

JAN 19 2018

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 four years of age, the person
9 operating the motor vehicle shall ensure that the
10 child is properly restrained in a child passenger
11 restraint system that meets federal motor vehicle
12 safety standards at the time of its manufacture; or~~

13 ~~-(2) If the child is four years of age or older but less
14 than eight years of age, the person operating the
15 motor vehicle shall ensure that the child is properly
16 restrained in a child safety seat or booster seat that
17 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 (1) For a first conviction, the person shall:
- 2 (A) Be fined not more than \$100;
- 3 (B) Be required by the court to attend a child
- 4 passenger restraint system safety class
- 5 [conducted] approved by the judiciary's division
- 6 of driver education; provided that:
- 7 (i) The class may include video conferences as
- 8 determined by the administrator of the
- 9 division of driver education as an
- 10 alternative method of education; and
- 11 (ii) The class shall not exceed four hours;
- 12 (C) Pay a \$50 driver education assessment as provided
- 13 in section 286G-3;
- 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 (2) For a conviction of a second offense committed within
- 20 three years of any other conviction under this
- 21 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



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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.

14

INTRODUCED BY:

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Report Title:

Child Passenger Restraints; Requirements; Penalties; Fines

Description:

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

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