

MODEL CHILD RESTRAINT ACT

The purpose of this legislation is to reduce injuries and fatalities on the streets, roads and highways by requiring children riding in motor vehicles to be appropriately restrained by occupant protection devices in all seating positions in all motor vehicles at all times.

Without a comprehensive child restraint law, legally required child occupant protection may be inadequate. Children may be restrained in safety belt systems too large for their age and size, exposing them to needless risk of injury and death.¹ In addition, in states where the safety belt law applies only to front seat occupants, children appropriately sitting in a vehicle's rear seating position who are above the age covered by the state's child restraint law are not required to be restrained.

Children younger than age 13 should be seated in a rear seat if space is available. Most crashes are frontal collisions, making the rear seat generally safer than the front. Seating children in the rear seat is particularly important in light of injuries and fatalities that occur when infants and young children are caught in the path of a deploying air bag. The risk is greatest for infants in rear-facing child restraints and unbelted children in the front seats of vehicles with activated air bags covering front seat passenger seating positions.

License sanctions have been shown to be among the most effective methods of increasing compliance with traffic laws. Subsection (b) of section 6 is offered for those legislators wishing to consider imposition of points for violators of this act.

Text of Model

§ 1 Title

This act may be cited as the [*State's*] **Child Restraint Act**.

§ 2 Application

This act applies to children under age 16 riding as passengers in a motor vehicle that is being driven on the public or private streets and highways of this state.

§ 3 Operation of Motor Vehicles with Children

A driver of a motor vehicle shall not transport a child under the age of (16)² in a motor vehicle unless the child is properly secured in either a safety belt or a child restraint system appropriate for the child's age, weight and height. If the driver is neither a parent nor legal guardian of a child and that child's parent or legal guardian is present in the motor vehicle, that parent or guardian

¹ See "Effects of Seating Position and Appropriate Restraint Use on the Risk of Injury to Children in Motor Vehicle Crashes"- Pediatrics, Mar 2005; 115: e305 - e309, Dennis R. Durbin, Irene Chen, Rebecca Smith, Michael R. Elliott, and Flaura K. Winston.

² This provision applies to children 15 and under to avoid gaps in safety belt laws applying to children. In states with a primary safety belt law applying to every seating position, the designated age may be lower.

and the driver are both legally responsible for that child complying with the provisions of this section.

(a) Children younger than 4 years of age regardless of weight, or weighing less than 40 pounds regardless of age, shall be properly secured in a child restraint system.

(b) Children ages 4 through 7 weighing 40 pounds or more shall be properly secured in a booster seat secured by a lap and shoulder belt system or other appropriate child restraint system unless the child:

1. is riding in a vehicle without a rear seating position equipped with a lap and shoulder belt system; or
2. is 4 feet 9 inches tall or taller.

(c) "A child in a rear facing child restraint system may not ride in the front seat of a motor vehicle unless the front passenger side air bag is deactivated,

1. and only a front seat is available, or
2. the special health care needs of the child require the child to ride in the front seat of the motor vehicle and such special needs are documented by a physician in writing and such written physician exemption is carried in the vehicle.

(d) Children younger than age 13 who are riding in a vehicle with rear passenger seating shall be properly secured in a rear seat unless all available rear seats in that vehicle are in use by other children younger than age 13.

(e) Every car rental agency conducting business in this state shall inform its customers of the requirements imposed by this section on operators of motor vehicles with occupants younger than 13 years of age and shall provide for rental of appropriate child restraint systems.

(f) Exemptions

This section shall not apply to motor vehicles that are not required to be equipped with safety belts by Federal Motor Vehicle Safety Standard 208 (49 CFR § 571.208) as it may be amended from time to time, nor shall it apply to a person with a physically disabling condition whose physical disability would prevent occupant restraint if a physician specifies the nature of the condition in writing, including the reason occupant restraint is inappropriate, and such written physician exemption is carried in the vehicle.

§4 Civil Damages Immunity for Child Passenger Safety Technicians

A person who is currently certified as a child passenger safety technician and who in good faith provides inspection, adjustment, or an educational service regarding child passenger restraint systems is not liable for civil damages resulting from any act or omission in providing the services, other than acts or omissions constituting gross negligence or willful or wanton misconduct.

