAIN PERSONS IN A VEHICLE TO USE AN APPROPRIATE  
103 RESTRAINING DEVICE.

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Bill Summary

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)*

Under current law, failure to wear a restraining device in a vehicle is a secondary offense. The bill makes failure to wear a restraining device in a vehicle a primary offense and punishable as a class B traffic infraction. For a law enforcement officer to stop a driver for a restraining

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

device violation, the officer must clearly observe the restraining device violation and be able to articulate that the restraining device was unfastened. If a person charged with a restraining device violation produces a bona fide written statement by a physician certifying that physical disability makes restraint by a safety belt system inappropriate, the charge will be dismissed. The bill increases fines for restraining device violations.

The bill modifies the age and height requirements for certain children who are otherwise required to be fastened in a child restraint system.

The general assembly states its intent that the statutory prohibition against profiling be strictly observed by each law enforcement officer who stops or contemplates the stop of a motor vehicle driver for an alleged restraining device violation.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly  
3 finds that making the failure to wear a fastened restraining device in a  
4 vehicle a primary offense will increase the use of restraining devices in  
5 vehicles and thereby:

6 (a) Save between thirty and seventy lives per year;

7 (b) Reduce the seriousness of injuries sustained by persons in  
8 vehicle accidents who are not wearing fastened restraining devices;

9 (c) Reduce state medicaid costs by approximately seventy-two  
10 million five hundred thousand dollars over the next ten years; and

11 (d) Secure for the state of Colorado approximately fourteen  
12 million dollars in federal highway funds that are granted to states that  
13 adopt primary offense safety belt legislation.

14 (2) The general assembly, therefore, determines and declares that  
15 it is necessary and in the best interests of the citizens of Colorado to enact  
16 legislation that makes the failure to wear a fastened restraining device by  
17 the driver and certain passengers in a vehicle a primary offense.

1           **SECTION 2.** 42-4-236 (1), Colorado Revised Statutes, is  
2 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

3           **42-4-236. Child restraint systems required - definitions -**  
4 **exemptions.** (1) As used in this section, unless the context otherwise  
5 requires:

6           (a.8) "MOTOR VEHICLE" MEANS A PASSENGER CAR; A PICKUP  
7 TRUCK; OR A VAN, MINIVAN, OR SPORT UTILITY VEHICLE WITH A GROSS  
8 VEHICLE WEIGHT RATING OF LESS THAN TEN THOUSAND POUNDS. "MOTOR  
9 VEHICLE" DOES NOT INCLUDE MOTORCYCLES, LOW-POWER SCOOTERS,  
10 MOTORSCOOTERS, MOTORBICYCLES, MOTORIZED BICYCLES, AND FARM  
11 TRACTORS AND IMPLEMENTS OF HUSBANDRY DESIGNED PRIMARILY OR  
12 EXCLUSIVELY FOR USE IN AGRICULTURAL OPERATIONS.

13           **SECTION 3.** 42-4-236 (2) (a), (3) (b), and (9), Colorado Revised  
14 Statutes, are amended to read:

15           **42-4-236. Child restraint systems required - definitions -**  
16 **exemptions.** (2) (a) Unless exempted pursuant to subsection (3) of this  
17 section, every child who is under four years of age ~~and weighs under forty~~  
18 ~~pounds~~, AND IS being transported in this state in a ~~privately owned~~  
19 ~~noncommercial passenger vehicle~~ MOTOR VEHICLE or in a vehicle  
20 operated by a child care center shall be provided with one of the  
21 following child restraint systems suitable for the child's size and shall be  
22 properly fastened into such child restraint system ~~which~~ THAT is in a  
23 seating position ~~which~~ THAT is equipped with a safety belt or other means  
24 to secure the system according to the manufacturer's instructions:

25           (I) (A) If the child is less than one year of age, ~~and weighs less~~  
26 ~~than twenty pounds~~, the child shall be properly restrained in a rear-facing  
27 child restraint system.

