

**First Regular Session
Sixty-sixth General Assembly
STATE OF COLORADO**

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 07-0726.01 Michael Dohr

SENATE BILL 07-151

SENATE SPONSORSHIP

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Senate Committees

State, Veterans & Military Affairs

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE ENFORCEMENT OF AN OFFENSE INVOLVING FAILURE**
102 **TO USE AN APPROPRIATE VEHICLE RESTRAINING DEVICE.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Makes it a primary offense, punishable as a class B traffic infraction, for a driver to operate a vehicle without the driver, certain children, and all front-seat passengers wearing a fastened restraining device. Requires a law enforcement officer, prior to stopping a driver in a vehicle for a restraining device violation, to clearly observe the restraining device violation and be able to articulate that the restraining device was unfastened.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
February 27, 2007

SENATE
2nd Reading Unamended
February 26, 2007

Modifies the age, height, and weight requirements for certain children that are otherwise required to be fastened in a child restraint system. Prohibits conviction for a safety belt violation if the person charged produces in court a bona fide written statement by a physician or chiropractor certifying that physical or psychological disability makes restraint by a safety belt system inappropriate.

Specifies that it is the intent of the general assembly that the statutory prohibition against profiling be strictly observed by each law enforcement officer who stops or contemplates the stop of a motor vehicle driver for an alleged restraining device violation.

Increases the fines and surcharges for restraining device violations.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds that making the failure to wear a fastened restraining device a
4 primary offense will increase usage of restraining devices in vehicles and
5 thereby:

6 (a) Save between thirty and seventy lives per year;

7 (b) Reduce the seriousness of injuries sustained in vehicle
8 accidents from not wearing a fastened restraining device;

9 (c) Reduce state medicaid costs by approximately seventy-two
10 million five hundred thousand dollars over the next ten years; and

11 (d) Secure for the state of Colorado approximately fourteen
12 million dollars in federal highway funds that are granted to states that
13 adopt primary offense safety belt legislation.

14 (2) The general assembly, therefore, determines and declares that
15 it is necessary and in the best interests of the citizens of Colorado to enact
16 legislation that makes the failure to wear a fastened restraining device in
17 a vehicle a primary offense.

18 **SECTION 2.** 42-4-236 (2) (b) and (9), Colorado Revised
19 Statutes, are amended to read:

1 **42-4-236. Child restraint systems required - definitions -**

2 **exemptions.** (2) (b) Unless excepted pursuant to subsection (3) of this
3 section, every child, who is at least four years of age or weighs forty
4 pounds or more, being transported in this state in a privately owned
5 noncommercial vehicle or in a vehicle operated by a child care center,
6 shall be properly secured by one of the following safety devices approved
7 for a child of such age or weight by the United States department of
8 transportation, or in a safety belt, whichever is appropriate for the child:

9 (I) Except as otherwise provided in subparagraph (I.5) of this
10 paragraph (b), if the child is at least four years of age but less than ~~six~~
11 EIGHT years of age, ~~and is less than fifty-five inches tall,~~ the child shall be
12 properly restrained in a child booster seat or with a child safety
13 belt-positioning device UNLESS THE CHILD:

14 (A) IS RIDING IN A VEHICLE WITHOUT A SEATING POSITION
15 EQUIPPED WITH A CHILD SAFETY BELT-POSITIONING DEVICE; OR

16 (B) IS AT LEAST FIFTY-SEVEN INCHES TALL.

17 (I.5) If the child is at least four years of age but less than ~~six~~ EIGHT
18 years of age and is less than ~~fifty-five~~ FIFTY-SEVEN inches tall, and if the
19 child is being transported in a vehicle equipped with only a
20 two-point-lap-belt-only system available for the child, the child shall be
21 properly restrained with a lap belt.

22 (II) If the child is ~~six~~ EIGHT years of age or older or is ~~fifty-five~~
23 FIFTY-SEVEN inches tall or more, the child shall be properly restrained
24 with the motor vehicle's safety belt properly adjusted and fastened around
25 the child's body.

