

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 949 Session of
2003

INTRODUCED BY ARMSTRONG, CAPPELLI, COLEMAN, FLEAGLE, FORCIER,
LAUGHLIN, R. MILLER, S. MILLER, REICHLEY, RUBLEY, SAYLOR,
SCAVELLO, SCHRODER, S. H. SMITH, STERN, R. STEVENSON,
T. STEVENSON AND YOUNGBLOOD, MARCH 21, 2003

REFERRED TO COMMITTEE ON TRANSPORTATION, MARCH 21, 2003

AN ACT

1 Amending Title 75 (Vehicles) of the Pennsylvania Consolidated
2 Statutes, further providing for restraint systems.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Section 4581 of Title 75 of the Pennsylvania
6 Consolidated Statutes, amended December 23, 2002 (P.L.1982,
7 No.229), is amended to read:

8 § 4581. Restraint systems.

9 (a) Occupant protection.--

10 (1) Any person who is operating a passenger car, Class I
11 truck, Class II truck, classic motor vehicle, antique motor
12 vehicle or motor home and who transports a child [under four
13 years of age] who satisfies height and weight criteria
14 established by regulation of the department anywhere in the
15 motor vehicle, including the cargo area, shall fasten such
16 child securely in a child passenger restraint system,
17 fastened safety seat belt system or an appropriately fitting

1 child booster seat, as defined in subsection (d). This
2 subsection shall apply to all persons while they are
3 operators of motor vehicles where a seating position is
4 available which is equipped with a seat safety belt or other
5 means to secure the systems or where the seating position was
6 originally equipped with seat safety belts.

7 [(1.1) Any person who is operating a passenger car,
8 Class I truck, Class II truck, classic motor vehicle, antique
9 motor vehicle or motor home and who transports a child four
10 years of age or older but under eight years of age anywhere
11 in the motor vehicle, including the cargo area, shall fasten
12 such child securely in a fastened safety seat belt system and
13 in an appropriately fitting child booster seat, as defined in
14 subsection (d). This paragraph shall apply to all persons
15 while they are operators of motor vehicles where a seating
16 position is available which is equipped with a seat safety
17 belt or other means to secure the systems or where the
18 seating position was originally equipped with seat safety
19 belts. A conviction under this paragraph by State or local
20 law enforcement agencies shall occur only as a secondary
21 action when a driver of a motor vehicle has been convicted of
22 violating any other provision of this title.]

23 (2) Except for children [under eight years of age] who
24 satisfy height and weight criteria established by regulation of
25 the department and except as provided in [paragraphs (1) and
26 (1.1)] paragraph (1), each driver and front seat occupant of a
27 passenger car, Class I truck, Class II truck or motor home
28 operated in this Commonwealth shall wear a properly adjusted and
29 fastened safety seat belt system. A conviction under this
30 paragraph by State or local law enforcement agencies shall occur

1 only as a secondary action when a driver of a motor vehicle has
2 been convicted of any other provision of this title. The driver
3 of a passenger automobile shall secure or cause to be secured in
4 a properly adjusted and fastened safety seat belt system any
5 occupant who is [eight years of age or older and less than 18
6 years of age] a child who satisfies height and weight criteria
7 established by regulation of the department. This paragraph
8 shall not apply to:

9 (i) A driver or front seat occupant of any vehicle
10 manufactured before July 1, 1966.

11 (ii) A driver or front seat occupant who possesses a
12 written verification from a physician that he is unable
13 to wear a safety seat belt system for physical or medical
14 reasons, or from a psychiatrist or other specialist
15 qualified to make an informed judgment that he is unable
16 to wear a safety seat belt system for psychological
17 reasons.

18 (iii) A rural letter carrier while operating any
19 motor vehicle during the performance of his duties as a
20 United States postal service rural letter carrier only
21 between the first and last delivery points.

22 (iv) A driver who makes frequent stops and is
23 traveling less than 15 miles per hour for the purpose of
24 delivering goods or services while in the performance of
25 his duties and only between the first and last delivery
26 points.

27 A violation of this paragraph shall not be subject to the
28 assessment of any points under section 1535 (relating to
29 schedule of convictions and points).