1 (B) IF THE CHILD WEIGHS LESS THAN TWENTY POUNDS, THE CHILD  
2 SHALL BE PROPERLY RESTRAINED IN A REAR-FACING CHILD RESTRAINT  
3 SYSTEM.

4 (II) (A) If the child is one year of age or older, but less than four  
5 years of age, ~~and weighs less than forty pounds, but at least twenty~~  
6 ~~pounds~~, the child shall be properly restrained in a forward-facing child  
7 restraint system UNLESS THE CHILD IS SUBJECT TO THE PROVISIONS OF  
8 SUB-SUBPARAGRAPH (B) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (a) OR  
9 SUBPARAGRAPH (III) OF THIS PARAGRAPH (a).

10 (B) IF THE CHILD WEIGHS AT LEAST TWENTY POUNDS, BUT NOT  
11 MORE THAN FORTY POUNDS, THE CHILD SHALL BE PROPERLY RESTRAINED  
12 IN A FORWARD-FACING CHILD RESTRAINT SYSTEM UNLESS THE CHILD IS  
13 SUBJECT TO THE PROVISIONS OF SUB-SUBPARAGRAPH (A) OF  
14 SUBPARAGRAPH (I) OF THIS PARAGRAPH (a).

15 (III) IF THE CHILD IS UNDER FOUR YEARS OF AGE AND WEIGHS  
16 FORTY POUNDS OR MORE, THE CHILD SHALL BE PROPERLY RESTRAINED IN  
17 A CHILD BOOSTER SEAT UNLESS THE CHILD IS SUBJECT TO THE PROVISIONS  
18 OF SUB-SUBPARAGRAPH (A) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH  
19 (a).

20 (3) Except as provided in section 42-2-105.5 (4), the requirements  
21 of subsection (2) of this section shall not apply to a child who:

22 (b) Is being transported in a motor vehicle as a result of a  
23 LIFE-THREATENING medical emergency;

24 (9) (a) ~~No~~ A driver in a motor vehicle shall NOT be cited for a  
25 violation of ~~subparagraph (I) of paragraph (b) of subsection (2) of this~~  
26 ~~section unless such driver was stopped by a~~ THE law enforcement officer  
27 ~~for an alleged violation of articles 1 to 4 of this title other than a violation~~

1 ~~of this section or section 42-4-237~~ CLEARLY OBSERVES THE VIOLATION  
2 AND IS ABLE TO ARTICULATE THAT THE RESTRAINING DEVICE WAS  
3 UNFASTENED.

4 (b) IT IS THE INTENT OF THE GENERAL ASSEMBLY IN CREATING A  
5 PRIMARY OFFENSE IN THIS SUBSECTION (9) THAT THE PROHIBITION  
6 AGAINST PROFILING, AS DESCRIBED IN SECTION 24-31-309, C.R.S., BE  
7 STRICTLY OBSERVED BY EACH LAW ENFORCEMENT OFFICER WHO STOPS OR  
8 CONTEMPLATES THE STOP OF A DRIVER OF A MOTOR VEHICLE FOR AN  
9 ALLEGED RESTRAINING DEVICE VIOLATION.

10 **SECTION 4.** 42-4-237 (1) (a), (3) (d), (3) (g), and (5), Colorado  
11 Revised Statutes, are amended, and the said 42-4-237 is further amended  
12 BY THE ADDITION OF A NEW SUBSECTION, to read:

13 **42-4-237. Safety belt systems - mandatory use - exemptions -**  
14 **penalty.** (1) As used in this section:

15 (a) "Motor vehicle" means a ~~self-propelled vehicle intended~~  
16 ~~primarily for use and operation on the public highways, including~~  
17 ~~passenger cars, station wagons, vans, taxicabs, ambulances, motor homes,~~  
18 ~~and pickups. The term~~ PASSENGER CAR; A PICKUP TRUCK; OR A VAN,  
19 MINIVAN, OR SPORT UTILITY VEHICLE WITH A GROSS VEHICLE WEIGHT  
20 RATING OF LESS THAN TEN THOUSAND POUNDS. "MOTOR VEHICLE" does  
21 not include motorcycles, low-power scooters, ~~passenger buses, school~~  
22 ~~buses,~~ MOTORSCOOTERS, MOTORBICYCLES, MOTORIZED BICYCLES, and  
23 farm tractors and implements of husbandry designed primarily or  
24 exclusively for use in agricultural operations.

