

**42-4-236. Child restraint systems required - definitions - exemptions.**

(1) As used in this section, unless the context otherwise requires:

(a) "Child care center" means a facility required to be licensed under the "Child Care Licensing Act", article 6 of title 26, C.R.S.

(a.3) "Child booster seat" means a child passenger restraint system that meets the federal motor vehicle safety standards set forth in section 49 CFR 571.213, as amended, that is designed to elevate a child to properly sit in a federally approved safety belt system.

(a.5) "Child restraint system" means a specially designed seating system that is designed to protect, hold, or restrain a child in a motor vehicle in such a way as to prevent or minimize injury to the child in the event of a motor vehicle accident that is either permanently affixed to a motor vehicle or is affixed to such vehicle by a safety belt or a universal attachment system, and that meets the federal motor vehicle safety standards set forth in section 49 CFR 571.213, as amended.

(a.7) "Child safety belt-positioning device" means a device that positions a safety belt around a child in a manner that safely restrains such child in a seating position that conforms to all applicable federal motor vehicle safety standards.

(b) "Safety belt" means a lap belt, a shoulder belt, or any other belt or combination of belts installed in a motor vehicle to restrain drivers and passengers, except any such belt that is physically a part of a child restraint system. "Safety belt" includes the anchorages, the buckles, and all other equipment directly related to the operation of safety belts.

(c) "Seating position" means any motor vehicle interior space intended by the motor vehicle manufacturer to provide seating accommodation while the motor vehicle is in motion.

(2) (a) Unless exempted pursuant to subsection (3) of this section, every child, who is under four years of age and weighs under forty pounds, being transported in this state in a privately owned noncommercial passenger vehicle or in a vehicle operated by a child care center, shall be provided with one of the following child restraint systems suitable for the child's size and shall be properly fastened into such child restraint system which is in a seating position which is equipped with a safety belt or other means to secure the system according to the manufacturer's instructions:

(I) If the child is less than one year of age and weighs less than twenty pounds, the child shall be properly restrained in a rear-facing child restraint system.

(II) If the child is one year of age or older, but less than four years of age, and weighs less than forty pounds, but at least twenty pounds, the child shall be properly restrained in a forward-facing child restraint system.

(b) Unless excepted pursuant to subsection (3) of this section, every child, who is at least four years of age or weighs forty pounds or more, being transported in this state in a privately owned noncommercial vehicle or in a vehicle operated by a child care center, shall be properly secured by one of the following safety devices approved for a child of such age or weight by the United States department of transportation, or in a safety belt, whichever is appropriate for the child:

(I) Except as otherwise provided in subparagraph (I.5) of this paragraph (b), if the child is at least four years of age but less than six years of age and is less than fifty-five inches tall, the child shall be properly restrained in a child booster seat or with a child safety belt-positioning device.

(I.5) If the child is at least four years of age but less than six years of age and is less than fifty-five inches tall, and if the child is being transported in a vehicle equipped with only a two-point-lap-belt-only system available for the child, the child shall be properly restrained with a lap belt.

(II) If the child is six years of age or older or is fifty-five inches tall or more, the child shall be properly restrained with the motor vehicle's safety belt properly adjusted and fastened around the child's body.

(c) It is the responsibility of the driver transporting children, subject to the requirements of this section, to ensure that such children are provided with and that they properly use a child restraint system or safety belt system.

(3) Except as provided in section 42-2-105.5 (4), the requirements of subsection (2) of this section shall not apply to a child who:

(a) Repealed.

(b) Is being transported in a motor vehicle as a result of a medical emergency;

(c) Is being transported in a commercial motor vehicle, as defined in section 42-2-402 (4) (a), that is operated by a child care center; or

(d) Is the driver of a motor vehicle and is subject to the safety belt requirements provided in section 42-4-237.

(4) The division of highway safety shall implement a program for public information and education concerning the use of child restraint systems and the provisions of this section.

(5) No person shall use a safety belt or child restraint system, whichever is applicable under the provisions of this section, for children under sixteen years of age in a motor vehicle unless it conforms to all applicable federal motor vehicle safety standards.

(6) Any violation of this section shall not constitute negligence per se or contributory negligence per se.

(7) (a) Except as otherwise provided in paragraph (b) of this subsection (7), any person who violates any provision of this section commits a class B traffic infraction.

(b) A minor driver under eighteen years of age who violates this section shall be punished in accordance with section 42-2-105.5 (5) (b).

(8) The fine may be waived if the driver presents the court with satisfactory evidence of the acquisition, purchase, or rental of an approved child restraint system by the time of the court appearance.

(9) No driver in a motor vehicle shall be cited for a violation of subparagraph (I) of paragraph (b) of subsection (2) of this section unless such driver was stopped by a law enforcement officer for an alleged violation of articles 1 to 4 of this title other than a violation of this section or section 42-4-237.

(10) Repealed.

Source: L. 94: Entire title amended with relocations, p. 2268, § 1, effective January 1, 1995. L. 95: (1)(a), (2), (3), (5), and (8) amended and (1)(a.5) added, p. 327, § 1, effective July 1. L. 96: (1)(a) amended, p. 267, § 23, effective July 1. L. 99: IP(3) amended, p. 1382, § 7, effective July 1; (3)(a) repealed, p. 1349, § 1, effective August 4. L. 2002: (1) and (2) amended and (9) and (10) added, pp. 1215, 1217, §§ 2, 3, effective August 1, 2003. L. 2003: (2)(b) amended, p. 2358, § 1, effective June 3; (2)(b)(I) amended and (2)(b)(I.5) added, p. 560, § 1, effective August 1. L. 2006: (10) repealed, p. 1512, § 72, effective June 1; (7) amended, p. 439, § 2, effective July 1.

Editor's note: (1) This section was formerly numbered as 42-4-235 and the former section 42-4-236 was relocated to section 42-4-237.

(2) Amendments to subsection (2)(b) by House Bill 03-1144 and House Bill 03-1381 were harmonized. Since House Bill 03-1144 has an effective date of August 1, 2003, and House Bill 03-1381 has an effective date of June 3, 2003, the provisions of subsection (2)(b) are shown as it will become effective August 1, 2003.

(3) Section 5 of chapter 127, Session Laws of Colorado 2006, provides that the act amending subsection (7) applies to infractions committed on or after July 1, 2006.

Cross references: For the legislative declaration contained in the 1999 act amending the introductory portion to subsection (3), see section 1 of chapter 334, Session Laws of Colorado 1999. For the legislative declaration contained in the 2002 act amending subsections (1) and (2) and enacting subsections (9) and (10), see section 1 of chapter 301, Session Laws of Colorado 2002.

## ANNOTATION

**Parents, as fellow passengers in a vehicle, do not have a duty** to assure that their children use seat belts nor to request that a driver drive more carefully because of their children's presence in the vehicle. *Wark v. McClellan*, 68 P.3d 574 (Colo. App. 2003).