

LEGISLATIVE BILL 306

Approved by the Governor April 25, 1983

Introduced by Marsh, 29

AN ACT to amend section 29-431, Reissue Revised Statutes of Nebraska, 1943, relating to crimes; to redefine a term; to require that certain children be secured within a motor vehicle; to provide penalties; to provide for the treatment of compliance and violations as prescribed; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 29-431, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-431. As used in this act unless the context otherwise requires, infraction shall mean the violation of any law, ordinance, order, rule, or regulation, not including those related to traffic, which is not otherwise declared to be a misdemeanor or a felony. Infraction shall include violations of section 2 of this act.

Sec. 2. (1) Any person, who resides in Nebraska and drives any motor vehicle which has or is required to have seat safety belts, shall ensure that all children under the age of four being transported in such vehicle use a child passenger restraint system, of a type which meets Federal Motor Vehicle Safety Standard 213 as developed by the National Highway Safety Administration as of the effective date of this act, or use a seat safety belt for children over age one. This subsection shall apply to every motor vehicle which is equipped with seat safety belts or is required to be equipped with restraint systems pursuant to Federal Motor Vehicle Safety Standard 208 except taxicabs, mopeds, motorcycles, and any motor vehicle designated by the manufacturer as a 1963 year model or earlier which is not equipped with a seat safety belt.

(2) Whenever any physician licensed to practice medicine in Nebraska determines, through accepted medical procedures, that use of a child passenger restraint system by a particular child would

be harmful by reason of the child's weight, physical condition, or other medical reason, the provisions of subsection (1) of this section shall be waived. The driver of any vehicle transporting such a child shall carry on his or her person or in the vehicle a signed written statement of the physician identifying the child and stating the grounds for such waiver.

Sec. 3. (1) A person violating any provision of subsection (1) of section 2 of this act shall be guilty of an infraction as defined in section 29-431 and shall be fined twenty-five dollars for each violation. The failure to provide a child restraint system for more than one child in the same vehicle at the same time, as required in subsection (1) of section 2 of this act, shall not be treated as a separate offense.

Any person who is charged with a violation of subsection (1) of section 2 of this act, who does not have in his or her possession a child restraint system meeting the requirements of Federal Motor Vehicle Safety Standard 213 as of the effective date of this act, and who subsequently purchases or rents for a one-year period such a system prior to his or her court appearance, shall, upon presentation of proof of purchase or proof of rental for a one-year period of such a system, be able to utilize such presentation as an absolute defense and cause for dismissal of such charge.

(2) A person who has acquired the statement authorized by subsection (2) of section 2 of this act, but fails to show an officer such statement when requested to do so, shall be guilty of an infraction as defined in section 29-431 and shall be fined ten dollars for each offense. The failure to produce a statement for more than one child in the same vehicle at the same time shall not be treated as a separate offense.

Sec. 4. Violations of the provisions of sections 2 and 3 of this act shall not constitute prima facie evidence of negligence nor shall compliance with such sections constitute a defense to any claim for personal injuries to a child or recovery of medical expenses for injuries sustained in any motor vehicle accident. Violation of sections 2 and 3 of this act by a driver shall not constitute a defense for another person to any claim for personal injuries to a child or recovery of medical expenses for injuries sustained in any motor vehicle accident.

Sec. 5. That original section 29-431, Reissue Revised Statutes of Nebraska, 1943, is repealed.