

40-8-76. Safety belts required as equipment; safety restraints for children four years of age or younger.

(a) No new private passenger automobile manufactured after January 1, 1964, shall be sold to the general public in this state unless such automobile shall be equipped with two sets of safety belts for the front seat thereof. The safety belts may be installed by the manufacturer prior to delivery to the dealer, or they may be installed by the dealer.

(b)(1) On and after July 1, 1984, every driver who transports a child four years of age or younger in a passenger automobile, van, or pickup truck, other than a taxicab as defined by Code Section 33-34-5.1 or a public transit vehicle as defined by Code Section 16-5-20, shall, while such motor vehicle is in motion and operated on a public road, street, or highway of this state, provide for the protection of such child in a child passenger restraining system approved by the United States Department of Transportation under Federal Motor Vehicle Safety Standard 213 in effect on January 1, 1983. A driver shall not be deemed to be complying with the provisions of this subsection unless the child passenger restraining system is installed and being used in accordance with the manufacturer's directions for such system. The provisions of this subsection shall not apply when the child's parent or guardian obtains a physician's written statement that a physical or medical condition of the child prevents placing or restraining him or her in any such child passenger restraining system.

(2) Upon a first conviction of an offense under this subsection, the defendant shall be punished by a fine of not more than \$50.00. Upon a second or subsequent conviction of an offense under this subsection, the defendant shall be punished by a fine of not more than \$100.00. No court shall impose any additional fees or surcharges to a fine for such a violation. The court imposing a fine for any violation of this Code section shall forward a record of the disposition of the cases annually to the Department of Public Safety for the sole purpose of data collection on a county by county basis.

(c) It shall be the duty of the Governor's Office of Highway Safety to implement and coordinate a program to inform parents and other citizens of Georgia of the reasons for the enactment of subsection (b) of this Code section. Such program shall be carried out prior to January 1, 1997. The Governor's Office of Highway Safety shall solicit the cooperation and assistance of the Georgia State Patrol, the Georgia Sheriffs Association, the Georgia Association of Chiefs of Police, Incorporated, the Peace Officers' Association of Georgia, the Medical College of Georgia, the Georgia Hospital Association, the Georgia Association of Educators, the Georgia Parent-Teacher Association, and other appropriate organizations in educating the citizens of the state and in implementing, coordinating, and carrying out the program provided for herein.

(d) Violation of this Code section shall not constitute negligence per se nor contributory negligence per se. Violation of child safety restraint requirements shall not be the basis for cancellation of coverage or increase in insurance rates.

History

(Ga. L. 1963, p. 366, § 2; Ga. L. 1964, p. 168, § 1; Code 1933, § 68E-407, enacted by Ga. L. 1982, p. 165, § 4; Code 1981, § 40-8-76, enacted by Ga. L. 1982, p. 165, § 10; Ga. L. 1983, p. 1464, § 1; Ga. L. 1984, p. 22, § 40; Ga. L. 1985, p. 149, § 40; Ga. L. 1988, p. 480, § 1; Ga. L. 1996, p. 469, § 2; Ga. L. 2000, p. 1246, § 17; Ga. L. 2001, p. 740, § 1.)

Annotations

The 2000 amendment, effective July 1, 2000, substituted "Code Section 33-34-5.1" for "Code Section 40-9-101" in the first sentence of paragraph (b)(1).

The 2001 amendment, effective July 1, 2001, in paragraph (b)(1), deleted the former next-to-last sentence which read: "However, if the child is three or four years of age, a seat belt shall be sufficient to meet the requirements of this subsection." and substituted the present provisions of the

last sentence for the former provisions which read: "The provisions of this subsection shall not apply when immediate or emergency attention is required for the child's personal needs."

Cross references. - Use of safety belts in passenger vehicles, § 40-8-76.1.

Code Commission notes. - Pursuant to Code Section 28-9-5, in 1988, the correct spelling of "Violation" was substituted at the beginning of subsection (d).

Editor's notes. - Ga. L. 1996, p. 469, § 4, not codified by the General Assembly, provides: "This Act shall become effective July 1, 1996, and shall apply with respect to offenses committed on or after that date. The provisions of this Act shall not apply to or affect offenses committed prior to that effective date."

Law reviews. - For article, "Federal Automotive Safety Standards and Georgia Products Liability Law: Conflict or Coexistence?," see 26 Ga. St. B.J. 107 (1990).

For note on the 2001 amendment to O.C.G.A. § 40-8-76, see 18 Ga. St. U. L. Rev. 199 (2001).

For comment discussing *Bentzler v. Braun*, 34 Wis. 2d 362, 149 N.W.2d 626 (1967), as to plaintiff's failure to use a seat belt as constituting contributory or comparative negligence in automobile injury cases, see 2 Ga. L. Rev. 110 (1967). For comment discussing *Brown v. Kendrick*, 192 So. 2d 49 (Fla. 1966), and suggesting contributory negligence ramifications of failure of guest passengers to use seatbelts in Georgia, see 18 Mercer L. Rev. 511 (1967).

