

JAN 19 2018

# A BILL FOR AN ACT

RELATING TO CHILD PASSENGER RESTRAINTS.

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

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

"§291-11.5 Child passenger restraints. (a) Except as otherwise provided in this section, no person operating a motor vehicle on a public highway in the State shall transport a child under ~~[eight]~~ ten years of age except under the following circumstances:

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

~~(2) If the child is four years of age or older but less than eight years of age, the person operating the motor vehicle shall ensure that the child is properly restrained in a child safety seat or booster seat that 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 (1) If the child is under two years of age, the person  
15 operating the motor vehicle shall ensure that the  
16 child is properly restrained in a rear facing child  
17 safety seat that meets federal motor vehicle safety  
18 standards at the time of its manufacture;

19 (2) If the child is two years of age or older, but less  
20 than four years of age, the person operating the motor  
21 vehicle shall ensure that the child is properly



1        restrained in a rear facing or forward facing child  
2        safety seat with internal harness that meets federal  
3        motor vehicle safety standards at the time of its  
4        manufacture;

5        (3) If the child is four years of age or older but less  
6        than ten years of age, the person operating the motor  
7        vehicle shall ensure that the child is properly  
8        restrained in a child safety seat or booster seat that  
9        meets federal motor vehicle safety standards at the  
10       time of its manufacture, except as provided in  
11       paragraph (4); and

12       (4) If the child is seven years of age or older but less  
13       than ten years of age, the person operating the motor  
14       vehicle shall be exempt from properly restraining the  
15       child in a child safety seat that meets federal motor  
16       vehicle safety standards at the time of its  
17       manufacture if the child is correctly restrained by a  
18       lap or shoulder seat belt assembly and is over four  
19       feet and nine inches in height.

20       (b) Operators of the following motor vehicles shall be  
21       exempt from the requirements of this section: emergency,



1 commercial, and mass transit vehicles. Further exemptions from  
2 this section may be established by the department of  
3 transportation pursuant to rules adopted under chapter 91.

4 ~~[(c) This section shall not apply if the number of persons~~  
5 ~~in a vehicle exceeds the greater of the following:~~

6 ~~(1) The number of seat belt assemblies available in the~~  
7 ~~vehicle; or~~

8 ~~(2) The number of seat belt assemblies originally~~  
9 ~~installed in the vehicle;~~

10 ~~provided that all available seat belt assemblies are being used~~  
11 ~~to restrain a passenger, and those children not restrained by an~~  
12 ~~approved child passenger restraint system, a child safety seat,~~  
13 ~~a booster seat, or a seat belt assembly are in the back seat of~~  
14 ~~the motor vehicle.~~

15 ~~(d) In no event shall failure to restrain a child under~~  
16 ~~the age of eight years as required by this section be considered~~  
17 ~~contributory negligence, comparative negligence, or negligence~~  
18 ~~per se.~~

19 ~~(e)]~~ (c) Violation of this section shall be considered an  
20 offense as defined under section 701-107(5) and shall subject  
21 the violator to the following penalties:



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

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

(B) Be required by the court to attend a child passenger restraint system safety class ~~[conducted]~~ approved by the judiciary's division of driver education; provided that:

(i) The class may include video conferences as determined by the administrator of the division of driver education as an alternative method of education; and

(ii) The class shall not exceed four hours;

(C) Pay a \$50 driver education assessment as provided in section 286G-3;

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

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

(2) For a conviction of a second offense committed within three years of any other conviction under this section, the person shall:



1 (A) Be fined not less than [~~\$100~~] \$250 but not more  
2 than [~~\$200~~] \$500;

3 (B) Be required by the court to attend a child  
4 passenger restraint system safety class not to  
5 exceed four hours in length [~~conducted~~] approved  
6 by the judiciary's division of driver education  
7 if the person has not previously attended such a  
8 class;

9 (C) Pay a \$50 driver education assessment as provided  
10 in section 286G-3 if the person has not  
11 previously attended a child passenger restraint  
12 system safety class [~~conducted~~] approved by the  
13 judiciary's division of driver education;

14 (D) Pay a \$10 surcharge to be deposited into the  
15 neurotrauma special fund; and

16 (E) Pay up to a \$10 surcharge to be deposited into  
17 the trauma system special fund if the court so  
18 orders;

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



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- 1 (A) Be fined not less than [~~\$200~~] \$500 but not more
- 2 than [~~\$500~~] \$800;
- 3 (B) Be required by the court to attend a child
- 4 passenger restraint system safety class not to
- 5 exceed four hours in length [~~conducted~~] approved
- 6 by the judiciary's division of driver education
- 7 if the person has not previously attended such a
- 8 class;
- 9 (C) Pay a \$50 driver education assessment as provided
- 10 in section 286G-3 if the person has not
- 11 previously attended a child passenger restraint
- 12 system safety class [~~conducted~~] approved by the
- 13 judiciary's division of driver education;
- 14 (D) Pay a \$10 surcharge to be deposited into the
- 15 neurotrauma special fund; and
- 16 (E) Pay up to a \$10 surcharge to be deposited into
- 17 the trauma system special fund if the court so
- 18 orders.
- 19 [~~(f)~~] (d) As used in this section:



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

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

7 SECTION 2. Section 291-11.6, Hawaii Revised Statutes, is  
8 amended by amending subsection (a) to read as follows:

9 "(a) Except as otherwise provided by law, no person shall  
10 operate a motor vehicle upon any public highway unless the  
11 person is restrained by a seat belt assembly and all passengers  
12 in the front or back seat of the motor vehicle are restrained by  
13 a seat belt assembly or are restrained pursuant to section  
14 291-11.5 if under ~~[eight]~~ ten years of age.

15 As used in this section:

16 "Restrained" means that the seat belt assembly is worn as  
17 it was designed and intended to be worn.

18 "Seat belt assembly" means the seat belt assembly that is  
19 required to be in the motor vehicle under any federal motor  
20 vehicle safety standard issued pursuant to Public Law 89-563,  
21 the National Traffic and Motor Vehicle Safety Act of 1966, as





1 amended, unless original replacement seat belt assemblies are  
2 not readily available. If replacement assemblies are not  
3 readily available, seat belts of federally approved materials  
4 with similar protective characteristics may be used. Such  
5 replacement seat belt assemblies shall be permanently marked by  
6 the belt manufacturer indicating compliance with all applicable  
7 federal standards."

8 SECTION 3. This Act does not affect rights and duties that  
9 matured, penalties that were incurred, and proceedings that were  
10 begun before its effective date.

11 SECTION 4. Statutory material to be repealed is bracketed  
12 and stricken. New statutory material is underscored.

13 SECTION 5. This Act shall take effect upon its approval.  
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INTRODUCED BY:

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# S.B. NO. 2221

**Report Title:**

Child Passenger Restraints; Requirements; Penalties; Fines

**Description:**

Amends the requirements for child passenger restraints and increases the fines for repeat convictions.

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

