S T A T E O F N E W Y O R K

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:

Section 1. Subdivisions 2, 5, 6 and 7 of section 1229-c of the vehicle and traffic law, subdivision 2 as amended by chapter 18 of the laws of 2005, paragraph (c) of subdivision 2 and subdivision 6 as amended by chapter 405 of the laws of 2009, subdivision 5 as amended by chapter 241 of the laws of 2007, subdivision 7 as added by chapter 365 of the laws of 1984, are amended to read as follows:

2. No person shall operate a motor vehicle unless all front seat passengers (a) under the age of sixteen are restrained by a safety belt; or (b) if they are under the age of four, by a specially designed seat which is either permanently affixed or affixed to such vehicle by a safety belt as required by subdivision one of this section, or in the event that the weight of such passenger under the age of four exceeds forty pounds, such passenger may be restrained (i) in an appropriate child restraint system as defined in subdivision four of this section used with combination lap safety and shoulder harness belts or (ii) by a lap safety belt in the event such vehicle is not equipped with combination lap safety and shoulder harness belts or all the combination lap safety and shoulder harness belts are being used to properly restrain other passengers who are under the age of sixteen; or (c) if they are 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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priate child restraint system as defined in subdivision four of this section used with combination lap safety and shoulder harness belts or (ii) are restrained in a lap safety belt in the event such vehicle is not equipped with combination lap safety and shoulder harness belts or all the combination lap safety and shoulder harness belts are being used to properly restrain other passengers who are under the age of sixteen. NOTHING CONTAINED IN THIS SUBDIVISION SHALL BE DEEMED TO SUPERSEDE THE REQUIREMENTS OF SUBDIVISION TWO-A OF THIS SECTION.

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

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

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

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

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

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