BILL NUMBER: SB 929 CHAPTERED
BILL TEXT

CHAPTER 474
FILED WITH SECRETARY OF STATE OCTOBER 4, 2011
APPROVED BY GOVERNOR OCTOBER 4, 2011
PASSED THE SENATE AUGUST 30, 2011
PASSED THE ASSEMBLY AUGUST 15, 2011
AMENDED IN ASSEMBLY JULY 14, 2011
AMENDED IN ASSEMBLY JUNE 20, 2011
AMENDED IN SENATE APRIL 25, 2011

INTRODUCED BY Senator Evans

FEBRUARY 18, 2011

An act to amend Sections 27315, 27315.3, 27361, 27363, 27363.5, and 27365 of, to add Section 27360.6 to, and to repeal and add Sections 27360 and 27360.5 of, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 929, Evans. Vehicles: child passenger restraints.

(1) Existing law prohibits a person from operating a motor vehicle, as defined, on a highway unless that person and all passengers 16 years of age or older are properly restrained by a safety belt.

This bill would define the phrase "properly restrained by a safety belt" for purposes of those provisions.

Existing law prohibits the operator of a limousine for hire or the operator of an authorized emergency vehicle, as defined, from operating the limousine for hire or authorized emergency vehicle, unless the operator and any passengers 6 years of age or over or weighing 60 pounds or more in the front seat are properly restrained by a safety belt. Existing law also prohibits the operator of a taxicab from operating the taxicab unless any passengers 6 years of age or older or weighing 60 pounds or more in the front seat are properly restrained by a safety belt.

This bill would instead prohibit the operator of a limousine for hire or authorized emergency vehicle or the operator of a taxicab, from operating the limousine for hire, authorized emergency vehicle, or taxicab unless the operator and any passengers 8 years of age or older in the front seat are properly restrained by a safety belt.

Existing law requires a child or ward under 6 years of age who weighs less than 60 pounds to be secured in a rear seat in a child passenger restraint system that meets specified federal standards, but permits such a child or ward to ride in the front seat of a motor vehicle if properly secured in a child passenger restraint system that meets specified federal standards, under specified circumstances, including, among other things, if all rear seats are already occupied by children under 12 years of age.

This bill would instead prohibit a parent, legal guardian, or driver from transporting on a highway in a motor vehicle, as defined,

a child or ward who is under 8 years of age without securing that child in an appropriate child passenger restraint system meeting applicable federal motor vehicle safety standards, except as provided. The bill would impose specified fines and penalties for violations of those requirements, as prescribed.

Existing law authorizes a law enforcement officer reasonably suspecting a violation of those child passenger restraint system requirements to stop a vehicle transporting a child appearing to the officer to be within a specified age or weight range of under 6 years of age or less than 60 pounds.

This bill would instead authorize a law enforcement officer reasonably suspecting a violation of those requirements to stop a vehicle transporting a child appearing to the officer to be within the age range of less than 8 years of age.

Existing law permits a court to exempt from the above-described child passenger restraint system requirements any class of child by age, weight, or size if it is determined that the use of a child passenger restraint system would be impractical by reason of physical unfitness, medical condition, or size, and establishes 2 statutory exemptions.

This bill would revise that provision to also specify that a child or ward under 8 years of age who is 4 feet 9 inches in height or taller may be properly restrained by a safety belt rather than a child passenger restraint system.

Existing law requires every public or private hospital, clinic, or birthing center, at the time of the discharge of a child to provide and discuss information on the current law requiring child passenger restraint systems to the parents or person to whom the child is released when the child is less than 6 years of age or weighs less than 60 pounds.

This bill would instead require a public or private hospital, clinic, or birthing center, at the time of the discharge of a child, to provide and discuss information on the current law requiring child passenger restraint systems, safety belts, and the transportation of children in rear seats to the parents or person to whom the child is released if the child is under 8 years of age.

Existing law requires every car rental agency in California to inform each of its customers of a specified child safety restraint law by posting, in a place conspicuous to the public in each established place of business of the agency notice that meets specified requirements and includes a prescribed statement.

This bill would revise the language that would be required to be included in the notice, with regard to the application of those child safety restraint laws to children under 8 years of age.

