

ACT 175

S.B. NO. 427

A Bill for an Act Relating to Child Passenger Safety.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that while great strides have been made to protect infants and toddlers in motor vehicle crashes, preschoolers and young children under eight years of age remain at high risk of injury. These youngsters are often placed in standard adult safety belts that can cause internal injuries and death for children in a car crash. The legislature further finds that seat belts are designed for older children and adults, not for children in this age group whose size and physical development make seat belts less effective and, in some cases, unsafe. The legislature further finds that in Hawaii, although it is legal for children between the

ages of four and eight to ride restrained with seat belts, this practice exposes these children to unnecessary risk.

The purpose of this Act is to increase the safety of Hawaii's children by amending Hawaii's child passenger restraint law to require children four years of age or older but less than eight years of age, and under certain weight and height minimums, to be properly secured in a child safety or booster seat.

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

1. By amending subsection (a) to read:

“(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 ~~four~~ eight years of age ~~[unless]~~ except under the following circumstances:

- (1) If the child is under four years of age, the person operating the motor vehicle [ensures] shall ensure that the child is properly restrained in a child passenger restraint system [approved by the United States Department of Transportation] 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 time of its manufacture; except as provided in paragraph (3); and
- (3) If the child is four years of age or older but less than eight years of age, the person operating the motor vehicle shall be exempt from properly restraining the child in a child safety seat or booster seat that meets federal motor vehicle safety standards at the time of manufacture if the child is restrained by a seat belt assembly and:
 - (A) Over four feet and nine inches in height; or
 - (B) Over forty pounds and traveling in a motor vehicle equipped only with lap belts, without shoulder straps, in the back seat.”

2. By amending subsections (c) and (d) to read:

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

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

(d) In no event shall failure ~~[of]~~ to restrain a child under the age of ~~[four]~~ eight years ~~[to be restrained or failure to restrain such a child in a child passenger restraint system or a seat belt assembly]~~ as required by this section be considered ~~[as]~~ contributory negligence, comparative negligence, or negligence per se.”

3. By amending subsection (f) to read as follows:

“(f) As used in this section~~[-~~“emergency]; “Emergency vehicle”, “mass transit vehicle”, ~~[and]~~ “restrained”, and “seat belt assembly” shall have the same meaning as provided in section 291-11.6. ~~[As used in this section, “commercial]~~ “Commercial vehicle” shall be defined as any motor vehicle that is being used for the transportation of persons for hire, compensation, or profit.”

SECTION 3. Section 291-11.6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Except as otherwise provided by law, no person:

- (1) Shall operate a motor vehicle upon any public highway unless the person is restrained by a seat belt assembly and ~~[any]~~ all passengers in the front or back seat of the motor vehicle are restrained by a seat belt assembly if between the ages of ~~[four]~~ eight and fourteen, or are restrained pursuant to section 291-11.5 if under ~~[the age of four;]~~ eight years of age;
- (2) If fifteen years of age or more shall be a passenger in the front seat of a motor vehicle being operated upon any public highway unless such person is restrained by a seat belt assembly; and
- (3) If between the ages of fifteen and seventeen, shall be a passenger in the back seat of a motor vehicle being operated upon any public highway unless such person is restrained by a seat belt assembly.

As used in this section [~~“seat belt assembly”~~]:

“Restrained” means that the seat belt assembly is worn as it was designed and intended to be worn.

“Seat belt assembly” means the seat belt assembly that is required to be in the motor vehicle under any federal motor vehicle safety standard issued pursuant to Public Law 89-563, the ~~[federal]~~ National Traffic and Motor Vehicle Safety Act of 1966, as amended, unless original replacement seat belt assemblies are not readily available. If replacement assemblies are not readily available, seat belts of federally approved materials with similar protective characteristics may be used. Such replacement seat belt assemblies shall be permanently marked by the belt manufacturer indicating compliance with all applicable federal standards.”

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

SECTION 5. This Act shall take effect on January 1, 2007.

(Approved June 6, 2006.)