

ACT 122

S.B. NO. 152

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 ~~[eight]~~ ten years of age except under the following circumstances:

- (1) If the child is under two years of age, the person operating the motor vehicle shall ensure that the child is properly restrained in a rear-facing child passenger restraint system with harness that meets federal motor vehicle safety standards at the time of its manufacture;
- [(4)] (2) If the child is ~~[under]~~ two years of age or older, but less than four years of age, the person operating the motor vehicle shall ensure that the child is properly restrained in a rear-facing or forward-facing child passenger restraint system with harness that meets federal motor vehicle safety standards at the time of its manufacture; ~~[or~~
- (2)] (3) If the child is four years of age or older but less than ~~[eight]~~ ten years of age, the person operating the motor vehicle shall ensure

that the child is properly restrained in a child ~~[safety seat]~~ passenger restraint system with harness or booster seat that meets federal motor vehicle safety standards at the time of its manufacture; except as provided in paragraph ~~[(3); and]~~ (4); or

- ~~[(3)]~~ (4) If the child is ~~[four]~~ seven years of age or older but less than ~~[eight]~~ ten years of age, the person operating the motor vehicle shall be exempt from ~~[properly]~~ restraining the child in a child ~~[safety seat]~~ passenger restraint system with harness or booster seat that meets federal motor vehicle safety standards at the time of manufacture if the child is correctly restrained by a lap and shoulder seat belt assembly ~~[and:~~

(A) ~~Over]; provided that the child is 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)]~~ (c) 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]~~ approved by the judiciary's 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;

(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 ~~[conduct-~~

- ed] approved by the judiciary's 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 judiciary's 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; and
- (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 judiciary's 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 judiciary's 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:

“Commercial vehicle” means 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 2. 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 they are under [~~eight~~] ten years of age.”

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

SECTION 4. This Act shall take effect upon its approval.

(Approved June 27, 2022.)