

State of Arizona
House of Representatives
Fifty-third Legislature
Second Regular Session
2018

HOUSE BILL 2071

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 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 restraint system IN A MANNER THAT COMPLIES
10 WITH THE HEIGHT AND WEIGHT LIMITS SPECIFIED BY THE MANUFACTURER OF THE
11 CHILD RESTRAINT SYSTEM. IF THE CHILD IS UNDER TWO YEARS OF AGE, THE CHILD
12 MUST BE IN A REAR-FACING CHILD RESTRAINT SYSTEM UNLESS THE CHILD WEIGHS AT
13 LEAST FORTY POUNDS OR IS AT LEAST FORTY INCHES TALL IN WHICH CASE THE
14 CHILD RESTRAINT SYSTEM MAY BE FORWARD FACING.

15 B. The operator of a motor vehicle that is designed for carrying
16 ten or fewer passengers, that is manufactured for the model year 1972 and
17 thereafter and that is required to be equipped with an integrated lap and
18 shoulder belt or a lap belt pursuant to the federal motor vehicle safety
19 standards prescribed in 49 Code of Federal Regulations section 571.208
20 shall require each passenger who is at least five years of age, who is
21 under eight years of age and who is not more than four feet nine inches
22 tall to be restrained in a child restraint system.

23 C. The department shall adopt standards in accordance with 49 Code
24 of Federal Regulations section 571.213 for the performance, design and
25 installation of child restraint systems for use in motor vehicles as
26 prescribed in this section.

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

38 E. If a law enforcement officer stops a vehicle for an apparent
39 violation of this section, the officer shall determine from the driver the
40 age and height of the child or children in the vehicle to assess whether
41 the child or children in the vehicle should be in child restraint systems.

42 F. If the information given to the officer indicates that a
43 violation of this section has not been committed, the officer shall not
44 detain the vehicle any further unless some additional violation is
45 involved. The stopping of a vehicle for an apparent or actual violation

1 of this section is not probable cause for the search or seizure of the
2 vehicle unless there is probable cause for another violation of law.

3 G. The requirements of this section or evidence of a violation of
4 this section are not admissible as evidence in a judicial proceeding
5 except in a judicial proceeding for a violation of this section.

6 H. This section does not apply to any of the following:

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

9 2. A person who operates a motor vehicle that is also a
10 recreational vehicle as defined in section 41-4001.

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

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

16 5. A person who operates an authorized emergency vehicle that is
17 transporting a child for medical care.

18 6. A person who transports more than one child under eight years of
19 age in a motor vehicle that because of the restricted size of the
20 passenger area does not provide sufficient area for the required number of
21 child restraint systems, if both of the following conditions are met:

22 (a) At least one child is restrained or seated as required by this
23 section.

24 (b) The person has secured as many of the other children in child
25 restraint systems pursuant to this section as is reasonable given the
26 restricted size of the passenger area and the number of passengers being
27 transported in the motor vehicle.

28 I. Before the release of any newly born child from a hospital, the
29 hospital in conjunction with the attending physician shall provide the
30 parents of the child with a copy of this section and information with
31 regard to the availability of loaner or rental programs for child
32 restraint systems that may be available in the community where the child
33 is born.

34 J. A child restraint fund is established. The fund consists of all
35 civil penalties deposited pursuant to this section and any monies donated
36 by the public. The department of child safety shall administer the fund.

37 K. The department of child safety shall purchase child restraint
38 systems that meet the requirements of this section from monies deposited
39 in the fund. If a responsible agency requests child restraint systems and
40 if they are available, the department of child safety shall distribute
41 child restraint systems to the requesting responsible agency.

42 L. On the application of a person to a responsible agency on a
43 finding by the responsible agency to which the application was made that
44 the applicant is unable to acquire a child restraint system because the
45 person is indigent and subject to availability, the responsible agency

1 shall lend the applicant a child restraint system at no charge for as long
2 as the applicant has a need to transport a child who is subject to this
3 section.

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

8 N. For the purposes of this section:

9 1. "Child restraint system" means an add-on child restraint system,
10 a built-in child restraint system, a factory-installed built-in child
11 restraint system, a rear-facing child restraint system or a booster seat
12 as defined in 49 Code of Federal Regulations section 571.213.

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

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