

## ACT 30

H.B. NO. 118

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 a child under four years of age except under the following circumstances:

- (1) If the child is under three years of age, the person operating the motor vehicle shall ensure that the child is properly restrained in a child passenger restraint system approved by the United States Department of Transportation at the time of its manufacture; or
- (2) If the child is three years of age or older but less than four years of age, the person operating the motor vehicle must either ensure that the child is properly restrained in a child passenger restraint system approved by the United States Department of Transportation at the time of its manufacture or ensure that the child is restrained by a seat belt assembly.

(b) Operators of the following motor vehicles shall be exempt from the requirements of this section: emergency, commercial, [for hire,] and mass transit vehicles [and type I school buses.] 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 or a seat belt assembly are in the back seat of the motor vehicle.

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

(e) Any person violating this section shall be guilty of a violation and subject to the penalties of section 291C-161(b).

(f) As used in this section, “emergency vehicle”, “mass transit vehicle”, and “seat belt assembly” shall have the same meaning as provided in section 291-11.6.

As used in this section, “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. Statutory material to be repealed is bracketed. New statutory material is underscored.

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**SECTION 3.** This Act shall take effect upon its approval.

(Approved April 24, 1989.)