

2238--A

2009-2010 Regular Sessions

I N   S E N A T E

February 13, 2009

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Introduced by Sen. ALESI -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- recommitted to the Committee on Transportation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law, in relation to prohibiting children under the age of eight from riding as a passenger in the front seat of a motor vehicle except under limited circumstances

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Subdivisions 2, 5, 6 and 7 of section 1229-c of the vehicle  
2 and traffic law, subdivision 2 as amended by chapter 18 of the laws of  
3 2005, paragraph (c) of subdivision 2 and subdivision 6 as amended by  
4 chapter 405 of the laws of 2009, subdivision 5 as amended by chapter 241  
5 of the laws of 2007, subdivision 7 as added by chapter 365 of the laws  
6 of 1984, are amended to read as follows:  
7     2. No person shall operate a motor vehicle unless all front seat  
8 passengers (a) under the age of sixteen are restrained by a safety belt;  
9 or (b) if they are under the age of four, by a specially designed seat  
10 which is either permanently affixed or affixed to such vehicle by a  
11 safety belt as required by subdivision one of this section, or in the  
12 event that the weight of such passenger under the age of four exceeds  
13 forty pounds, such passenger may be restrained (i) in an appropriate  
14 child restraint system as defined in subdivision four of this section  
15 used with combination lap safety and shoulder harness belts or (ii) by a  
16 lap safety belt in the event such vehicle is not equipped with combina-  
17 tion lap safety and shoulder harness belts or all the combination lap  
18 safety and shoulder harness belts are being used to properly restrain  
19 other passengers who are under the age of sixteen; or (c) if they are  
20 age four or older but under age eight, (i) are restrained in an appro-  
21 priate child restraint system as defined in subdivision four of this

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [ ] is old law to be omitted.

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1 section used with combination lap safety and shoulder harness belts or  
2 (ii) are restrained in a lap safety belt in the event such vehicle is  
3 not equipped with combination lap safety and shoulder harness belts or  
4 all the combination lap safety and shoulder harness belts are being used  
5 to properly restrain other passengers who are under the age of sixteen.  
6 NOTHING CONTAINED IN THIS SUBDIVISION SHALL BE DEEMED TO SUPERSEDE THE  
7 REQUIREMENTS OF SUBDIVISION TWO-A OF THIS SECTION.

8 5. Any person who violates the provisions of subdivision three of this  
9 section shall be punished by a civil fine of up to fifty dollars. Any  
10 person who violates the provisions of subdivision one, two, TWO-A, elev-  
11 en or thirteen of this section shall be punished by a civil fine of not  
12 less than twenty-five nor more than one hundred dollars. In any prose-  
13 cution or proceeding alleging a violation of paragraph (b) of subdivi-  
14 sion one or paragraph (c) of subdivision two of this section, it shall  
15 be an affirmative defense that the passenger subject to the requirements  
16 of such paragraphs was restrained by a safety belt and measures more  
17 than four feet nine inches in height and/or weighs more than one hundred  
18 pounds.

19 6. The court shall waive any fine for which a person who violates the  
20 provisions of this section would be liable with respect to passengers  
21 under the age of eight if such person supplies the court with proof  
22 that, between the date on which he is charged with having violated this  
23 section and the appearance date for such violation, he purchased or  
24 rented a child restraint system which meets the requirements of subdivi-  
25 sion one of this section. Provided, however, that such waiver of fine  
26 shall not apply to a second or subsequent conviction under this section,  
27 NOR A VIOLATION OF SUBDIVISION TWO-A OF THIS SECTION.

28 7. The provisions of this section shall not apply to a passenger or  
29 operator with a physically disabling condition whose physical disability  
30 would prevent appropriate restraint in such safety seat or safety belt,  
31 OR TO A PASSENGER UNDER THE AGE OF EIGHT WHOSE PHYSICAL CONDITION NECES-  
32 SITATES THAT SUCH PASSENGER BE SEATED IN THE FRONT SEAT FOR MEDICAL OR  
33 SAFETY REASONS, provided, however, THAT such condition is duly certified  
34 by a physician who shall state the nature of the [handicap] DISABILITY  
35 OR CONDITION, as well as the reason such restraint is OR REAR SEAT  
36 PLACEMENT IS inappropriate.

37 S 2. Section 1229-c of the vehicle and traffic law is amended by  
38 adding a new subdivision 2-a to read as follows:

39 2-A. NO PERSON SHALL OPERATE A MOTOR VEHICLE WITH ANY PASSENGERS UNDER  
40 THE AGE OF EIGHT SEATED IN THE FRONT SEAT OF SUCH VEHICLE. PROVIDED,  
41 HOWEVER, THAT SUCH PROHIBITION SHALL NOT APPLY IF: (A) SUCH MOTOR VEHI-  
42 CLE IS NOT EQUIPPED WITH REAR SEATS; OR (B) THE REAR SEAT CANNOT ACCOM-  
43 MODATE THE PROPER INSTALLATION OF THE CHILD SAFETY SEAT OR BOOSTER SEAT  
44 IN WHICH SUCH PASSENGER IS BEING TRANSPORTED, AS DETERMINED BY THE  
45 COMMISSIONER, OR VEHICLE MANUFACTURER, OR CHILD SAFETY SEAT OR BOOSTER  
46 SEAT MANUFACTURER; OR (C) ALL OTHER SEAT POSITIONS ARE OCCUPIED BY OTHER  
47 OCCUPANTS; OR (D) SUCH PASSENGER UNDER AGE EIGHT IS EXEMPT PURSUANT TO  
48 THE PROVISIONS OF SUBDIVISION SEVEN OF THIS SECTION.

49 S 3. This act shall take effect on the first of January next succeed-  
50 ing the date on which it shall have become a law; provided that any  
51 person who violates the provisions of subdivision 2-a of section 1229-c  
52 of the vehicle and traffic law, as added by section two of this act  
53 within the twelve months following such effective date, shall be subject  
54 to a warning but shall not be issued an appearance ticket and shall not  
55 be liable for a fine.