

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 10-0484.01 Michael Dohr

SENATE BILL 10-110

SENATE SPONSORSHIP

Williams,

HOUSE SPONSORSHIP

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

Senate Committees
Transportation

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE ENFORCEMENT OF OFFENSES INVOLVING FAILURE**
102 **OF CERTAIN PERSONS TO PROPERLY RESTRAIN A CHILD IN A**
103 **VEHICLE.**

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.

SENATE
3rd Reading Unamended
March 18, 2010

SENATE
Amended 2nd Reading
March 16, 2010

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.

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 changing the restraint device requirements for children will
4 improve the safety for children while riding in a vehicle. Most children
5 outgrow conventional car seats when they are about three to four years of
6 age; however, they are still not tall enough to fit properly in a vehicle belt,
7 so they are likely to put the shoulder belt under the arm or behind the
8 back to prevent it from rubbing against the neck. They also tend to slouch
9 or slide forward, causing the lap belt to ride up on the abdomen. This
10 improper belt use can result in severe injuries or even ejection from the
11 vehicle.

12 (2) Therefore, the general assembly finds an appropriate child
13 restraint device should be used until the lap and shoulder belt fit the child
14 properly.

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

17 **42-4-236. Child restraint systems required - definitions -**

1 **exemptions.** (1) As used in this section, unless the context otherwise
2 requires:

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

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11 **SECTION 3.** 42-4-236(1)(a), (1)(a.3), (1)(a.7), (1)(b), (2), (3),
12 (8), and (9), Colorado Revised Statutes, are amended, and the said
13 42-4-236 is further amended BY THE ADDITION OF A NEW
14 SUBSECTION, to read:

15 **42-4-236. Child restraint systems required - definitions -**
16 **exemptions - repeal.** (1) As used in this section, unless the context
17 otherwise requires:

18 (a) "Child care center" means a facility required to be licensed
19 under the "Child Care Licensing Act", article 6 of title 26, C.R.S.

20 (a.3) "Child booster seat" means a child passenger restraint system
21 that meets the federal motor vehicle safety standards set forth in section
22 49 CFR 571.213, as amended, that is designed to elevate a child to
23 properly sit in a federally approved safety belt system.

24 (a.7) "Child safety belt-positioning device" means a device that
25 positions a safety belt around a child in a manner that safely restrains such
26 child in a seating position that conforms to all applicable federal motor
27 vehicle safety standards.

1 (b) "Safety belt" means a lap belt, a shoulder belt, or any other belt
2 or combination of belts installed in a motor vehicle to restrain drivers and
3 passengers, except any such belt that is physically a part of a child
4 restraint system. "Safety belt" includes the anchorages, the buckles, and
5 all other equipment directly related to the operation of safety belts.
6 PROPER USE OF A SAFETY BELT MEANS THE SHOULDER BELT, IF PRESENT,
7 CROSSES THE SHOULDER AND CHEST AND THE LAP BELT CROSSES THE HIPS,
8 TOUCHING THE THIGHS.

9 (2) (a) (I) Unless exempted pursuant to subsection (3) of this
10 section AND EXCEPT AS OTHERWISE PROVIDED IN SUBPARAGRAPHS (II)
11 AND (III) OF THIS PARAGRAPH (a), every child who is under four EIGHT
12 years of age and weighs under forty pounds, WHO IS being transported in
13 this state in a privately owned noncommercial passenger MOTOR vehicle
14 or in a vehicle operated by a child care center, shall be provided with one
15 of the following child restraint systems suitable for the child's size and
16 shall be properly fastened into such child restraint system which is in a
17 seating position which is equipped with a safety belt or other means to
18 secure the system according to the manufacturer's instructions: SHALL BE
19 PROPERLY RESTRAINED IN A CHILD RESTRAINT SYSTEM IN A REAR SEAT OF
20 THE VEHICLE, ACCORDING TO THE MANUFACTURER'S INSTRUCTIONS;
21 EXCEPT THAT THE CHILD MAY BE RESTRAINED IN A FRONT SEAT OF THE
22 VEHICLE IF REAR SEATING DOES NOT EXIST IN THE VEHICLE, IF THE CHILD
23 RESTRAINT SYSTEM DOES NOT PROPERLY INSTALL IN THE AVAILABLE REAR
24 SEATING, OR IF ALL THE REAR SEATING IS OCCUPIED BY OTHER CHILDREN
25 LESS THAN EIGHT YEARS OF AGE.

26 (f) (II) If the child is less than one year of age and weighs less
27 than twenty pounds, the child shall be properly restrained in a rear-facing

1 child restraint system IN A REAR SEAT OF THE VEHICLE.

2 (H) (III) If the child is one year of age or older, but less than four
3 years of age, and weighs less than forty pounds, but at least twenty
4 pounds, the child shall be properly restrained in a forward-facing child
5 restraint system IN A REAR SEAT OF THE VEHICLE.

