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3 *As Amended by Senate Committee*

4 *Session of 2002*

5  
6 **SENATE BILL No. 411**

7  
8 By Committee on Transportation

9  
10 1-23

11  
12 AN ACT relating to motor vehicles; concerning child passenger safety;  
13 relating to safety belts; amending K.S.A. 8-1343a, 8-1344, 8-1345, 8-  
14 2503 and 8-2504 and repealing the existing sections.

15  
16 *Be it enacted by the Legislature of the State of Kansas:*

17 Section 1. K.S.A. 8-1343a is hereby amended to read as follows: 8-  
18 1343a. As used in K.S.A. 8-1343 through 8-1347, and amendments  
19 thereto;

20 (a) "Passenger car" means a motor vehicle *[manufactured or as-*  
21 *sembled after January 1, 1968,]* with motive power designed for car-  
22 rying 10 passengers or fewer, including vans, but does not include a mo-  
23 torcycle, a trailer or a vehicle constructed either on a truck chassis  
24 registered for a gross weight of more than 12,000 pounds or a farm truck  
25 registered for a gross weight of more than 16,000 pounds; *or*

26 (b) "child booster seat" means a child passenger restraint system that  
27 meets the federal motor vehicle safety standards set forth in 49 C.F.R.  
28 571.213 that is designed to elevate a child to properly sit in a federally  
29 approved lap/shoulder belt system.

30 Sec. 2. K.S.A. 8-1344 is hereby amended to read as follows: 8-1344.  
31 Every driver as defined in K.S.A. 8-1416, and amendments thereto, who  
32 transports a child under the age of 14 years in a passenger car as defined  
33 in K.S.A. 8-1343a, and amendments thereto, on a highway as defined in  
34 K.S.A. 8-1424, and amendments thereto, shall provide for the protection  
35 of such child by properly using:

36 (a) For a child under the age of four years a child passenger safety  
37 restraining system that meets or exceeds the standards and specifications  
38 contained in federal motor vehicle safety standard no. 213 in effect on  
39 July 1, ~~1997~~ 2001; ~~or~~

40 (b) *for a child under the age of seven but at least four years of age or*  
41 *who weighs less than 80 pounds but weighs at least 40 pounds, a child*  
42 *booster seat; or*

43 ~~(b)~~ (c) for a child ~~four~~ seven years of age but under the age of 14,

1 a safety belt manufactured in compliance with federal motor vehicle  
2 safety standard no. 208, ~~except that if the number of children subject to~~  
3 ~~this requirement exceeds the number of passenger securing locations~~  
4 ~~available for use by children affected by this requirement, and all of those~~  
5 ~~securing locations are in use by children, then there is not a violation of~~  
6 ~~this section.~~

7 (d) *The provisions of subsection (b) shall not apply in any seating*  
8 *position where there is only a lap belt available.*

9 Sec. 3. K.S.A. 8-1345 is hereby amended to read as follows: 8-1345.

10 (a) It shall be unlawful for any driver to violate the provisions of K.S.A.  
11 8-1344, and amendments thereto, and upon conviction such driver shall  
12 be punished by a fine of ~~\$20~~ **\$60**. The failure to provide a child safety  
13 restraining system, *booster seat* or safety belt for more than one child in  
14 the same passenger car at the same time shall be treated as a single  
15 violation. Any conviction under the provisions of this subsection shall not  
16 be construed as a moving traffic violation for the purpose of K.S.A. 8-  
17 255, and amendments thereto.

18 (b) ~~Ten~~ **Thirty Fifty** dollars of the fine provided for in subsection (a)  
19 and court costs assessed under K.S.A. 28-172a, and amendments thereto,  
20 shall be waived if the driver convicted of violating subsection (a) [**or (b)**]  
21 of K.S.A. 8-1344, and amendments thereto, provides proof to the court  
22 that such driver has purchased or acquired an approved child passenger  
23 safety restraining system *or booster seat*.