(Optional Section) Fines collected from violation of the (state) Child Restraint Act shall be used to fund public education covering the importance of properly restraining child passengers and to educate the public on the specific requirements of the (state) Child Restraint Act and/or for the purchase of child restraint systems to be distributed to people making less than \$ X³.

§5 Definitions

(a) "Belt-positioning seat" means a child restraint system that positions a child on a vehicle seat to improve the fit of a vehicle Type II belt system on the child and that lacks any component, such as a belt system or a structural element, designed to restrain forward movement of the child's torso in a forward impact, and when occupied by a child in a manner consistent with original manufacturer instructions, complies with the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 213 (49 CFR § 571.213) as it may be amended from time to time.

(b) "Backless child restraint system" means a child restraint, other than a belt-positioning seat, that consists of a seating platform that does not extend up to provide a restraint for the child's back or head and has a structural element designed to restrain forward motion of the child's torso in a forward impact, and when occupied by a child in a manner consistent with original manufacturer instructions, complies with the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 213 (49 CFR § 571.213) as it may be amended from time to time.

(c) "Booster seat" means either a "backless child restraint system" or a "belt-positioning seat" meeting the standards of Federal Motor Vehicle Safety Standard No. 213 (49 CFR § 571.213) as it may be amended from time to time.

(d) "Child restraint system" means a specially designed seating system other than a Type I or Type II safety belt assembly designed for use in a motor vehicle or aircraft to restrain, seat, or position children who weigh 30 kilograms (kg) or less, that conforms with Federal Motor Vehicle Safety Standard No. 213 (49 CFR § 571.213) as it may be amended from time to time and which is either permanently affixed to a motor vehicle or may be affixed to such vehicle by a safety belt or LATCH system.

(e) "Driver" means a person who drives or is in actual physical control of a motor vehicle.

(f) "Lap and shoulder safety belt system" means a Type II safety belt assembly consisting of a combination lap and shoulder belt that complies with Federal Motor Vehicle Safety Standard No. 208 (49 CFR § 571.208) as it may be amended from time to time.

(g) "LATCH system" (Lower Anchors and Tethers for Children system) means motor vehicle anchorages originally installed by the manufacturer providing for the installation of a child passenger restraint system by means of two lower anchorages and a tether anchorage to which a tether strap can be attached that complies with Federal Motor Vehicle Safety Standard No. 225 (49 CFR § 571.225), as it may be amended from time to time. {The vehicle safety belt system is not used when using the LATCH system.}

³ States using this optional provision would have to define income eligibility for child seat distribution.

(h) "Motor vehicle" means any motor vehicle required to be equipped with safety belts by Federal Motor Vehicle Safety Standard No. 208 (49 CFR § 571.208) as it may be amended from time to time.

(i) "Properly secured" means the correct use and position of a booster seat, child passenger restraint or safety belt system, as defined or prescribed by the manufacturer of the product.

(j) "Passenger seating position" means a designated seating position as defined in 49 CFR § 571.3.

(k) "Safety belt system" means a system as defined or prescribed in FMVSS 208 and 209 (49 CFR §§ 571.208 and 571.209), which includes any strap, webbing, or similar device designed to secure a person in a motor vehicle in order to mitigate the results of a traffic crash, including all necessary buckles and other fasteners, and all hardware designed for installing such seat belt assembly in a motor vehicle.

(l) "Type I safety belt assembly" means a lap belt for pelvic restraint complying with Federal Motor Vehicle Safety Standard No. 209 (49 CFR § 571.209).

(m) "Type II safety belt assembly" means a combination of pelvic and upper torso restraints complying with Federal Motor Vehicle Safety Standard No. 209 (49 CFR § 571.209).

§6 Penalties

(a) A person who violates this Act shall be punished by a fine of at least (\$ 50.00) but not more than (\$100).

(b) (Optional) A motor vehicle operator who violates this Act shall be assessed (two) points on the driver license record.

§7 Effective Date [Insert effective date.]