30 (3) A driver who is under 18 years of age may not

1 operate a motor vehicle in which the number of passengers
2 exceeds the number of available safety seat belts in the
3 vehicle.

4 (b) Offense.--Anyone who fails to comply with the provisions
5 of subsection (a)(1) [or (1.1)] shall be guilty of a summary
6 offense with a maximum fine of \$100. The court imposing and
7 collecting any such fines shall transfer the fines thus
8 collected to the State Treasurer for deposit in the Child
9 Passenger Restraint Fund, pursuant to section 4582 (relating to
10 Child Passenger Restraint Fund). Anyone who violates subsection
11 (a)(2) or (3) commits a summary offense and shall, upon
12 conviction, be sentenced to pay a fine of \$10. No person shall
13 be convicted of a violation of subsection (a)(2) unless the
14 person is also convicted of another violation of this title
15 which occurred at the same time. No costs as described in 42
16 Pa.C.S. § 1725.1 (relating to costs) shall be imposed for
17 summary conviction of subsection (a)(2) or (3). Conviction under
18 this subsection shall not constitute a moving violation.

19 (c) Waiver of fine.--If a person receives a citation issued
20 by the proper authority for violation of subsection (a)(1) [or
21 (1.1)], a district justice, magistrate or judge shall dismiss
22 the charges if the person prior to or at his hearing displays
23 evidence of acquisition of a child passenger restraint system or
24 child booster seat to such district justice, magistrate or
25 judge. Sufficient evidence shall include a receipt mailed to the
26 appropriate court officer which evidences purchase, rental,
27 transferal from another child seat owner (evidenced by notarized
28 letter) or bailment from a bona fide loaner program of a child
29 passenger restraint system or child booster seat.

30 (d) Standards.--

1 (1) A child passenger restraint system shall be used as
2 designated by the manufacturer of the system in motor
3 vehicles equipped with seat safety belts and shall meet the
4 Federal Motor Vehicle Safety Standard (49 C.F.R. § 571.213).

5 (2) A child booster seat shall be used as designated by
6 the manufacturer of the system in motor vehicles equipped
7 with seat safety belts and shall meet the Federal Motor
8 Vehicle Safety Standard (49 CFR § 571.213) that is designed
9 to elevate a child to properly sit in a federally approved
10 safety seat belt system.

11 (e) Civil actions.--In no event shall a violation or alleged
12 violation of this subchapter be used as evidence in a trial of
13 any civil action; nor shall any jury in a civil action be
14 instructed that any conduct did constitute or could be
15 interpreted by them to constitute a violation of this
16 subchapter; nor shall failure to use a child passenger restraint
17 system, child booster seat or safety seat belt system be
18 considered as contributory negligence nor shall failure to use
19 such a system be admissible as evidence in the trial of any
20 civil action; nor shall this subchapter impose any legal
21 obligation upon or impute any civil liability whatsoever to an
22 owner, employer, manufacturer, dealer or person engaged in the
23 business of renting or leasing vehicles to the public to equip a
24 vehicle with a child passenger restraint system or child booster
25 seat or to have such child passenger restraint system or child
26 booster seat available whenever their vehicle may be used to
27 transport a child.

28 (f) Criminal proceedings.--The requirements of this
29 subchapter or evidence of a violation of this subchapter are not
30 admissible as evidence in a criminal proceeding except in a

1 proceeding for a violation of this subchapter. No criminal
2 proceeding for the crime of homicide by vehicle shall be brought
3 on the basis of noncompliance with this subchapter.

4 (g) Exemptions.--Exemptions will be allowed if it is
5 determined, according to the rules and regulations of the
6 department, that the use of a child passenger restraint system
7 or child booster seat would be impractical for physical reasons
8 including, but not limited to, medical reasons or size of the
9 child.

10 (h) Insurance.--An insurer may not charge an insured who has
11 been convicted of a violation of this section a higher premium
12 for a policy of insurance in whole or in part by reason of that
13 conviction.

14 (i) Regulations.--The department shall promulgate
15 regulations to establish height and weight criteria for children
16 to be safely transported in a child passenger restraint system,
17 fastened safety seat belt system or appropriately fitting child
18 booster seat.

19 Section 2. This act shall take effect April 22, 2003, or in
20 60 days, whichever is later.