
A BILL FOR AN ACT

RELATING TO CHILD PASSENGER RESTRAINTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 291-11.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§291-11.5 Child passenger restraints. (a) Except as
4 otherwise provided in this section, no person operating a motor
5 vehicle on a public highway in the State shall transport and a
6 parent or legal guardian who is a passenger in a motor vehicle,
7 shall not permit the transport of a child under eight years of
8 age except under the following circumstances:

9 (1) If the child is under four years of age, the person
10 operating the motor vehicle shall ensure that the
11 child is properly restrained in a child passenger
12 restraint system that meets federal motor vehicle
13 safety standards at the time of its manufacture; or

14 (2) If the child is four years of age or older but less
15 than eight years of age, the person operating the
16 motor vehicle shall ensure that the child is properly
17 restrained in a child safety seat or booster seat that
18 meets federal motor vehicle safety standards at the



1 time of its manufacture; except as provided in
2 paragraph (3); and
3 (3) If the child is four years of age or older but less
4 than eight years of age, the person operating the
5 motor vehicle shall be exempt from properly
6 restraining the child in a child safety seat or
7 booster seat that meets federal motor vehicle safety
8 standards at the time of manufacture if the child is
9 restrained by a seat belt assembly and:

10 (A) Over four feet and nine inches in height; or

11 (B) Over forty pounds and traveling in a motor
12 vehicle equipped only with lap belts, without
13 shoulder straps, in the back seat.

14 (b) Operators of the following motor vehicles shall be
15 exempt from the requirements of this section: emergency,
16 commercial, and mass transit vehicles. Further exemptions from
17 this section may be established by the department of
18 transportation pursuant to rules adopted under chapter 91.

19 (c) This section shall not apply if the number of persons
20 in a vehicle exceeds the greater of the following:

21 (1) The number of seat belt assemblies available in the
22 vehicle; or



1 (2) The number of seat belt assemblies originally
2 installed in the vehicle;
3 provided that all available seat belt assemblies are being used
4 to restrain a passenger, and those children not restrained by an
5 approved child passenger restraint system, a child safety seat,
6 a booster seat, or a seat belt assembly are in the back seat of
7 the motor vehicle.

8 (d) In no event shall failure to restrain a child under
9 the age of eight years as required by this section be considered
10 contributory negligence, comparative negligence, or negligence
11 per se.

12 (e) A child under eight years of age who is less than four
13 feet and nine inches in height may ride in the front seat of a
14 motor vehicle, if the child is properly secured in child
15 passenger restraint system that meets federal motor vehicle
16 safety standards, under the following circumstances:

- 17 (1) There is no back seat;
18 (2) The back seats are side-facing seats;
19 (3) The back seats are rear-facing seats;
20 (4) The child passenger restraint system cannot be
21 installed properly in the back seat;



1 (5) All back seats are already occupied by children under
2 the twelve years of age; or

3 (6) Medical reasons necessitate that the child not ride in
4 the back seat; provided that a court may require
5 satisfactory proof of the child's medical condition.

6 (f) A child may not ride in the front seat of a motor
7 vehicle that has an active passenger airbag if the child is:

8 (1) Under one year of age;

9 (2) Less than twenty pounds in weight; or

10 (3) Riding in a rear-facing child passenger restraint
11 system.

12 [~~(e)~~] (g) Violation of this section shall be considered an
13 offense as defined under section 701-107(5) and shall subject
14 the violator to the following penalties:

15 (1) For a first conviction, the person shall:

16 (A) Be fined not more than \$100;

17 (B) Be required by the court to attend a child
18 passenger restraint system safety class conducted
19 by the division of driver education; provided
20 that:

21 (i) The class may include video conferences as
22 determined by the administrator of the



- 1 division of driver education as an
2 alternative method of education; and
3 (ii) The class shall not exceed four hours;
4 (C) Pay a \$50 driver education assessment as provided
5 in section 286G-3;
6 (D) Pay a \$10 surcharge to be deposited into the
7 neurotrauma special fund; [+]and[+]
8 (E) Pay up to a \$10 surcharge to be deposited into
9 the trauma system [+]special[+] fund if the court
10 so orders; and
11 (2) For a conviction of a second offense committed within
12 three years of any other conviction under this
13 section, the person shall:
14 (A) Be fined not less than \$100 but not more than
15 \$200;
16 (B) Be required by the court to attend a child
17 passenger restraint system safety class not to
18 exceed four hours in length conducted by the
19 division of driver education if the person has
20 not previously attended such a class;
21 (C) Pay a \$50 driver education assessment as provided
22 in section 286G-3 if the person has not



1 previously attended a child passenger restraint
2 system safety class conducted by the division of
3 driver education;

4 (D) Pay a \$10 surcharge to be deposited into the
5 neurotrauma special fund; []and[]

6 (E) Pay up to a \$10 surcharge to be deposited into
7 the trauma system []special[] fund if the court
8 so orders;

9 (3) For a conviction of a third or subsequent offense
10 committed within three years of any other conviction
11 under this section, the person shall:

12 (A) Be fined not less than \$200 but not more than
13 \$500;

14 (B) Be required by the court to attend a child
15 passenger restraint system safety class not to
16 exceed four hours in length conducted by the
17 division of driver education if the person has
18 not previously attended such a class;

19 (C) Pay a \$50 driver education assessment as provided
20 in section 286G-3 if the person has not
21 previously attended a child passenger restraint



1 system safety class conducted by the division of
2 driver education;

3 (D) Pay a \$10 surcharge to be deposited into the
4 neurotrauma special fund; [+]and[+]

5 (E) Pay up to a \$10 surcharge to be deposited into
6 the trauma system [+]special[+] fund if the court
7 so orders.

8 [~~+~~] (h) As used in this section:

9 "Emergency vehicle", "mass transit vehicle", "restrained",
10 and "seat belt assembly" shall have the same meaning as provided
11 in section 291-11.6.

12 "Commercial vehicle" shall be defined as any motor vehicle
13 that is being used for the transportation of persons for hire,
14 compensation, or profit.

15 SECTION 2. This Act does not affect rights and duties that
16 matured, penalties that were incurred, and proceedings that were
17 begun before its effective date.

18 SECTION 3. Statutory material to be repealed is bracketed
19 and stricken. New statutory material is underscored.


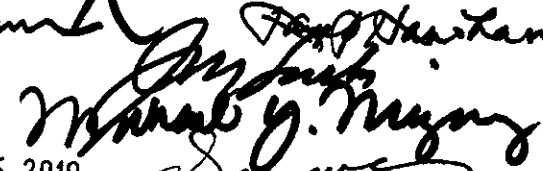


20 SECTION 4. This Act shall take effect on July 1, 2010.

21

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INTRODUCED BY:  Karen Luana

HB LRB 10-1138.doc



 Tom Brown
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 [unclear]
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JAN 25 2010

Report Title:

Child Passenger Restraints; Motor Vehicles

Description:

Amends law to prohibit the transport of a child under 8 years of age in a motor vehicle on a public highway in the State, when a parent or legal guardian is present in the motor vehicle, except under certain circumstances. Allows children under the age of 8 and under 4 feet and 9 inches in height to ride in the front seat of a motor vehicle, under certain circumstances.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

