

2238

2009-2010 Regular Sessions

I N S E N A T E

February 13, 2009

Introduced by Sen. ALESI -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to prohibiting children under the age of seven 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, subdivision 5 as amended by chapter 241 of the laws of 2007,  
4 subdivision 6 as amended by chapter 509 of the laws of 2004, subdivision  
5 7 as added by chapter 365 of the laws of 1984, are amended to read as  
6 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 seven, (i) are restrained in an appro-  
21 priate child restraint system as defined in subdivision four of this  
22 section used with combination lap safety and shoulder harness belts or  
23 (ii) are restrained in a lap safety belt in the event such vehicle is  
24 not equipped with combination lap safety and shoulder harness belts or

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

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1 all the combination lap safety and shoulder harness belts are being used  
2 to properly restrain other passengers who are under the age of sixteen.  
3 NOTHING CONTAINED IN THIS SUBDIVISION SHALL BE DEEMED TO SUPERSEDE THE  
4 REQUIREMENTS OF SUBDIVISION TWO-A OF THIS SECTION.

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

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

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

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

36 2-A. NO PERSON SHALL OPERATE A MOTOR VEHICLE WITH ANY PASSENGERS UNDER  
37 THE AGE OF SEVEN SEATED IN THE FRONT SEAT OF SUCH VEHICLE. PROVIDED,  
38 HOWEVER, THAT SUCH PROHIBITION SHALL NOT APPLY IF: (A) SUCH MOTOR VEHI-  
39 CLE IS NOT EQUIPPED WITH REAR SEATS; OR (B) THE REAR SEAT CANNOT ACCOM-  
40 MODATE THE PROPER INSTALLATION OF THE CHILD SAFETY SEAT OR BOOSTER SEAT  
41 IN WHICH SUCH PASSENGER IS BEING TRANSPORTED, AS DETERMINED BY THE  
42 COMMISSIONER, OR VEHICLE MANUFACTURER, OR CHILD SAFETY SEAT OR BOOSTER  
43 SEAT MANUFACTURER; OR (C) ALL OTHER SEAT POSITIONS ARE OCCUPIED BY OTHER  
44 OCCUPANTS; OR (D) SUCH PASSENGER UNDER AGE SEVEN IS EXEMPT PURSUANT TO  
45 THE PROVISIONS OF SUBDIVISION SEVEN OF THIS SECTION.

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