

4181--A

Cal. No. 315

2009-2010 Regular Sessions

I N A S S E M B L Y

January 30, 2009

Introduced by M. of A. GALEF, GANTT, FARRELL, CUSICK, TOBACCO, McENENY, WRIGHT, FIELDS, JAFFEE, FINCH, SPANO -- Multi-Sponsored by -- M. of A. ALFANO, BARRA, BOYLAND, BRENNAN, BROOK-KRASNY, CLARK, COOK, DESTITO, DINOWITZ, ERRIGO, GLICK, GOTTFRIED, HEASTIE, HOOPER, HOYT, JACOBS, JOHN, MAISEL, MAYERSOHN, McDONOUGH, McKEVITT, J. MILLER, MILLMAN, MORELLE, ORTIZ, PAULIN, PHEFFER, P. RIVERA, SALADINO, SCARBOROUGH -- read once and referred to the Committee on Transportation -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

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-

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

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

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

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

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

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

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

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