26 (9) (a) No driver in a motor vehicle shall be cited for a violation
27 of subparagraph (I) of paragraph (b) of subsection (2) of this section

1 unless ~~such~~ THE driver was stopped by a law enforcement officer for an
2 ~~alleged violation of articles 1 to 4 of this title other than a violation of this~~
3 ~~section or section 42-4-237~~ WHO, PRIOR TO THE STOP, CLEARLY OBSERVED
4 THE VIOLATION AND IS ABLE TO ARTICULATE THAT THE RESTRAINING
5 DEVICE WAS UNFASTENED.

6 (b) IT IS THE INTENT OF THE GENERAL ASSEMBLY IN CREATING A
7 PRIMARY OFFENSE IN THIS SUBSECTION (9) THAT THE PROHIBITION
8 AGAINST PROFILING, AS DESCRIBED IN SECTION 24-31-309, C.R.S., BE
9 STRICTLY OBSERVED BY EACH LAW ENFORCEMENT OFFICER WHO STOPS OR
10 CONTEMPLATES THE STOP OF A DRIVER OF A MOTOR VEHICLE FOR AN
11 ALLEGED RESTRAINING DEVICE VIOLATION.

12 **SECTION 3.** 42-4-237 (3) (d) and (5), Colorado Revised
13 Statutes, are amended, and the said 42-4-237 is further amended BY THE
14 ADDITION OF A NEW SUBSECTION, to read:

15 **42-4-237. Safety belt systems - mandatory use - exemptions -**
16 **penalty.** (3) Except as provided in section 42-2-105.5, the requirement
17 of subsection (2) of this section shall not apply to:

18 (d) A person with a physically or psychologically disabling
19 condition whose physical or psychological disability prevents appropriate
20 restraint by a safety belt system if ~~such~~ THE person possesses a written
21 statement by a physician OR CHIROPRACTOR certifying the condition, as
22 well as stating the reason why such restraint is inappropriate;

23 (5) (a) No driver in a motor vehicle shall be cited for a violation
24 of subsection (2) of this section unless ~~such~~ THE driver was stopped by a
25 law enforcement officer for an ~~alleged violation of articles 1 to 4 of this~~
26 ~~title other than a violation of this section~~ WHO, PRIOR TO THE STOP,
27 CLEARLY OBSERVED THE VIOLATION AND IS ABLE TO ARTICULATE THAT

1 THE RESTRAINING DEVICE WAS UNFASTENED.

2 (b) IT IS THE INTENT OF THE GENERAL ASSEMBLY IN CREATING A
3 PRIMARY OFFENSE IN THIS SUBSECTION (5) THAT THE PROHIBITION
4 AGAINST PROFILING, AS DESCRIBED IN SECTION 24-31-309, C.R.S., BE
5 STRICTLY OBSERVED BY EACH LAW ENFORCEMENT OFFICER WHO STOPS OR
6 CONTEMPLATES THE STOP OF A DRIVER OF A MOTOR VEHICLE FOR AN
7 ALLEGED RESTRAINING DEVICE VIOLATION.

8 (5.7) (a) A PERSON CHARGED WITH VIOLATING SUBSECTION (2) OF
9 THIS SECTION, EITHER AS A DRIVER OR A FRONT SEAT PASSENGER, SHALL
10 NOT BE CONVICTED IF THE PERSON, PURSUANT TO PARAGRAPH (d) OF
11 SUBSECTION (3) OF THIS SECTION, PRODUCES IN COURT A BONA FIDE
12 WRITTEN STATEMENT BY A PHYSICIAN OR CHIROPRACTOR THAT CERTIFIES
13 A PHYSICAL OR PSYCHOLOGICAL DISABILITY ON THE PART OF THE PERSON
14 ALLEGED NOT TO HAVE WORN A FASTENED SAFETY BELT AND STATES THE
15 REASON WHY RESTRAINT BY A SAFETY BELT SYSTEM IS INAPPROPRIATE.

