

REFERENCE TITLE: **child restraint systems**

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

HB 2154

Introduced by
Representatives McLain, Farley: Ash, Brophy McGee, Goodale, McCune Davis,
Senator McComish

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 system; 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 EIGHT
16 YEARS OF AGE AND WHO IS NOT MORE THAN FOUR FEET NINE INCHES TALL TO BE
17 RESTRAINED IN A CHILD RESTRAINT SYSTEM.

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

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

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

38 ~~E-~~ F. If the information given to the officer indicates that a
39 violation of this section has not been committed, the officer shall not
40 detain the vehicle any further unless some additional violation is
41 involved. The stopping of a vehicle for an apparent or actual violation of
42 this section is not probable cause for the search or seizure of the vehicle
43 unless there 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~~ EIGHT 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~~ SYSTEMS, 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~~ SYSTEMS pursuant to this section as is reasonable
22 given the restricted size of the passenger area and the number of passengers
23 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~~ SYSTEMS that may be available in the community where the
29 child is 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 ~~1.~~ 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. "CHILD RESTRAINT SYSTEM" MEANS AN ADD-ON CHILD RESTRAINT SYSTEM, A
9 BUILT-IN CHILD RESTRAINT SYSTEM, A FACTORY-INSTALLED BUILT-IN CHILD RESTRAINT
10 SYSTEM, A REAR-FACING CHILD RESTRAINT SYSTEM OR A BOOSTER SEAT AS DEFINED IN
11 49 CODE OF FEDERAL REGULATIONS SECTION 571.213.

12 ~~1.~~ 2. "Indigent" means a person who is defined as an eligible person
13 pursuant to section 36-2901.01.

14 ~~2.~~ 3. "Responsible agency" means a licensed hospital, a public or
15 private agency providing shelter services to victims of domestic violence, a
16 public or private agency providing shelter services to homeless families or a
17 health clinic.