

REFERENCE TITLE: **child passenger booster seats**

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2405

Introduced by
Representatives Farley, Lopes, Pancrazi, Paton, Senator Aguirre:
Representatives Bradley, Gallardo, Prezelski, Thrasher, Ulmer, Senators
Aboud, Arzberger

AN ACT

**AMENDING SECTION 28-907, ARIZONA REVISED STATUTES; RELATING TO CHILD
RESTRAINT SYSTEMS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-907, Arizona Revised Statutes, is amended to
3 read:

4 28-907. Child restraint systems; civil penalty; exemptions;
5 notice; child restraint fund; definitions

6 A. Except as provided in subsection ~~G~~ H of this section, a person
7 shall not operate a motor vehicle on the highways in this state when
8 transporting a child who is under five years of age unless that child is
9 properly secured in a child ~~passenger~~ restraint system.

10 B. THE OPERATOR OF A MOTOR VEHICLE THAT IS DESIGNED FOR CARRYING TEN
11 OR FEWER PASSENGERS, THAT IS MANUFACTURED FOR THE MODEL YEAR 1972 AND
12 THEREAFTER AND THAT IS REQUIRED TO BE EQUIPPED WITH AN INTEGRATED LAP AND
13 SHOULDER BELT OR A LAP BELT PURSUANT TO THE FEDERAL MOTOR VEHICLE SAFETY
14 STANDARDS PRESCRIBED IN 49 CODE OF FEDERAL REGULATIONS SECTION 571.208 SHALL
15 REQUIRE EACH PASSENGER WHO IS AT LEAST FIVE YEARS OF AGE, WHO IS UNDER NINE
16 YEARS OF AGE AND WHO IS NOT MORE THAN FOUR FEET NINE INCHES TALL TO BE
17 RESTRAINED IN A BOOSTER SEAT MEETING THE REQUIREMENTS OF 49 CODE OF FEDERAL
18 REGULATIONS SECTION 571.213.

19 ~~B~~ C. The department shall adopt standards in accordance with 49 Code
20 of Federal Regulations section 571.213 for the performance, design and
21 installation of child ~~passenger~~ restraint systems AND BOOSTER SEATS for use
22 in motor vehicles as prescribed in this section.

23 ~~C~~ D. A person who violates this section is subject to a civil
24 penalty of fifty dollars, except that a civil penalty shall not be imposed if
25 the person makes a sufficient showing that the motor vehicle has been
26 subsequently equipped with a child ~~passenger~~ restraint system OR BOOSTER SEAT
27 that meets the standards adopted pursuant to subsection ~~B~~ C of this section.
28 A sufficient showing may include a receipt mailed to the appropriate court
29 officer that evidences purchase or acquisition of a child ~~passenger~~ restraint
30 system OR BOOSTER SEAT. The court imposing and collecting the civil penalty
31 shall deposit, pursuant to sections 35-146 and 35-147, the monies, exclusive
32 of any assessments imposed pursuant to sections 12-116.01 and 12-116.02, in
33 the child ~~passenger~~ restraint fund.

34 ~~D~~ E. If a law enforcement officer stops a vehicle for an apparent
35 violation of this section, the officer shall determine from the driver
36 ~~whether~~ the ~~unrestrained~~ AGE AND HEIGHT OF THE child or children in the
37 vehicle ~~are under five years of age~~ TO ASSESS WHETHER THE CHILD OR CHILDREN
38 IN THE VEHICLE SHOULD BE IN CHILD RESTRAINT DEVICES OR BOOSTER SEATS.

39 ~~E~~ F. If the information given to the officer indicates that a
40 violation of this section has not been committed, the officer shall not
41 detain the vehicle any further unless some additional violation is involved.
42 The stopping of a vehicle for an apparent or actual violation of this section
43 is not probable cause for the search or seizure of the vehicle unless there
44 is probable cause for another violation of law.

