

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1098

AN ACT to amend the Indiana Code concerning motor vehicles and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 9-13-2-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. "Child ~~passenger~~ restraint system" means a device that:

- (1) is manufactured for the purpose of protecting children from injury during a motor vehicle accident; and
- (2) meets the standards prescribed **and definition contained in** 49 CFR 571.213.

SECTION 2. IC 9-19-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. This chapter does not apply to a front seat occupant who meets any of the following conditions:

- (1) For medical reasons should not wear safety belts.
- (2) Is a child required to be restrained by a child ~~passenger~~ restraint system under IC 9-19-11.
- (3) Is traveling in a commercial or a United States Postal Service vehicle that makes frequent stops for the purpose of pickup or delivery of goods or services.
- (4) Is a rural carrier of the United States Postal Service and is operating a vehicle while serving a rural postal route.
- (5) Is a newspaper motor route carrier or newspaper bundle hauler who stops to make deliveries from a vehicle.

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(6) Is a driver examiner designated and appointed under IC 9-14-2-3 and is conducting an examination of an applicant for a permit or license under IC 9-24-10.

SECTION 3. IC 9-19-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. This chapter does not apply to a person who operates any of the following vehicles:

- (1) A school bus.
- (2) A taxicab.
- ~~(3)~~ A rental vehicle leased for not more than thirty ~~(30)~~ days.
- ~~(4)~~ **(3)** An ambulance.
- ~~(5)~~ A vehicle registered in a jurisdiction other than Indiana unless the vehicle is operated in Indiana for more than sixty ~~(60)~~ days in any calendar year.
- ~~(6)~~ **(4)** A public passenger bus.
- ~~(7)~~ **(5)** A motor vehicle having a seating capacity greater than nine (9) individuals that is owned or leased and operated by a religious or not-for-profit youth organization.
- ~~(8)~~ **(6)** An antique motor vehicle.
- ~~(9)~~ **(7)** A motorcycle.
- ~~(10)~~ **(8)** A motor vehicle that is owned or leased by a governmental unit and is being used in the performance of official law enforcement duties.
- ~~(11)~~ **(9)** A motor vehicle that is being used in an emergency.

SECTION 4. IC 9-19-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. **(a)** A person who:

- (1) holds an Indiana driver's license; and**
- (2) operates a motor vehicle in which there is a child less than four ~~(4)~~ eight **(8)** years of age who is not properly fastened and restrained according to the child restraint system manufacturer's instructions by a child passenger restraint system;**

commits a Class D infraction, unless it is reasonably determined that the child will not fit in a child passenger restraint system.

(b) Notwithstanding IC 34-28-5-5(c), funds collected as judgments for violations under this section shall be deposited in the child restraint system account established by section 9 of this chapter.

SECTION 5. IC 9-19-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. **(a)** A person who holds an Indiana driver's license and operates a motor vehicle in which there is a child commits a Class D infraction if:

- (1) the child is less than four ~~(4)~~ eight **(8)** years of age and it is

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reasonably determined that the child will not fit in a child restraint system; and

(2) the child is not properly fastened and restrained **according to the child restraint system manufacturer's instructions** by a:

- (A) child restraint system; or
- (B) safety belt.

(b) Notwithstanding IC 34-28-5-5(c), funds collected as judgments for violations under this section shall be deposited in the child restraint system account established by section 9 of this chapter.

SECTION 6. IC 9-19-11-3.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3.3. (a) This section does not apply to a person who holds an Indiana driver's license.**

(b) A person who operates a motor vehicle in which there is a child less than sixteen (16) years of age who is not properly fastened and restrained according to the child restraint system manufacturer's instructions by a:

- (1) child restraint system; or
- (2) safety belt;

commits a Class D infraction.

(c) Notwithstanding IC 34-28-5-5(c), funds collected as judgments for violations under this section shall be deposited in the child restraint system account established by section 9 of this chapter.

