

STATE OF NEW YORK

3441--A

2017-2018 Regular Sessions

IN ASSEMBLY

January 27, 2017

Introduced by M. of A. GALEF, CUSICK, GANTT, JAFFEE, MOSLEY, WEPRIN, FINCH, D'URSO, STECK -- Multi-Sponsored by -- M. of A. COOK, DINOWITZ, ENGLEBRIGHT, GLICK, GOTTFRIED, HOOPER, HYNDMAN, McDONOUGH, M. L. MILLER, MORELLE, NIOU, ORTIZ, PAULIN, PERRY -- read once and referred to the Committee on Transportation -- reported and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- 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 340
5 of the laws of 2017, and subdivision 7 as added by chapter 365 of the
6 laws 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

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

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1 safety and shoulder harness belts are being used to properly restrain
2 other passengers who are under the age of sixteen; or (c) if they are
3 age four or older but under age eight, (i) are restrained in an appro-
4 priate child restraint system as defined in subdivision four of this
5 section used with combination lap safety and shoulder harness belts or
6 (ii) are restrained in a lap safety belt in the event such vehicle is
7 not equipped with combination lap safety and shoulder harness belts or
8 all the combination lap safety and shoulder harness belts are being used
9 to properly restrain other passengers who are under the age of sixteen.

10 Nothing contained in this subdivision shall be deemed to supersede the
11 requirements of subdivision two-a of this section.

12 5. Any person who violates the provisions of subdivision three,
13 three-c or ten-a of this section shall be punished by a civil fine of up
14 to fifty dollars. Any person who violates the provisions of subdivision
15 one, two, two-a, eleven or thirteen of this section shall be punished by
16 a civil fine of not less than twenty-five nor more than one hundred
17 dollars. In any prosecution or proceeding alleging a violation of para-
18 graph (b) of subdivision one or paragraph (c) of subdivision two of this
19 section, it shall be an affirmative defense that the passenger subject
20 to the requirements of such paragraphs was restrained by a safety belt
21 and measures more than four feet nine inches in height and/or weighs
22 more than one hundred pounds. In any prosecution or proceeding alleging
23 a violation of paragraph (b) of subdivision three-c of this section, it
24 shall be an affirmative defense that such taxi or livery was in
25 violation of subdivision four-b of section three hundred eighty-three of
26 this chapter.

27 6. The court shall waive any fine for which a person who violates the
28 provisions of this section would be liable with respect to passengers
29 under the age of eight if such person supplies the court with proof
30 that, between the date on which he is charged with having violated this
31 section and the appearance date for such violation, he purchased or
32 rented a child restraint system which meets the requirements of subdivi-
33 sion one of this section. Provided, however, that such waiver of fine
34 shall not apply to a second or subsequent conviction under this section,
35 nor a violation of subdivision two-a of this section.

36 7. The provisions of this section shall not apply to a passenger or
37 operator with a physically disabling condition whose physical disability
38 would prevent appropriate restraint in such safety seat or safety belt,
39 or to a passenger under the age of eight whose physical condition neces-
40 sitates that such passenger be seated in the front seat for medical or
41 safety reasons, provided, however, that such condition is duly certified
42 by a physician who shall state the nature of the [~~handicap~~] disability
43 or condition, as well as the reason such restraint is or rear seat
44 placement is inappropriate.

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

47 2-a. No person shall operate a motor vehicle with any passengers under
48 the age of eight seated in the front seat of such vehicle. Provided,
49 however, that such prohibition shall not apply if: (a) such motor vehi-
50 cle is not equipped with rear seats; or (b) the rear seat cannot accom-
51 modate the proper installation of the child safety seat or booster seat
52 in which such passenger is being transported, as determined by the
53 commissioner, or vehicle manufacturer, or child safety seat or booster
54 seat manufacturer; or (c) all other seat positions are occupied by other
55 occupants who are under the age of eight; or (d) such passenger under

1 age eight is exempt pursuant to the provisions of subdivision seven of
2 this section.

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