6 (b) Unless excepted pursuant to subsection (3) of this section,
7 every child who is at least four EIGHT years of age or weighs forty pounds
8 or more, BUT LESS THAN SIXTEEN YEARS OF AGE WHO IS being transported
9 in this state in a privately owned noncommercial MOTOR vehicle or in a
10 vehicle operated by a child care center, shall be properly secured by one
11 of the following safety devices approved for a child of such age or weight
12 by the United States department of transportation, or in a safety belt,
13 whichever is appropriate for the child: SHALL BE PROPERLY RESTRAINED
14 IN A SAFETY BELT OR CHILD RESTRAINT SYSTEM ACCORDING TO THE
15 MANUFACTURER'S INSTRUCTIONS.

16 (I) Except as otherwise provided in subparagraph (I.5) of this
17 paragraph (b), if the child is at least four years of age but less than six
18 years of age and is less than fifty-five inches tall, the child shall be
19 properly restrained in a child booster seat or with a child safety
20 belt-positioning device.

21 (I.5) If the child is at least four years of age but less than six years
22 of age and is less than fifty-five inches tall, and if the child is being
23 transported in a vehicle equipped with only a two-point-lap-belt-only
24 system available for the child, the child shall be properly restrained with
25 a lap belt.

26 (H) If the child is six years of age or older or is fifty-five inches
27 tall or more, the child shall be properly restrained with the motor vehicle's

1 safety belt properly adjusted and fastened around the child's body.

2 (c) IF A PARENT IS IN THE MOTOR VEHICLE, IT IS THE
3 RESPONSIBILITY OF THE PARENT TO ENSURE THAT HIS OR HER CHILD OR
4 CHILDREN ARE PROVIDED WITH AND THAT THEY PROPERLY USE A CHILD
5 RESTRAINT SYSTEM OR SAFETY BELT SYSTEM. IF A PARENT IS NOT IN THE
6 MOTOR VEHICLE, it is the responsibility of the driver transporting A CHILD
7 OR children, subject to the requirements of this section, to ensure that
8 such children are provided with and that they properly use a child restraint
9 system or safety belt system.

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

12 (a) Repealed.

13 (b) IS LESS THAN EIGHT YEARS OF AGE AND is being transported in
14 a motor vehicle as a result of a medical OR OTHER LIFE-THREATENING
15 emergency AND A CHILD RESTRAINT SYSTEM IS NOT AVAILABLE;

16 (c) Is being transported in a commercial motor vehicle, as defined
17 in section 42-2-402 (4) (a), that is operated by a child care center; or

18 (d) Is the driver of a motor vehicle and is subject to the safety belt
19 requirements provided in section 42-4-237; OR

20 (e) WEIGHS MORE THAN FORTY POUNDS AND IS BEING
21 TRANSPORTED IN A MOTOR VEHICLE IN WHICH THE REAR SEAT OF THE
22 VEHICLE WAS NOT EQUIPPED AT THE TIME OF MANUFACTURE WITH
23 COMBINATION LAP AND SHOULDER BELTS.

24 (8) The fine may be waived if the ~~driver~~ DEFENDANT presents the
25 court with satisfactory evidence of ECONOMIC DISADVANTAGE AND PROOF
26 OF the acquisition, purchase, or rental of ~~an approved~~ A CERTIFIED child
27 restraint system by the time of the court appearance.

1 (9) No driver in a motor vehicle shall be cited for a violation of
2 subparagraph (f) of paragraph (b) of subsection (2) of this section unless
3 such driver was stopped by a law enforcement officer for an alleged
4 violation of articles 1 to 4 of this title other than a violation of this section
5 or section 42-4-237.

6 (11) (a) FOR ONE YEAR FOLLOWING AUGUST 1, 2010, A LAW
7 ENFORCEMENT OFFICER WHO STOPS A DRIVER OF A MOTOR VEHICLE WITH
8 AN OCCUPANT OF THE VEHICLE IN VIOLATION OF THIS SECTION SHALL
9 WARN THE DRIVER THAT THE VIOLATION IS A CLASS B TRAFFIC INFRACTION
10 AND SHALL NOT CITE THE DRIVER FOR THE VIOLATION.

11 (b) THIS SUBSECTION (11) IS REPEALED, AUGUST 1, 2011.

12 (12) S TATE PATROL AND LOCAL LAW ENFORCEMENT AGENCIES
13 SHALL FILE IN THEIR DEPARTMENTS COMPILATIONS OF MANUFACTURER'S
14 INSTRUCTIONS FOR BEST-SELLING BRANDS OF CHILD RESTRAINT SYSTEMS,
15 WHICH SHALL BE AVAILABLE FOR INSPECTION.

16 **SECTION 4. Effective date - applicability.** This act shall take
17 effect June 1, 2010, and shall apply to infractions committed on or after
18 said date.

19 **SECTION 5. Safety clause.** The general assembly hereby finds,
20 determines, and declares that this act is necessary for the immediate
21 preservation of the public peace, health, and safety.