16 (b) THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (5.7)
17 SHALL APPLY TO:

18 (I) A DRIVER WHO IS CHARGED FOR NOT WEARING A FASTENED
19 SAFETY BELT;

20 (II) A DRIVER WHO IS CHARGED FOR A FRONT SEAT PASSENGER NOT
21 WEARING A FASTENED SAFETY BELT; AND

22 (III) A FRONT SEAT PASSENGER WHO IS CHARGED FOR NOT
23 WEARING A FASTENED SAFETY BELT.

24 **SECTION 4.** 42-4-1701 (4) (a) (I) (D), Colorado Revised
25 Statutes, is amended to read:

26 **42-4-1701. Traffic offenses and infractions classified -**
27 **penalties - penalty and surcharge schedule - repeal.** (4) (a) (I) Except

1 as provided in paragraph (c) of subsection (5) of this section, every
2 person who is convicted of, who admits liability for, or against whom a
3 judgment is entered for a violation of any provision of this title to which
4 the provisions of paragraph (a) or (b) of subsection (5) of this section
5 apply shall be fined or penalized, and have a surcharge levied thereon
6 pursuant to section 24-4.2-104 (1) (b) (I), C.R.S., in accordance with the
7 penalty and surcharge schedule set forth in sub-subparagraphs (A) to (P)
8 of this subparagraph (I); or, if no penalty or surcharge is specified in the
9 schedule, the penalty for class A and class B traffic infractions shall be
10 fifteen dollars, and the surcharge shall be two dollars. These penalties
11 and surcharges shall apply whether the defendant acknowledges the
12 defendant's guilt or liability in accordance with the procedure set forth by
13 paragraph (a) of subsection (5) of this section or is found guilty by a court
14 of competent jurisdiction or has judgment entered against the defendant
15 by a county court magistrate. Penalties and surcharges for violating
16 specific sections shall be as follows:

17	Section Violated	Penalty	Surcharge
18	(D) Equipment violations:		
19	42-4-201	\$ 35.00	\$ 5.20
20	42-4-202	35.00	5.20
21	42-4-204	15.00	2.60
22	42-4-205	15.00	2.60
23	42-4-206	15.00	2.60
24	42-4-207	15.00	2.60
25	42-4-208	15.00	2.60
26	42-4-209	15.00	2.60
27	42-4-210	15.00	2.60

1	42-4-211	15.00	2.60
2	42-4-212	15.00	2.60
3	42-4-213	15.00	2.60
4	42-4-214	15.00	2.60
5	42-4-215	15.00	2.60
6	42-4-216	15.00	2.60
7	42-4-217	15.00	2.60
8	42-4-218	15.00	2.60
9	42-4-219	15.00	2.60
10	42-4-220	15.00	2.60
11	42-4-221	15.00	2.60
12	42-4-222 (1)	15.00	2.60
13	42-4-223	15.00	2.60
14	42-4-224	15.00	2.60
15	42-4-225 (1)	15.00	2.60
16	42-4-226	15.00	2.60
17	42-4-227 (1)	50.00	7.80
18	42-4-227 (2)	15.00	2.60
19	42-4-228 (1), (2), (3), (5), or (6)	15.00	2.60
20	42-4-229	15.00	2.60
21	42-4-230	15.00	2.60
22	42-4-231	15.00	2.60
23	42-4-232	15.00	2.60
24	42-4-233	75.00	11.70
25	42-4-234	15.00	2.60
26	42-4-235	50.00	7.80
27	42-4-236	50.00 75.00	7.80 11.70

1	42-4-237	15.00 25.00	2.60 3.50
2	42-4-1411	15.00	2.60
3	42-4-1412	15.00	2.60
4	42-4-1901	35.00	5.20

5 **SECTION 5. Effective date - applicability.** This act shall take
6 effect June 1, 2007, and shall apply to infractions committed on or after
7 said date.

8 **SECTION 6. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, and safety.