RESEARCH REFERENCES

Am. Jur. 2d. - 7A Am. Jur. 2d, Automobiles and Highway Traffic, §§ 16, 214. 8 Am. Jur. 2d, Automobiles and Highway Traffic, §§ 541, 564, 652 et seq. 21 Am. Jur. 2d, Criminal Law, §§ 1, 18 et seq.

C.J.S. - 60 C.J.S., Motor Vehicles, § 26. 61A C.J.S., Motor Vehicles, § 714(4).

ALR. - Automobile occupant's failure to use seat belt as contributory negligence, 92 ALR3d 9.

Nonuse of automobile seatbelts as evidence of comparative negligence, 95 ALR3d 239.

Failure to use or misuse of automobile child safety seat or restraint system as affecting recovery for personal injury or death, 46 ALR5th 557.

Liability under state law for injuries resulting from defective automobile seatbelt, shoulder harness, or restraint system, 48 ALR5th 1.

40-8-76.1. Use of safety belts in passenger vehicles.

Statute text

(a) As used in this Code section, the term "passenger vehicle" means every motor vehicle designed to carry ten passengers or less and used for the transportation of persons but shall not mean pickup trucks, motorcycles, motor driven cycles, or vehicles equipped for off-road use, provided that the term "passenger vehicle" includes any sport utility vehicle and also includes pickup trucks for any occupant who is under 18 years of age.

(b) Each occupant of the front seat of a passenger vehicle shall, while such passenger vehicle is being operated on a public road, street, or highway of this state, be restrained by a seat safety belt approved under Federal Motor Vehicle Safety Standard 208.

(c) The requirement of subsection (b) of this Code section shall not apply to:

(1) A driver or passenger frequently stopping and leaving the vehicle or delivering property from the vehicle, if the speed of the vehicle between stops does not exceed 15 miles per hour;

(2) A driver or passenger possessing a written statement from a physician that such person is unable, for medical or physical reasons, to wear a seat safety belt;

(3) A driver or passenger possessing an official certificate or license endorsement issued by the appropriate agency in another state or country indicating that the driver is unable for medical, physical, or other valid reasons to wear a seat safety belt;

(4) A driver operating a passenger vehicle in reverse;

- (5) A passenger vehicle with a model year prior to 1965;
 - (6) A passenger vehicle which is not required to be equipped with seat safety belts under federal law;
 - (7) A passenger vehicle operated by a rural letter carrier of the United States Postal Service while performing duties as a rural letter carrier;
 - (8) A passenger vehicle from which a person is delivering newspapers; or
 - (9) A passenger vehicle performing an emergency service.
- (d) The failure of an occupant of a motor vehicle to wear a seat safety belt in any seat of a motor vehicle which has a seat safety belt or belts shall not be considered evidence of negligence or causation, shall not otherwise be considered by the finder of fact on any question of liability of any person, corporation, or insurer, shall not be any basis for cancellation of coverage or increase in insurance rates, and shall not be evidence used to diminish any recovery for damages arising out of the ownership, maintenance, occupancy, or operation of a motor vehicle.
- (e)(1) Except as otherwise provided in paragraphs (2) and (3) of this subsection, a person failing to comply with the requirements of subsection (b) of this Code section shall not be guilty of any criminal act and shall not be guilty of violating any ordinance. A violation of this Code section shall not be a moving traffic violation for purposes of Code Section 40-5-57.
- (2) A person failing to comply with the requirements of subsection (b) of this Code section shall be guilty of the offense of failure to wear a seat safety belt and, upon conviction thereof, may be fined not more than \$15.00; but, the provisions of Chapter 11 of Title 17 and any other provision of law to the contrary notwithstanding, the costs of such prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge to a fine for such offense be assessed against a person for conviction thereof. The court imposing such fine shall forward a record of the disposition of the case of failure to wear a seat safety belt to the Department of Motor Vehicle Safety.
- (3) Each minor over four years of age who is an occupant of a passenger vehicle shall, while such passenger vehicle is being operated on a public road, street, or highway of this state, be restrained by a seat safety belt approved under Federal Motor Vehicle Safety Standard 208. In any case where a minor passenger over four years of age fails to comply with the requirements of this paragraph, the driver of the passenger vehicle shall be guilty of the offense of failure to secure a seat safety belt on a minor and, upon conviction thereof, may be fined not more than \$25.00. The court imposing such a fine shall forward a record of the court disposition of the case of failure to secure a seat safety belt on a minor to the Department of Motor Vehicle Safety.
- (f) Probable cause for violation of this Code section shall be based solely upon a law enforcement officer's clear and unobstructed view of a person not restrained as required by this Code section. Noncompliance with the restraint requirements of this Code section shall not constitute probable cause for violation of any other Code section.