1 ~~F.~~ G. The requirements of this section or evidence of a violation of
2 this section are not admissible as evidence in a judicial proceeding except
3 in a judicial proceeding for a violation of this section.

4 ~~G.~~ H. This section does not apply to any of the following:

5 1. A person who operates a motor vehicle that was originally
6 manufactured without passenger restraint devices.

7 2. A person who operates a motor vehicle that is also a recreational
8 vehicle as defined in section 41-2142.

9 3. A person who operates a commercial motor vehicle and who holds a
10 current commercial driver license issued pursuant to chapter 8 of this title.

11 4. A person who must transport a child in an emergency to obtain
12 necessary medical care.

13 5. A person who transports more than one child under ~~five~~ NINE years
14 of age in a motor vehicle that because of the restricted size of the
15 passenger area does not provide sufficient area for the required number of
16 child ~~passenger~~ restraint devices OR BOOSTER SEATS, if both of the following
17 conditions are met:

18 (a) At least one child is restrained OR SEATED as required by this
19 section.

20 (b) The person has secured as many of the other children in child
21 ~~passenger~~ restraint devices OR BOOSTER SEATS pursuant to this section as is
22 reasonable given the restricted size of the passenger area and the number of
23 passengers being transported in the motor vehicle.

24 ~~H.~~ I. Before the release of any newly born child from a hospital, the
25 hospital in conjunction with the attending physician shall provide the
26 parents of the child with a copy of this section and information with regard
27 to the availability of loaner or rental programs for child ~~passenger~~
28 restraint devices that may be available in the community where the child is
29 born.

30 ~~I.~~ J. A child ~~passenger~~ restraint fund is established. The fund
31 consists of all civil penalties deposited pursuant to this section and any
32 monies donated by the public. The department of economic security shall
33 administer the fund.

34 ~~J.~~ K. The department of economic security shall purchase child
35 ~~passenger~~ restraint systems that meet the requirements of this section from
36 monies deposited in the fund. If a responsible agency requests child
37 ~~passenger~~ restraint systems and if they are available, the department of
38 economic security shall distribute child ~~passenger~~ restraint systems to the
39 requesting responsible agency.

40 ~~K.~~ L. On the application of a person to a responsible agency on a
41 finding by the responsible agency to which the application was made that the
42 applicant is unable to acquire a child ~~passenger~~ restraint system because the
43 person is indigent and subject to availability, the responsible agency shall
44 loan the applicant a child ~~passenger~~ restraint system at no charge for as

1 long as the applicant has a need to transport a child who is subject to this
2 section.

3 ~~L.~~ M. Monies in the child ~~passenger~~ restraint fund shall not exceed
4 twenty thousand dollars. All monies collected over the twenty thousand
5 dollar limit shall be deposited in the Arizona highway user revenue fund
6 established by section 28-6533.

7 ~~M.~~ N. For the purposes of this section:

8 1. "BOOSTER SEAT" MEANS A BELT-POSITIONING SEAT OR A BACKLESS CHILD
9 RESTRAINT SYSTEM AS THESE TERMS ARE DEFINED IN 49 CODE OF FEDERAL REGULATIONS
10 SECTION 571.213.

11 2. "CHILD RESTRAINT SYSTEM" MEANS AN ADD-ON CHILD RESTRAINT SYSTEM, A
12 BUILT-IN CHILD RESTRAINT SYSTEM, A FACTORY-INSTALLED BUILT-IN CHILD RESTRAINT
13 SYSTEM OR A REAR-FACING CHILD RESTRAINT SYSTEM AS THESE TERMS ARE DEFINED IN
14 49 CODE OF FEDERAL REGULATIONS SECTION 571.213.

15 ~~I.~~ 3. "Indigent" means a person who is defined as an eligible person
16 pursuant to section 36-2901.01.

17 ~~J.~~ 4. "Responsible agency" means a licensed hospital, a public or
18 private agency providing shelter services to victims of domestic violence, a
19 public or private agency providing shelter services to homeless families or a
20 health clinic.