Because a violation of the vehicle law constitutes a crime, the bill would impose a state-mandated local program by expanding the scope of an existing crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 27315 of the Vehicle Code is amended to read:

27315. (a) The Legislature finds that a mandatory seatbelt law will contribute to reducing highway deaths and injuries by encouraging greater usage of existing manual seatbelts, that automatic crash protection systems that require no action by vehicle occupants offer the best hope of reducing deaths and injuries, and that encouraging the use of manual safety belts is only a partial remedy for addressing this major cause of death and injury. The Legislature declares that the enactment of this section is intended to be compatible with support for federal motor vehicle safety standards requiring automatic crash protection systems and should not be used in any manner to rescind federal requirements for installation of automatic restraints in new cars.

(b) This section shall be known and may be cited as the Motor Vehicle Safety Act.

(c) (1) As used in this section, "motor vehicle" means a passenger vehicle, a motortruck, or a truck tractor, but does not include a motorcycle.

(2) For purposes of this section, a "motor vehicle" also means a farm labor vehicle, regardless of the date of certification under Section 31401.

(d) (1) A person shall not operate a motor vehicle on a highway unless that person and all passengers 16 years of age or over are properly restrained by a safety belt. This paragraph does not apply to the operator of a taxicab, as defined in Section 27908, when the taxicab is driven on a city street and is engaged in the transportation of a fare-paying passenger. The safety belt requirement established by this paragraph is the minimum safety standard applicable to employees being transported in a motor vehicle. This paragraph does not preempt more stringent or restrictive standards imposed by the Labor Code or another state or federal regulation regarding the transportation of employees in a motor vehicle.

(2) For purposes of this section the phrase, "properly restrained by a safety belt" means that the lower (lap) portion of the belt crosses the hips or upper thighs of the occupant and the upper (shoulder) portion of the belt, if present, crosses the chest in front of the occupant.

(3) The operator of a limousine for hire or the operator of an authorized emergency vehicle, as defined in subdivision (a) of Section 165, shall not operate the limousine for hire or authorized emergency vehicle unless the operator and any passengers eight years of age or over in the front seat, are properly restrained by a safety belt.

(4) The operator of a taxicab shall not operate the taxicab unless any passengers eight years of age or over in the front seat, are properly restrained by a safety belt.

(e) A person 16 years of age or over shall not be a passenger in a motor vehicle on a highway unless that person is properly restrained by a safety belt. This subdivision does not apply to a passenger in a sleeper berth, as defined in subdivision (x) of Section 1201 of Title 13 of the California Code of Regulations.

(f) An owner of a motor vehicle, including an owner or operator of a taxicab, as defined in Section 27908, or a limousine for hire, operated on a highway shall maintain safety belts in good working order for the use of the occupants of the vehicle. The safety belts shall conform to motor vehicle safety standards established by the

United States Department of Transportation. This subdivision, however, does not require installation or maintenance of safety belts if it is not required by the laws of the United States applicable to the vehicle at the time of its initial sale.

(g) This section does not apply to a passenger or operator with a physically disabling condition or medical condition that would prevent appropriate restraint in a safety belt, if the condition is duly certified by a licensed physician and surgeon or by a licensed chiropractor who shall state the nature of the condition, as well as the reason the restraint is inappropriate. This section also does not apply to a public employee, if the public employee is in an authorized emergency vehicle as defined in paragraph (1) of subdivision (b) of Section 165, or to a passenger in a seat behind the front seat of an authorized emergency vehicle as defined in paragraph (1) of subdivision (b) of Section 165 operated by the public employee, unless required by the agency employing the public employee.

(h) Notwithstanding subdivision (a) of Section 42001, a violation of subdivision (d), (e), or (f) is an infraction punishable by a fine of not more than twenty dollars ($20) for a first offense, and a fine of not more than fifty dollars ($50) for each subsequent offense. In lieu of the fine and any penalty assessment or court costs, the court, pursuant to Section 42005, may order that a person convicted of a first offense attend a school for traffic violators or another court-approved program in which the proper use of safety belts is demonstrated.

(i) In a civil action, a violation of subdivision (d), (e), or (f), or information of a violation of subdivision (h), does not establish negligence as a matter of law or negligence per se for comparative fault purposes, but negligence may be proven as a fact without regard to the violation.

(j) If the United States Secretary of Transportation fails to adopt safety standards for manual safety belt systems by September 1, 1989, a motor vehicle manufactured after that date for sale or sold in this state shall not be registered unless it contains a manual safety belt system that meets the performance standards applicable to automatic crash protection devices adopted by the United States Secretary of Transportation pursuant to Federal Motor Vehicle Safety Standard No. 208 (49 C.F.R. 571.208) as in effect on January 1, 1985.

