

LEGISLATIVE BILL 410

Approved by the Governor February 16, 2000

Introduced by Baker, 44; Hudkins, 21; Schmitt, 41; Byars, 30; Thompson, 14

AN ACT relating to the Nebraska Rules of the Road; to amend sections 60-6,267 and 60-6,268, Reissue Revised Statutes of Nebraska, and section 71-1907, Revised Statutes Supplement, 1998; to change provisions relating to child passenger restraint and occupant protection systems; and to repeal the original sections.

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

Section 1. Section 60-6,267, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,267. (1) Any person ~~who resides~~ in Nebraska ~~and who~~ drives any motor vehicle which has or is required to have an occupant protection system shall ensure that:

(a) All children under the age of ~~four or~~ five and weighing less than forty pounds 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 Traffic Safety Administration as of July 10, 1990, and which is correctly installed in such vehicle; and

(b) All children under the age of sixteen and weighing forty or more pounds ~~or at least four years of age and younger than five years of age~~ being transported in such vehicle use an occupant protection system.

This subsection shall apply to every motor vehicle which is equipped with an occupant protection system 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 an occupant protection system.

(2) Whenever any licensed 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.

(3) The drivers of authorized emergency vehicles shall not be subject to the requirements of subsection (1) of this section when operating such authorized emergency vehicles pursuant to their employment.

(4) The Department of Motor Vehicles shall develop and implement an ongoing public information and education program regarding the use of child passenger restraint systems and occupant protection systems.

Sec. 2. Section 60-6,268, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,268. (1) A person violating any provision of subsection (1) of section 60-6,267 shall, for a first offense, 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 such subsection, shall not be treated as a separate offense.

Any For a first offense, a person who is charged with a violation of such subsection, 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 August 26, 1983, and who subsequently purchases or rents for a one-year period such a system prior to his or her court appearance shall not, 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 have any fine imposed and shall not have any points assessed against his or her driving record.

For a second or any subsequent offense, any person violating such subsection shall be guilty of an infraction.

(2) A person who has acquired the statement authorized by subsection (2) of section 60-6,267, but fails to show a peace 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.

(3) Enforcement of subdivision (1)(b) of section 60-6,267 shall be accomplished only as a secondary action when an operator of a motor vehicle has been cited or charged with a violation or some other offense.

Sec. 3. Section 71-1907, Revised Statutes Supplement, 1998, is amended to read:

71-1907. Any person furnishing foster care who is subject to licensure under section 71-1902, when transporting in a motor vehicle any children for whom care is being furnished, shall use an approved child passenger restraint system for each child, except that an occupant protection system as defined in section 60-6,265 may be used for any child weighing forty or more pounds. ~~or four years of age or more.~~

Any person violating this section shall be guilty of an infraction as defined in section 29-431 and shall have his or her license to furnish foster care revoked or suspended by the Department of Health and Human Services.

For purposes of this section, approved child passenger restraint system shall mean a restraint system which meets Federal Motor Vehicle Safety Standard 213 as developed by the National Highway Traffic Safety Administration as of July 17, 1982.

Sec. 4. Original sections 60-6,267 and 60-6,268, Reissue Revised Statutes of Nebraska, and section 71-1907, Revised Statutes Supplement, 1998, are repealed.