25 (3) Except as provided in section 42-2-105.5, the requirement of  
26 subsection (2) of this section shall not apply to:

27 (d) A person with a ~~physically or psychologically disabling~~

1 MEDICAL condition ~~whose physical or psychological disability~~ THAT  
2 prevents appropriate restraint by a safety belt system if ~~such~~ THE person  
3 possesses a written statement by a physician certifying the condition, as  
4 well as stating the reason why such restraint is inappropriate;

5 (g) A person operating a motor vehicle ~~which~~ THAT does not meet  
6 the definition of "commercial vehicle", as that term is defined in section  
7 42-4-235 (1) (a), for commercial or residential delivery or pickup service,  
8 ~~except that such person shall be required to wear a fastened safety belt~~  
9 ~~during the time period prior to the first delivery or pickup of the day and~~  
10 ~~during the time period following the last delivery or pickup of the day~~  
11 AND MAKING FREQUENT STOPS IN THE COURSE OF BUSINESS.

12 (5) (a) ~~No~~ A driver in a motor vehicle shall NOT be cited for a  
13 violation of subsection (2) of this section unless ~~such driver was stopped~~  
14 ~~by a~~ THE law enforcement officer for an ~~alleged violation of articles 1 to~~  
15 ~~4 of this title other than a violation of this section~~ CLEARLY OBSERVES THE  
16 VIOLATION AND IS ABLE TO ARTICULATE THAT THE RESTRAINING DEVICE  
17 WAS UNFASTENED.

18 (b) IT IS THE INTENT OF THE GENERAL ASSEMBLY IN CREATING A  
19 PRIMARY OFFENSE IN PARAGRAPH (a) OF THIS SUBSECTION (5) THAT THE  
20 PROHIBITION AGAINST PROFILING, AS DESCRIBED IN SECTION 24-31-309,  
21 C.R.S., BE STRICTLY OBSERVED BY EACH LAW ENFORCEMENT OFFICER  
22 WHO STOPS OR CONTEMPLATES THE STOP OF A DRIVER OF A MOTOR  
23 VEHICLE FOR AN ALLEGED RESTRAINING DEVICE VIOLATION.

24 (5.5) (a) A PERSON CHARGED WITH VIOLATING SUBSECTION (2) OF  
25 THIS SECTION, EITHER AS A DRIVER OR A FRONT SEAT PASSENGER, SHALL  
26 NOT BE CONVICTED IF THE PERSON, PURSUANT TO PARAGRAPH (d) OF  
27 SUBSECTION (3) OF THIS SECTION, PRODUCES IN COURT A BONA FIDE

1 WRITTEN STATEMENT BY A PHYSICIAN THAT CERTIFIES A MEDICAL  
2 CONDITION ON THE PART OF THE PERSON ALLEGED TO HAVE NOT WORN A  
3 FASTENED SAFETY BELT AND STATES THE REASON WHY RESTRAINT BY A  
4 SAFETY BELT SYSTEM IS INAPPROPRIATE FOR SAID PERSON.

5 (b) THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (5.5)  
6 SHALL APPLY TO:

7 (I) A DRIVER WHO IS CHARGED FOR NOT WEARING A FASTENED  
8 SAFETY BELT;

9 (II) A DRIVER WHO IS CHARGED FOR A FRONT SEAT PASSENGER NOT  
10 WEARING A FASTENED SAFETY BELT; AND

11 (III) A FRONT SEAT PASSENGER WHO IS CHARGED FOR NOT  
12 WEARING A FASTENED SAFETY BELT.

