

§1229-c. Operation of vehicles with safety seats and safety belts.

1. No person shall operate a motor vehicle in this state unless: (a) all back seat passengers of such vehicle under the age of four are restrained in a specially designed seat which meets the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213 and which is either permanently affixed or is affixed to such vehicle by a safety belt, or in the event that the weight of such passenger under the age of four exceeds forty pounds, such passenger may be restrained (i) in an appropriate child restraint system as defined in subdivision four of this section used with combination lap safety and shoulder harness belts or (ii) by a lap safety belt in the event such vehicle is not equipped with combination lap safety and shoulder harness belts or all the combination lap safety and shoulder harness belts are being used to properly restrain other passengers who are under the age of sixteen;

(b) all back seat passengers of such vehicle who are age four or older but under age eight (i) are restrained in an appropriate child restraint system as defined in subdivision four of this section used with combination lap and shoulder harness belts or (ii) are restrained in a lap safety belt in the event such vehicle is not equipped with combination lap safety and shoulder harness belts or all the combination lap safety and shoulder harness belts are being used to properly restrain other passengers who are under the age of sixteen; or

(c) in the case of any other back seat passenger under the age of sixteen, he or she is restrained by a safety belt approved by the commissioner.

2. No person shall operate a motor vehicle unless all front seat passengers (a) under the age of sixteen are restrained by a safety belt; or (b) if they are under the age of four, by a specially designed seat which is either permanently affixed or affixed to such vehicle by a safety belt as required by subdivision one of this section, or in the event that the weight of such passenger under the age of four exceeds forty pounds, such passenger may be restrained (i) in an appropriate child restraint system as defined in subdivision four of this section used with combination lap safety and shoulder harness belts or (ii) by a lap safety belt in the event such vehicle is not equipped with combination lap safety and shoulder harness belts or all the combination lap safety and shoulder harness belts are being used to properly restrain other passengers who are under the age of sixteen; or (c) if they are age four or older but under age seven, (i) are restrained in an appropriate child restraint system as defined in subdivision four of this section used with combination lap safety and shoulder harness belts or (ii) are restrained in a lap safety belt in the event such vehicle is not equipped with combination lap safety and shoulder harness belts or all the combination lap safety and shoulder harness belts are being used to properly restrain other passengers who are under the age of sixteen.

3. No person shall operate a motor vehicle unless such person is restrained by a safety belt approved by the commissioner. No person sixteen years of age or over shall be a passenger in the front seat of a motor vehicle unless such person is restrained by a safety belt approved by the commissioner.

* 3-a. Except as otherwise provided for passengers under the age of four, it shall be a violation of this section if a person is seated in a seating position equipped with both a lap safety belt and a shoulder harness belt and such person is not restrained by both such lap safety belt and shoulder harness belt.

* NB There are 2 sub 3-a's

* 3-a. No person holding a class DJ learner's permit or class DJ license issued pursuant to section five hundred two of this chapter, or a limited class DJ or MJ license issued pursuant to section five hundred three-a of this chapter, shall operate a motor vehicle in this state unless such person is restrained by a safety belt approved by the commissioner, and all passengers under the age of four are restrained in a specially designed seat which meets the federal motor vehicle safety standards set forth in 49 C.F.R. 571.213 and which is either permanently affixed or is affixed to such vehicle by a safety belt and, in the case of any other passenger under the age of sixteen, he or she is restrained by a safety belt

approved by the commissioner. No person sixteen years of age or over shall be a passenger in a motor vehicle operated by a person holding a class DJ learner's permit, a class DJ license or a limited class DJ license unless such passenger is restrained by a safety belt approved by the commissioner.

* NB There are 2 sub 3-a's

4. For the purposes of this section, the following terms shall have the following meanings: (a) "motor vehicle" shall include all motor vehicles which are required by section three hundred eighty-three of this chapter or regulation or would be required if such motor vehicle were registered in New York state to be equipped by a safety belt but shall not include those vehicles which are used as school buses, as such term is defined in section one hundred forty-two of this chapter and those vehicles which are authorized emergency vehicles, as such term is defined in section one hundred one of this chapter; (b) "child restraint system" shall mean any device, used in conjunction with safety belts, designed for use in a motor vehicle to restrain, seat, or position children and which meets the applicable Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213; and (c) "appropriate child restraint system" shall mean a child restraint system for which the occupant meets the occupant size and weight recommendations of the manufacturer of such system.

5. Any person who violates the provisions of subdivision three of this section shall be punished by a civil fine of up to fifty dollars. Any person who violates the provisions of subdivision one, two, eleven or thirteen of this section shall be punished by a civil fine of not less than twenty-five nor more than one hundred dollars. In any prosecution or proceeding alleging a violation of paragraph (b) of subdivision one or paragraph (c) of subdivision two of this section, it shall be an affirmative defense that the passenger subject to the requirements of such paragraphs was restrained by a safety belt and measures more than four feet nine inches in height and/or weighs more than one hundred pounds.

