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# 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 a child  
6 under [~~eight~~] ten years of age except under the following  
7 circumstances:

8 (1) If the child is under two years of age, the person  
9 operating the motor vehicle shall ensure that the  
10 child is properly restrained in a rear facing child  
11 safety seat that meets federal motor vehicle safety  
12 standards at the time of its manufacture;

13 [~~(1)~~] (2) If the child is [~~under~~] two years of age or  
14 older, but less than four years of age, the person  
15 operating the motor vehicle shall ensure that the  
16 child is properly restrained in a [~~child passenger~~  
17 restraint system] rear facing or forward facing child



1           safety seat with internal harness that meets federal  
2           motor vehicle safety standards at the time of its  
3           manufacture; or

4       ~~[(2)]~~ (3) If the child is four years of age or older but  
5           less than ~~[eight]~~ ten years of age, the person  
6           operating the motor vehicle shall ensure that the  
7           child is properly restrained in a child safety seat or  
8           booster seat that meets federal motor vehicle safety  
9           standards at the time of its manufacture; except as  
10          provided in paragraph ~~[(3)]~~ (4); and

11       ~~[(3)]~~ (4) If the child is ~~[four]~~ seven years of age or  
12          older but less than ~~[eight]~~ ten years of age, the  
13          person operating the motor vehicle shall be exempt  
14          from ~~[properly]~~ restraining the child in a child  
15          safety seat or booster seat ~~[that meets federal motor~~  
16          ~~vehicle safety standards at the time of manufacture]~~  
17          pursuant to paragraph (3) if the child is correctly  
18          restrained by a lap and shoulder seat belt assembly  
19          ~~[and-~~  
20          ~~(A) Over]~~; provided that the child is over four feet  
21          and nine inches in height ~~[, or~~



1           ~~(B) Over forty pounds and traveling in a motor~~  
2                   ~~vehicle equipped only with lap belts, without~~  
3                   ~~shoulder straps, in the back seat].~~

4           (b) Operators of the following motor vehicles shall be  
5 exempt from the requirements of this section: emergency,  
6 commercial, and mass transit vehicles. Further exemptions from  
7 this section may be established by the department of  
8 transportation pursuant to rules adopted under chapter 91.

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

11           ~~(1) The number of seat belt assemblies available in the~~  
12                   ~~vehicle, or~~

13           ~~(2) The number of seat belt assemblies originally~~  
14                   ~~installed in the vehicle,~~

15 ~~provided that all available seat belt assemblies are being used~~  
16 ~~to restrain a passenger, and those children not restrained by an~~  
17 ~~approved child passenger restraint system, a child safety seat,~~  
18 ~~a booster seat, or a seat belt assembly are in the back seat of~~  
19 ~~the motor vehicle.~~

20           ~~(d) In no event shall failure to restrain a child under~~  
21 ~~the age of eight years as required by this section be considered~~



1 ~~contributory negligence, comparative negligence, or negligence~~  
2 ~~per se.~~

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

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

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

8 (B) Be required by the court to attend a child  
9 passenger restraint system safety class

10 ~~conducted]~~ approved by the judiciary's division  
11 of driver education; provided that:

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

16 (ii) The class shall not exceed four hours;

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

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



- 1 (E) Pay up to a \$10 surcharge to be deposited into  
2 the trauma system special fund if the court so  
3 orders;
- 4 (2) For a conviction of a second offense committed within  
5 three years of any other conviction under this  
6 section, the person shall:
- 7 (A) Be fined not less than [~~\$100~~] \$250 but not more  
8 than [~~\$200~~] \$500;
- 9 (B) Be required by the court to attend a child  
10 passenger restraint system safety class not to  
11 exceed four hours in length [~~conducted~~] approved  
12 by the judiciary's division of driver education  
13 if the person has not previously attended such a  
14 class;
- 15 (C) Pay a \$50 driver education assessment as provided  
16 in section 286G-3 if the person has not  
17 previously attended a child passenger restraint  
18 system safety class [~~conducted~~] approved by the  
19 judiciary's division of driver education;
- 20 (D) Pay a \$10 surcharge to be deposited into the  
21 neurotrauma special fund; and



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



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

4           [~~(f)~~] (d) As used in this section:

5           ~~["Emergency vehicle", "mass transit vehicle", "restrained",~~  
6           ~~and "seat belt assembly" shall have the same meaning as provided~~  
7           ~~in section 291-11.6.]~~

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

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

14          SECTION 2. Statutory material to be repealed is bracketed  
15          and stricken. New statutory material is underscored.

16          SECTION 3. This Act shall take effect upon approval.



**Report Title:**

Child Passenger Restraints; Requirements; Penalties

**Description:**

Amends requirements for child passengers. Requires rear facing child safety seats for children under two years of age. Raises certain fines for violations. (SD2)

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