SECTION 7. IC 9-19-11-3.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3.6. (a) A person who operates a motor vehicle in which there is a child and that is equipped with a safety belt meeting the standards stated in the Federal Motor Vehicle Safety Standard Number 208 (49 CFR 571.208) commits a Class D infraction if:**

- (1) the child is at least eight (8) years of age but less than sixteen (16) years of age; and
- (2) the child is not properly fastened and restrained according to the child restraint system manufacturer's instructions by a:

- (A) child restraint system; or
- (B) safety belt.

(b) Notwithstanding IC 34-28-5-5(c), funds collected as judgments for violations under this section shall be deposited in the child restraint system account established by section 9 of this

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chapter.

SECTION 8. IC 9-19-11-3.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3.7. Notwithstanding sections 2, 3, 3.3, and 3.6 of this chapter, a person may operate a motor vehicle in which there is a child who weighs more than forty (40) pounds and who is properly restrained and fastened by a lap safety belt if:**

- (1) the motor vehicle is not equipped with lap and shoulder safety belts; or**
- (2) not including the operator's seat and the front passenger seat:**
 - (A) the motor vehicle is equipped with one (1) or more lap and shoulder safety belts; and**
 - (B) all the lap and shoulder safety belts are being used to properly restrain other children who are less than sixteen (16) years of age.**

SECTION 9. IC 9-19-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 5.** If at a proceeding to enforce section 2 of this chapter the court finds that the person:

- (1) has violated this chapter; and
 - (2) possesses or has acquired a child ~~passenger~~ restraint system;
- the court shall enter judgment against the person. However, notwithstanding IC 34-28-5-4, the person is not liable for any costs or monetary judgment if the person has no previous judgments of violation of this chapter against the person.

SECTION 10. IC 9-19-11-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 6. (a)** If at a proceeding to enforce section 2 of this chapter the court finds that the person:

- (1) has violated this chapter; and
 - (2) does not possess or has not acquired a child ~~passenger~~ restraint system;
- the court shall enter judgment against the person and shall order the person to provide proof of possession or acquisition within thirty (30) days.

- (b) Notwithstanding IC 34-28-5-4, if the person:
 - (1) complies with a court order under this section; and
 - (2) has no previous judgments of violation of this chapter against the person;
- the person is not liable for any costs or a monetary judgment.

SECTION 11. IC 9-19-11-9 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 9. (a) The child restraint system account is**

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established within the state general fund to make grants under subsection (d).

(b) The account consists of the following:

- (1) Funds collected as judgments for violations under this chapter.
- (2) Appropriations to the account from the general assembly.
- (3) Grants, gifts, and donations intended for deposit in the account.
- (4) Interest that accrues from money in the account.

(c) The account shall be administered by the criminal justice institute.

(d) The criminal justice institute, upon the recommendation of the governor's council on impaired and dangerous driving, shall use money in the account to make grants to private and public organizations to:

- (1) purchase child restraint systems; and
- (2) distribute the child restraint systems:
 - (A) without charge; or
 - (B) for a minimal charge;

to persons who are not otherwise able to afford to purchase child restraint systems.

The criminal justice institute shall adopt rules under IC 4-22-2 to implement this section.

(e) Money in the account is appropriated continuously to the criminal justice institute for the purposes stated in subsection (a).

(f) The expenses of administering the account shall be paid from money in the account.

(g) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

(h) Money in the account at the end of a state fiscal year does not revert to the state general fund.

SECTION 12. IC 9-19-11-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 10. The bureau may not assess points under the point system for a violation of this chapter.**

SECTION 13. IC 9-19-11-11 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 11. A violation of this chapter may not be included in a determination of habitual violator status under IC 9-30-10-4.**

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SECTION 14. IC 9-19-10-2.5 IS REPEALED [EFFECTIVE JULY 1, 2005].

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Approved: _____

Governor of the State of Indiana

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