6. The court shall waive any fine for which a person who violates the provisions of this section would be liable with respect to passengers under the age of seven if such person supplies the court with proof that, between the date on which he is charged with having violated this section and the appearance date for such violation, he purchased or rented a child restraint system which meets the requirements of subdivision one of this section. Provided, however, that such waiver of fine shall not apply to a second or subsequent conviction under this section.

7. The provisions of this section shall not apply to a passenger or operator with a physically disabling condition whose physical disability would prevent appropriate restraint in such safety seat or safety belt provided, however, such condition is duly certified by a physician who shall state the nature of the handicap, as well as the reason such restraint is inappropriate.

8. Non-compliance with the provisions of this section shall not be admissible as evidence in any civil action in a court of law in regard to the issue of liability but may be introduced into evidence in mitigation of damages provided the party introducing said evidence has pleaded such non-compliance as an affirmative defense.

9. Notwithstanding the provisions of subdivision four, this section shall not apply to taxis, liveries, and buses other than school buses.

10. The provisions of this section shall not apply to persons employed as rural letter carriers, as defined by the United States postal service, while such persons are discharging the duties of such employment.

11. Notwithstanding the provisions of subdivision four of this section, no person shall operate a school bus unless all passengers under the age of four are restrained in a specially designed detachable or removable seat as required by subdivision one of this section, or another restraining device approved by the commissioner.

12. (a) Every rental vehicle company, as defined in paragraph (c) of subdivision one of section three hundred ninety-six-z of the general business law, shall post a sign in their place of business which states in conspicuous lettering of at least seventy-two point boldface type: NEW YORK STATE LAW REQUIRES ALL CHILDREN UNDER THE AGE OF EIGHT TO BE RESTRAINED IN A FEDERALLY APPROVED CHILD RESTRAINT SYSTEM. (b) Such sign shall be placed in an upright position and in a conspicuous place where it can easily be read by the clientele of the rental vehicle company. (c) Any rental vehicle company which violates the provisions of this subdivision shall be subject to a civil penalty, not to exceed one hundred dollars for each day of violation.

13. Notwithstanding the provisions of subdivision four of this section, no person shall operate a school bus for which there are no applicable federal school bus safety standards unless all occupants are restrained by a safety belt approved by the commissioner or, regarding occupants age four or older but under age seven, are restrained pursuant to subdivision one or two of this section.

*Seating position

The front seat is a more dangerous environment than the rear seat for two reasons. First, recent crash data show that children 15 years and under have a 40% lower risk of serious injury in the back seat compared to the front seat (Durbin et al., 2005). This increased risk occurs because the front passenger compartment is more likely to have intrusion than the back seat area in frontal crashes, which are the most common type. Consequently, FMVSS 213 requires manufacturers to say in their instructions "that, according to crash statistics, children are safer when properly restrained in the rear seating positions than in the front seating positions."

Second, air bags can cause serious or fatal injuries to children in the right-front passenger seat. Because "properly restrained" infants have been killed by air bags, even in low-speed crashes, a rear-facing infant must never be restrained in a seat with an active air bag. Many unrestrained older children have also been killed because they were too close when the air bag deployed. Vehicle manufacturers are phasing in features that will turn off the air bag when a child is in the front seat or allow it to deploy with less force. However, because these systems that detect a child in the front seat are new, they have not been demonstrated to be foolproof, and, because it may not be clear whether a vehicle is equipped with these sensors or with a less aggressive air bag, the universal recommendation to avoid placing children in the right-front seat still stands.

If there are more children than rear seating positions, the most appropriate child to put in the front seat is the one in a forward-facing CR with internal harness, which will keep the child well back and away from the instrument panel and/or air bag. The harness must be snug, the CR firmly installed, with top tether if possible, and the vehicle seat moved as far rearward as possible. A child in a rear-facing CR should never be placed in a front seating position with an air bag.

In general, the single safest place in the car is the center rear seat, because it is farthest from the outside of the vehicle. In any given crash, however, a different seat may be the safest, such as a left outboard seat in a right side impact. There are several reasons the center seat may not be an option. Many small cars do not have center seats; it is sometimes not possible to tightly install a CR in the center rear; belt-positioning boosters require lap-shoulder belts, which may not be available in the center; and, if there are two children, it may be necessary to separate them for behavioral reasons or because two CRs cannot be installed next to each other. The left and right seating positions are very similar in injury risk, but the right side might be a better choice for one child with one adult. The child can see the driver and can be taken or get out of the car on the side where there is no traffic. Using the center or right rear seat will also minimize the chance of injury to the child from driver seatback collapse in a severe rear impact. Although most vehicles do not have LATCH anchors for the center seating position, CRs equipped with LATCH can still be installed in the center with the vehicle belt and a top tether, if appropriate.

A difficult choice for an older child is when the seating positions available are a lap-only belt in back or a lap-shoulder belt in front, with or without a belt-positioning booster. The child in the lap-belt has an increased risk of injury because there is no upper torso restraint, while the child in the front seat has an increased risk of injury because she is sitting in the more dangerous seating position. Overall, field data suggest that the injury risk for a child properly restrained in the front seat is about the same as the child improperly restrained (lap-belt only) in the back seat. Both choices are riskier than a properly restrained child in the rear seat. (7/06)