13 **SECTION 5.** 42-4-1701 (4) (a) (I) (D), Colorado Revised  
14 Statutes, is amended to read:

15 **42-4-1701. Traffic offenses and infractions classified -**  
16 **penalties - penalty and surcharge schedule.** (4) (a) (I) Except as  
17 provided in paragraph (c) of subsection (5) of this section, every person  
18 who is convicted of, who admits liability for, or against whom a judgment  
19 is entered for a violation of any provision of this title to which the  
20 provisions of paragraph (a) or (b) of subsection (5) of this section apply  
21 shall be fined or penalized, and have a surcharge levied thereon pursuant  
22 to sections 24-4.1-119 (1) (f) and 24-4.2-104 (1) (b) (I), C.R.S., in  
23 accordance with the penalty and surcharge schedule set forth in  
24 sub-subparagraphs (A) to (P) of this subparagraph (I); or, if no penalty or  
25 surcharge is specified in the schedule, the penalty for class A and class B  
26 traffic infractions shall be fifteen dollars, and the surcharge shall be four  
27 dollars. These penalties and surcharges shall apply whether the defendant

1 acknowledges the defendant's guilt or liability in accordance with the  
2 procedure set forth by paragraph (a) of subsection (5) of this section or is  
3 found guilty by a court of competent jurisdiction or has judgment entered  
4 against the defendant by a county court magistrate. Penalties and  
5 surcharges for violating specific sections shall be as follows:

6	<b>Section Violated</b>	<b>Penalty</b>	<b>Surcharge</b>
7	<b>(D) Equipment violations:</b>		
8	42-4-201	\$ 35.00	\$ 10.00
9	42-4-202	35.00	10.00
10	42-4-204	15.00	6.00
11	42-4-205	15.00	6.00
12	42-4-206	15.00	6.00
13	42-4-207	15.00	6.00
14	42-4-208	15.00	6.00
15	42-4-209	15.00	6.00
16	42-4-210	15.00	6.00
17	42-4-211	15.00	6.00
18	42-4-212	15.00	6.00
19	42-4-213	15.00	6.00
20	42-4-214	15.00	6.00
21	42-4-215	15.00	6.00
22	42-4-216	15.00	6.00
23	42-4-217	15.00	6.00
24	42-4-218	15.00	6.00
25	42-4-219	15.00	6.00
26	42-4-220	15.00	6.00
27	42-4-221	15.00	6.00



1	42-4-222 (1)	15.00	6.00
2	42-4-223	15.00	6.00
3	42-4-224	15.00	6.00
4	42-4-225 (1)	15.00	6.00
5	42-4-226	15.00	6.00
6	42-4-227 (1)	50.00	16.00
7	42-4-227 (2)	15.00	6.00
8	42-4-228 (1), (2), (3),		
9	(5), or (6)	15.00	6.00
10	42-4-229	15.00	6.00
11	42-4-230	15.00	6.00
12	42-4-231	15.00	6.00
13	42-4-232	15.00	6.00
14	42-4-233	75.00	24.00
15	42-4-234	15.00	6.00
16	42-4-235	50.00	16.00
17	42-4-236	<del>65.00</del> 75.00	16.00
18	42-4-237	<del>65.00</del> 75.00	6.00
19	42-4-1411	15.00	6.00
20	42-4-1412	15.00	6.00
21	42-4-1901	35.00	10.00

22           **SECTION 6. Effective date - applicability.** This act shall take  
23 effect June 1, 2010, and shall apply to infractions committed on or after  
24 said date.

25           **SECTION 7. Safety clause.** The general assembly hereby finds,  
26 determines, and declares that this act is necessary for the immediate  
27 preservation of the public peace, health, and safety.