(k) A motor vehicle offered for original sale in this state that has been manufactured on or after September 1, 1989, shall comply with the automatic restraint requirements of Section S4.1.2.1 of Federal Motor Vehicle Safety Standard No. 208 (49 C.F.R. 571.208), as published in Volume 49 of the Federal Register, No. 138, page 29009. An automobile manufacturer that sells or delivers a motor vehicle subject to this subdivision, and fails to comply with this subdivision, shall be punished by a fine of not more than five hundred dollars ($500) for each sale or delivery of a noncomplying motor vehicle.

(l) Compliance with subdivision (j) or (k) by a manufacturer shall be made by self-certification in the same manner as self-certification is accomplished under federal law.

(m) This section does not apply to a person actually engaged in delivery of newspapers to customers along the person's route if the person is properly restrained by a safety belt prior to commencing and subsequent to completing delivery on the route.

(n) This section does not apply to a person actually engaged in collection and delivery activities as a rural delivery carrier for the United States Postal Service if the person is properly restrained by a safety belt prior to stopping at the first box and subsequent to stopping at the last box on the route.

(o) This section does not apply to a driver actually engaged in the collection of solid waste or recyclable materials along that driver's collection route if the driver is properly restrained by a safety belt prior to commencing and subsequent to completing the collection route.

(p) Subdivisions (d), (e), (f), (g), and (h) shall become inoperative immediately upon the date that the United States Secretary of Transportation, or his or her delegate, determines to rescind the portion of the Federal Motor Vehicle Safety Standard No. 208 (49 C.F.R. 571.208) that requires the installation of automatic restraints in new motor vehicles, except that those subdivisions shall not become inoperative if the secretary's decision to rescind that Standard No. 208 is not based, in any respect, on the enactment or continued operation of those subdivisions.

SEC. 2. Section 27315.3 of the Vehicle Code is amended to read:

27315.3. (a) As used in this section, "passenger motor vehicle" means a passenger vehicle as defined in Section 465 and a motortruck as defined in Section 410 of less than 6,001 pounds unladen weight, but does not include a motorcycle as defined in Section 400.

(b) Every sheriff's department and city police department and the Department of the California Highway Patrol shall maintain safety belts in good working order for the use of occupants of a vehicle that it operates on a highway for the purpose of patrol. The safety belts shall conform to motor vehicle safety standards established by the United States Department of Transportation. This subdivision does not, however, require installation or maintenance of safety belts where not required by the laws of the United States applicable to the vehicle at the time of its initial sale.

(c) Notwithstanding subdivision (a) of Section 42001, a violation of subdivision (b) is an infraction punishable by a fine, including all penalty assessments and court costs imposed on the convicted department, of not more than twenty dollars ($20) for a first offense, and a fine, including all penalty assessments and court costs imposed on the convicted department, of not more than fifty dollars ($50) for each subsequent offense.

(d) (1) For a violation of subdivision (b), in addition to the fines provided for pursuant to subdivision (c) and the penalty assessments provided for pursuant to Section 1464 of the Penal Code, an additional penalty assessment of two dollars ($2) shall be levied for a first offense, and an additional penalty assessment of five dollars ($5) shall be levied for any subsequent offense.

(2) All money collected pursuant to this subdivision shall be utilized in accordance with Section 1464 of the Penal Code.

(e) In a civil action, a violation of subdivision (b) or information of a violation of subdivision (c) shall not establish negligence as a matter of law or negligence per se for comparative fault purposes, but negligence may be proven as a fact without regard to the violation.

(f) Subdivisions (b) and (c) shall become inoperative immediately upon the date that the Secretary of the United States Department of Transportation, or his or her delegate, determines to rescind the portion of the Federal Motor Vehicle Safety Standard No. 208 (49

C.F.R. 571.208) that requires the installation of automatic restraints in new passenger motor vehicles, except that those subdivisions shall not become inoperative if the secretary's decision to rescind Standard No. 208 is not based, in any respect, on the enactment or continued operation of those subdivisions or subdivisions (d) to (h), inclusive, of Section 27315.

SEC. 3. Section 27360 of the Vehicle Code is repealed.

