

HOUSE OF REPRESENTATIVES
TWENTY-FIFTH LEGISLATURE, 2010
STATE OF HAWAII

H.B. NO. 2693

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 and a parent or legal guardian who is a passenger in a motor vehicle, shall not permit the transport of a child under eight 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 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.

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

(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 to restrain a child under the age of eight years as required by this section be considered contributory negligence, comparative negligence, or negligence per se.

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

- (1) There is no back seat;

- (2) The back seats are side-facing seats;
- (3) The back seats are rear-facing seats;
- (4) The child passenger restraint system cannot be installed properly in the back seat;
- (5) All back seats are already occupied by children under the twelve years of age; or
- (6) Medical reasons necessitate that the child not ride in the back seat; provided that a court may require satisfactory proof of the child's medical condition.

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

- (1) Under one year of age;
- (2) Less than twenty pounds in weight; or
- (3) Riding in a rear-facing child passenger restraint system.

~~(f)~~ (g) Violation of this section shall be considered an offense as defined under section 701-107(5) and shall subject 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 by the 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; and
- (2) For a conviction of a second offense committed within three years of any other conviction under this section, the person shall:
 - (A) Be fined not less than \$100 but not more than \$200;
 - (B) Be required by the court to attend a child passenger restraint system safety class not to exceed four hours in length conducted by the division of driver education if the person has not previously attended such a class;
 - (C) Pay a \$50 driver education assessment as provided in section 286G-3 if the person has not previously attended a child passenger restraint system safety class conducted by the division of driver education;
 - (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;
- (3) For a conviction of a third or subsequent offense committed within three years of any other conviction under this section, the person shall:
 - (A) Be fined not less than \$200 but not more than \$500;
 - (B) Be required by the court to attend a child passenger restraint system safety class not to exceed four hours in length conducted by the division of driver education if the person has not previously attended such a class;
 - (C) Pay a \$50 driver education assessment as provided in section

286G-3 if the person has not previously attended a child passenger restraint system safety class conducted by the division of driver education;

(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.

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

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

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

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

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

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

INTRODUCED BY: _____

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.



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 3, 2010

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

HOUSE BILL NO. 2693

COMMITTEE ON TRANSPORTATION

The Department of Transportation supports this bill. We believe it will increase child passenger safety on our roads, which is extremely significant, since the Center for Disease Control and Prevention lists motor vehicle crashes as the leading cause of death for kids.

Child safety seats, especially those that are rear-facing, should never be placed in front of an airbag as the airbag deployment can shatter the child safety seat and expose the child to severe injuries or death. Child safety seats should be installed according to the manufacturer's instructions, which say that child safety seats should never be installed in front of an airbag.

We also support the parent receiving the citation instead of the driver of the vehicle. Each parent should take responsibility for their child, no matter who is driving the vehicle.

The Center for disease Control and Prevention makes the following recommendations:

- All children ages 12 years and younger should ride in the back seat. Riding in the back seat is associated with a 40% reduction in the risk of serious injury for children ages 16 and younger. Putting children in the back seat eliminates the injury risk of deployed front passenger-side airbags and places children in the safest part of the vehicle in the event of a crash. Adults should avoid placing children in front of airbags.
- Overall, for children younger than 16 years, riding in the back seat is associated with a 40% reduction in the risk of serious injury.

February 1, 2010

**The Honorable Joseph M. Souki
Committee on Transportation
The House of Representatives
State Capitol
Honolulu, Hawaii 96813**

Dear Chair Souki and Members:

Subject: HOUSE BILL 2693, RELATING TO CHILD PASSENGER RESTRAINTS

My name is Charles Hirata and I am a resident of Wailuku, Maui. I have been involved in child passenger safety since 1995 and a Child Passenger Safety Technician Instructor in since 1998. I am writing in support of this bill that would extend responsibility to a parent or legal guardian who may be present in the vehicle when a child is being transported. Currently, a person who is merely trying to assist a parent in transporting a child may be cited, even though the parent or guardian may be in the vehicle. This change is based on surveys conducted by instructors who teach classes for child restraint violators.

The other change proposed by this bill would ensure that children will be transported in the back seat and only allowed in the front seat under certain conditions. The rear seat is 37% safer than the front seat and only under certain conditions should a child under the age of 13 be allowed to ride in the front seat. This recommendation can be found in vehicle instruction manuals and on airbag warning labels found on the vehicle's visors.

Although these warnings are found in childseat instruction manuals and in vehicle instruction manuals, people continue to place their children in harm's way by transporting them on the front seat. The impact from an inflating airbag has enough force to kill a child and rear-facing infants are especially at risk from this hazard.

I humbly ask for your support of this bill that will enhance protection for our most precious resource; our children.

Very truly yours,

CHARLES M. HIRATA

February 1, 2010

**The Honorable Joseph M. Souki
Committee on Transportation
The House of Representatives
State Capitol
Honolulu, Hawaii 96813**

Dear Chair Souki and Members:

Subject: HOUSE BILL 2693, RELATING TO CHILD PASSENGER RESTRAINTS

My name is Lisa Dau and I am a resident of Honolulu, Hawaii. I have been involved in child passenger safety since 1995 and a Child Passenger Safety Technician Instructor in since 2003. I am writing in support of this bill that would extend responsibility to a parent or legal guardian who may be present in the vehicle when a child is being transported. Currently, a person who is merely trying to assist a parent in transporting a child may be cited, even though the parent or guardian may be in the vehicle. This change is based on surveys conducted by instructors who teach classes for child restraint violators.

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I humbly ask for your support of this bill that will enhance protection for our most precious resource; our children.

Very truly yours,

Lisa M. Dau, RN