

**Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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.*

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.

10
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 to read:

13 42-4-236. Child restraint systems required - definitions -
14 exemptions. (1) As used in this section, unless the context otherwise
15 requires:

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

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

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

26 (b) "Safety belt" means a lap belt, a shoulder belt, or any other belt
27 or combination of belts installed in a motor vehicle to restrain drivers and

1 passengers, except any such belt that is physically a part of a child
2 restraint system. "Safety belt" includes the anchorages, the buckles, and
3 all other equipment directly related to the operation of safety belts.
4 PROPER USE OF A SAFETY BELT MEANS THE SHOULDER BELT, IF PRESENT,
5 CROSSES THE SHOULDER AND CHEST AND THE LAP BELT CROSSES THE HIPS,
6 TOUCHING THE THIGHS.

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

24 (F) (II) If the child is less than one year of age and weighs less
25 than twenty pounds, the child shall be properly restrained in a rear-facing
26 child restraint system IN A REAR SEAT OF THE VEHICLE.

27 (H) (III) If the child is one year of age or older, but less than four

1 years of age, and weighs less than forty pounds, but at least twenty
2 pounds, the child shall be properly restrained in a forward-facing child
3 restraint system IN A REAR SEAT OF THE VEHICLE.

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

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

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

24 (H) If the child is six years of age or older or is fifty-five inches
25 tall or more, the child shall be properly restrained with the motor vehicle's
26 safety belt properly adjusted and fastened around the child's body.

27 (c) IF A PARENT IS IN THE MOTOR VEHICLE, IT IS THE

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

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

10 (a) Repealed.

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

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

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

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

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

26 (9) No driver in a motor vehicle shall be cited for a violation of
27 subparagraph (I) of paragraph (b) of subsection (2) of this section unless

1 such driver was stopped by a law enforcement officer for an alleged
2 violation of articles 1 to 4 of this title other than a violation of this section
3 or section 42-4-237.

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

6 **42-4-1701. Traffic offenses and infractions classified -**
7 **penalties - penalty and surcharge schedule.** (4) (a) (I) Except as
8 provided in paragraph (c) of subsection (5) of this section, every person
9 who is convicted of, who admits liability for, or against whom a judgment
10 is entered for a violation of any provision of this title to which the
11 provisions of paragraph (a) or (b) of subsection (5) of this section apply
12 shall be fined or penalized, and have a surcharge levied thereon pursuant
13 to sections 24-4.1-119 (1) (f) and 24-4.2-104 (1) (b) (I), C.R.S., in
14 accordance with the penalty and surcharge schedule set forth in
15 sub-subparagraphs (A) to (P) of this subparagraph (I); or, if no penalty or
16 surcharge is specified in the schedule, the penalty for class A and class B
17 traffic infractions shall be fifteen dollars, and the surcharge shall be four
18 dollars. These penalties and surcharges shall apply whether the defendant
19 acknowledges the defendant's guilt or liability in accordance with the
20 procedure set forth by paragraph (a) of subsection (5) of this section or is
21 found guilty by a court of competent jurisdiction or has judgment entered
22 against the defendant by a county court magistrate. Penalties and
23 surcharges for violating specific sections shall be as follows:

24	Section Violated	Penalty	Surcharge
25	(D) Equipment violations:		
26	42-4-201	\$ 35.00	\$ 10.00
27	42-4-202	35.00	10.00

1	42-4-204	15.00	6.00
2	42-4-205	15.00	6.00
3	42-4-206	15.00	6.00
4	42-4-207	15.00	6.00
5	42-4-208	15.00	6.00
6	42-4-209	15.00	6.00
7	42-4-210	15.00	6.00
8	42-4-211	15.00	6.00
9	42-4-212	15.00	6.00
10	42-4-213	15.00	6.00
11	42-4-214	15.00	6.00
12	42-4-215	15.00	6.00
13	42-4-216	15.00	6.00
14	42-4-217	15.00	6.00
15	42-4-218	15.00	6.00
16	42-4-219	15.00	6.00
17	42-4-220	15.00	6.00
18	42-4-221	15.00	6.00
19	42-4-222 (1)	15.00	6.00
20	42-4-223	15.00	6.00
21	42-4-224	15.00	6.00
22	42-4-225 (1)	15.00	6.00
23	42-4-226	15.00	6.00
24	42-4-227 (1)	50.00	16.00
25	42-4-227 (2)	15.00	6.00
26	42-4-228 (1), (2), (3),		
27	(5), or (6)	15.00	6.00

1	42-4-229	15.00	6.00
2	42-4-230	15.00	6.00
3	42-4-231	15.00	6.00
4	42-4-232	15.00	6.00
5	42-4-233	75.00	24.00
6	42-4-234	15.00	6.00
7	42-4-235	50.00	16.00
8	42-4-236	65.00 75.00	16.00
9	42-4-237	<u>65.00</u>	6.00
10	42-4-1411	15.00	6.00
11	42-4-1412	15.00	6.00
12	42-4-1901	35.00	10.00

13 **SECTION 5. Effective date - applicability.** This act shall take
14 effect June 1, 2010, and shall apply to infractions committed on or after
15 said date.

16 **SECTION 6. Safety clause.** The general assembly hereby finds,
17 determines, and declares that this act is necessary for the immediate
18 preservation of the public peace, health, and safety.