SEC. 4. Section 27360 is added to the Vehicle Code, to read:

27360. (a) Except as provided in Section 27363 a parent, legal guardian, or driver shall not transport on a highway in a motor vehicle, as defined in paragraph (1) of subdivision (3) of Section 27315, a child or ward who is under eight years of age, without properly securing that child in a rear seat in an appropriate child passenger restraint system meeting applicable federal motor vehicle safety standards.

(b) Subdivision (a) does not apply to a driver if the parent or legal guardian of the child is also present in the motor vehicle and is not the driver.

SEC. 5. Section 27360.5 of the Vehicle Code is repealed.

SEC. 6. Section 27360.5 is added to the Vehicle Code, to read:

27360.5. (a) A parent, legal guardian, or driver shall not transport on a highway in a motor vehicle, as defined in paragraph (1) of subdivision (c) of Section 27315, a child or ward who is eight years of age or older, but less than 16 years of age, without properly securing that child or ward in an appropriate child passenger restraint system or safety belt meeting applicable federal motor vehicle safety standards.

(b) Subdivision (a) does not apply to a driver if the parent or legal guardian of the child is also present in the motor vehicle and is not the driver.

SEC. 7. Section 27360.6 is added to the Vehicle Code, to read:

27360.6. (a) (1) For a conviction under Section 27360 or 27360.5, a first offense is punishable by a fine of one hundred dollars ($100), except that the court may reduce or waive the fine if the defendant establishes to the satisfaction of the court that he or she is economically disadvantaged, and the court, instead, refers the defendant to a community education program that includes, but is not limited to, education on the proper installation and use of a child passenger restraint system for children of all ages, and provides certification to the court of completion of that program. Upon completion of the program, the defendant shall provide proof of participation in the program. If an education program on the proper installation and use of a child passenger restraint system is not available within 50 miles of the residence of the defendant, the requirement to participate in that program shall be waived. If the fine is paid, waived, or reduced, the court shall report the conviction to the department pursuant to Section 1803.

(2) The court may require a defendant described under paragraph (1) to attend an education program that includes demonstration of proper installation and use of a child passenger restraint system and provides certification to the court that the defendant has presented for inspection a child passenger restraint system that meets applicable federal safety standards.

(b) (1) A second or subsequent conviction under Section 27360 or 27360.5 is punishable by a fine of two hundred fifty dollars ($250), no part of which may be waived by the court, except that the court may reduce or waive the fine if the defendant establishes to the

satisfaction of the court that he or she is economically disadvantaged, and the court, instead refers the defendant to a community education program that includes, but is not limited to, education on the proper installation and use of child passenger restraint systems for children of all ages, and provides certification to the court of completion of that program. Upon completion of the program, the defendant shall provide proof of participation in the program. If an education program on the proper installation and use of a child passenger restraint system is not available within 50 miles of the residence of the defendant, the requirement to participate in that program shall be waived. If the fine is paid, waived, or reduced, the court shall report the conviction to the department pursuant to Section 1803.

(2) The court may require a defendant described under paragraph (1) to attend an education program that includes demonstration of proper installation and use of a child passenger restraint system and provides certification to the court that the defendant has presented for inspection a child passenger restraint system that meets applicable federal safety standards.

(c) Notwithstanding any other law, the fines collected under this section shall be allocated as follows:

(1) (A) Sixty percent to health departments of local jurisdictions where the violation occurred, to be used for a community education and assistance program that includes, but is not limited to, demonstration of the proper installation and use of child passenger restraint systems for children of all ages and assistance to economically disadvantaged families in obtaining a restraint system through a low-cost purchase or loan. The county or city health department shall designate a coordinator to facilitate the creation of a special account and to develop a relationship with the court system to facilitate the transfer of funds to the program. The county or city may contract for the implementation of the program. Prior to obtaining possession of a child passenger restraint system pursuant to this subdivision, a person shall attend an education program that includes demonstration of proper installation and use of a child passenger restraint system.

(B) As the proceeds from fines become available, county or city health departments shall prepare and maintain a listing of all child passenger restraint low-cost purchase or loaner programs in their counties, including a semiannual verification that all programs listed are in existence. Each county or city shall forward the listing to the Office of Traffic Safety in the Business, Transportation and Housing Agency and the courts, birthing centers, community child health and disability prevention programs, county clinics, prenatal clinics, women, infants, and children programs, and county hospitals in that county, who shall make the listing available to the public. The Office of Traffic Safety shall maintain a listing of all of the programs in the state.

(2) Twenty-five percent to the county or city for the administration of the community education program.