24 (c) No driver charged with violating the provisions of this act shall be  
25 convicted if such driver produces in the office of the arresting officer or  
26 in court proof that the child was 14 years of age or older at the time the  
27 violation was alleged to have occurred.

28 (d) Evidence of failure to secure a child in a child passenger safety  
29 restraining system, *booster seat* or a safety belt under the provisions of  
30 K.S.A. 8-1344, and amendments thereto, shall not be admissible in any  
31 action for the purpose of determining any aspect of comparative negli-  
32 gence or mitigation of damages.

33 (e) *From and after the effective date of this act, and prior to July 1,*  
34 *2003, a law enforcement officer shall issue a warning citation to anyone*  
35 *violating subsection (b) of K.S.A. ~~8-1343a~~ [8-1344], and amendments*  
36 *thereto.*

37 Sec. 4. K.S.A. 8-2503 is hereby amended to read as follows: 8-2503.

38 (a) Except as provided in K.S.A. 8-1344 and 8-1345, and amendments  
39 thereto, and in ~~subsection (b)~~ *subsection (b) or (c)*, each front seat oc-  
40 cupant of a passenger car manufactured with safety belts in compliance  
41 with federal motor vehicle safety standard no. 208 shall have a safety belt  
42 properly fastened about such person's body at all times when the vehicle  
43 is in motion.

1 (b) Each occupant of a passenger car manufactured with safety belts  
2 in compliance with federal motor vehicle safety standard no. 208, who is  
3 at least 14 years of age but less than ~~18~~ [16] years of age, shall have a  
4 safety belt properly fastened about such person's body at all times when  
5 the vehicle is in motion.

6 ~~(b)~~ (c) This section does not apply to:

7 (1) An occupant of a passenger car who possesses a written statement  
8 from a licensed physician that such person is unable for medical reasons  
9 to wear a safety belt system;

10 (2) carriers of United States mail while actually engaged in delivery  
11 and collection of mail along their specified routes;

12 (3) newspaper delivery persons while actually engaged in delivery of  
13 newspapers along their specified routes; or

14 (4) an occupant of a passenger car required to be protected by a safety  
15 restraining system under the child passenger safety act.

16 ~~(c)~~ (d) The secretary of transportation shall initiate an educational  
17 program designed to encourage compliance with the safety belt usage  
18 provisions of this act.

19 ~~(d)~~ (e) The secretary shall evaluate the effectiveness of this act and  
20 shall include a report of its findings in the annual evaluation report on its  
21 highway safety plan that it submits under 23 U.S.C. 402.

22 ~~(e)~~ (f) Law enforcement officers shall not stop drivers for violations  
23 of ~~this act subsection (a)~~ in the absence of another violation of law. A  
24 citation for violation of ~~this act subsection (a)~~ shall not be issued without  
25 citing the violation that initially caused the officer to effect the enforce-  
26 ment stop.

27 Sec. 5. K.S.A. 8-2504 is hereby amended to read as follows: 8-2504.

28 (a) ~~(1) From and after the effective date of this act, and prior to July 1,~~  
29 ~~1987, a law enforcement officer shall issue a warning citation to anyone~~  
30 ~~violating subsection (a) of K.S.A. 8-2503, and~~

31 ~~—(2) from and after July 1, 1987, Persons violating subsection (a) sub-~~  
32 ~~section (a) or (b) of K.S.A. 8-2503, and amendments thereto, shall be fined~~  
33 ~~not more than \$10 \$30 including court costs.~~

34 (b) No court shall report violation of this act to the department of  
35 revenue.

36 (c) Evidence of failure of any person to use a safety belt shall not be  
37 admissible in any action for the purpose of determining any aspect of  
38 comparative negligence or mitigation of damages.

39 Sec. 6. K.S.A. 8-1343a, 8-1344, 8-1345, 8-2503 and 8-2504 are  
40 hereby repealed.

41 Sec. 7. This act shall take effect and be in force from and after its  
42 publication in the statute book.