

JAN 17 2018

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# A BILL FOR AN ACT

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RELATING TO CHILD PASSENGER RESTRAINTS.

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

SECTION 1. Section 291-11, Hawaii Revised Statutes, is amended to read as follows:

"§291-11 Riders and passengers under [~~seven~~] ten years of age on motorcycles and motor scooters prohibited; penalty. (a) It shall be unlawful for any driver of a motorcycle or motor scooter to carry as a passenger or to permit to ride thereon any person under the age of [~~seven~~] ten years.

(b) A driver of a motorcycle or motor scooter shall be permitted to carry as a passenger or permit to ride thereon any person under the age of [~~seven~~] ten years; provided that the motorcycle or motor scooter:

- (1) Has three wheels;
- (2) Is powered by an electric motor;
- (3) Has a full body enclosed cab; and
- (4) Has a seat belt assembly or a child restraint system for the driver and passenger;



1 and the operator and passenger uses the seat belt or child  
2 restraint system pursuant to sections 291-11.5 and 291-11.6.

3 (c) A motorcycle or motor scooter driver who violates this  
4 section shall be fined not more than \$200."

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

7 "**§291-11.5 Child passenger restraints.** (a) Except as  
8 otherwise provided in this section, no person operating a motor  
9 vehicle on a public highway in the State shall transport a child  
10 under ~~[eight]~~ ten years of age except under the following  
11 circumstances:

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

17 ~~[-(1)-]~~ (2) If the child is ~~[under]~~ two years of age or  
18 older, but less than four years of age, the person  
19 operating the motor vehicle shall ensure that the  
20 child is properly restrained in a ~~[child passenger~~  
21 ~~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 safety  
15          seat or booster seat that meets federal motor vehicle  
16          safety standards at the time of manufacture if the  
17          child is correctly restrained by a lap and shoulder  
18          seat belt assembly and~~[-~~

19       ~~(A) Over]~~ is over four feet and nine inches in  
20          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~~



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 division of driver  
11 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



(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:

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

(B) Be required by the court to attend a child passenger restraint system safety class not to exceed four hours in length [~~conducted~~] approved 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~~] approved by the division of driver education;

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



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(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~~] \$500 but not more than [~~\$500~~] \$800;

(B) Be required by the court to attend a child passenger restraint system safety class not to exceed four hours in length [~~conducted~~] approved 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~~] approved 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)]~~ (d) 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.

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

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 shall operate a motor vehicle upon any public highway unless the person is restrained by a seat belt assembly and all passengers in the front or back seat of the motor vehicle are restrained by a seat belt assembly or are restrained pursuant to section 291-11.5 ~~[if under eight years of age]~~."





1 As used in this section:

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

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

15 SECTION 4. 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 5. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.



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1 SECTION 6. This Act shall take effect on January 1, 2019.

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# S.B. NO. 2015

**Report Title:**

Child Safety Seat; Child Passenger Restraints; Requirements;  
Penalties

**Description:**

Prohibits riders and passengers under ten years of age on motorcycles and motor scooters. Amends requirements for child passenger restraints in motor vehicles. Requires rear facing child safety seats for children under two years of age. Raises fines for violations.

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