(3) Fifteen percent to the city, to be deposited in its general fund except that, if the violation occurred in an unincorporated area, this amount shall be allocated to the county for purposes of paragraph (1).

SEC. 8. Section 27361 of the Vehicle Code is amended to read:

27361. A law enforcement officer reasonably suspecting a violation of Section 27360 or 27360.5, or both of those sections, may

stop a vehicle transporting a child appearing to the officer to be within the age specified in Section 27360 or 27360.5. The officer may issue a notice to appear for a violation of Section 27360 or 27360.5.

SEC. 9. Section 27363 of the Vehicle Code is amended to read:

27363. (a) The court may exempt from the requirements of this article any class of child by age, weight, or size if it is determined that the use of a child passenger restraint system would be impractical by reason of physical unfitness, medical condition, or size. The court may require satisfactory proof of the child's physical unfitness, medical condition, or size and that an appropriate special needs child passenger restraint system is not available.

(b) In case of a life-threatening emergency, or when a child is being transported in an authorized emergency vehicle, if there is no child passenger restraint system available, a child may be transported without the use of that system, but the child shall be secured by a seatbelt.

(c) A child weighing more than 40 pounds may be transported in the backseat of a vehicle while wearing only a lap safety belt when the backseat of the vehicle is not equipped with a combination lap and shoulder safety belt.

(d) Notwithstanding Section 27360, a child or ward under eight years of age who is four feet nine inches in height or taller may be properly restrained by a safety belt, as defined in paragraph (2) of subdivision (d) of Section 27315, rather than by a child passenger restraint system.

(e) Notwithstanding Section 27360, a child or ward under eight years of age may ride properly secured in an appropriate child passenger restraint system meeting applicable federal motor vehicle safety standards in the front seat of a motor vehicle under any of the following circumstances:

(1) There is no rear seat.

(2) The rear seats are side-facing jump seats.

(3) The rear seats are rear-facing seats.

(4) The child passenger restraint system cannot be installed properly in the rear seat.

(5) All rear seats are already occupied by children seven years of age or under.

(6) Medical reasons necessitate that the child or ward not ride in the rear seat. The court may require satisfactory proof of the child's medical condition.

(f) Notwithstanding subdivision (e), a child shall not be transported in a rear-facing child passenger restraint system in the front seat of a motor vehicle that is equipped with an active frontal passenger airbag.

SEC. 10. Section 27363.5 of the Vehicle Code is amended to read:

27363.5. (a) A public or private hospital, clinic, or birthing center, shall, at the time of the discharge of a child provide and discuss information on the current law requiring child passenger restraint systems, safety belts, and the transportation of children in rear seats to the parents or the person to whom the child is released if the child is under eight years of age.

(b) A public or private hospital, clinic, or birthing center shall not be responsible for the failure of the parent or person to whom the child is released to properly transport the child.

SEC. 11. Section 27365 of the Vehicle Code is amended to read:

27365. (a) (1) A car rental agency in California shall inform each of its customers of Section 27360 by posting, in a place conspicuous to the public in each established place of business of the agency, a notice not smaller than 15 by 20 inches which states the following:

"CALIFORNIA LAW REQUIRES ALL CHILDREN UNDER 8 YEARS OF AGE TO BE TRANSPORTED IN THE REAR SEAT OF THE VEHICLE IN A CHILD RESTRAINT SYSTEM. THIS AGENCY IS REQUIRED TO PROVIDE FOR RENTAL OF A CHILD RESTRAINT SYSTEM IF YOU DO NOT HAVE A CHILD RESTRAINT SYSTEM YOURSELF."

(2) The posted notice specified in paragraph (1) is not required if the car rental agency's place of business is located in a hotel that has a business policy prohibiting the posting of signs or notices in any area of the hotel. In that case, a car rental agency shall furnish a written notice to each customer that contains the same information as required for the posted notice.

(b) Every car rental agency in California shall have available for, and shall, upon request, provide for rental to, adults traveling with children under eight years of age, child passenger restraint systems that are certified by the manufacturer to meet applicable federal motor vehicle safety standards for use by children, are in good and safe condition, with no missing original parts, and are not older than five years.

(c) A violation of this section is an infraction punishable by a fine of one hundred dollars ($100).

SEC. 12. The Legislature finds and declares that this act allows the state to be eligible for federal grants pursuant to Section 2011 of the federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) (Public Law 109-59) for public education and the provision of low-cost and no-cost booster seats.

SEC. 13. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.