

COLORADO REVISED STATUTES

\*\*\* This document reflects changes current through all laws passed at the First Regular Session of the Seventieth General Assembly of the State of Colorado (2015) \*\*\*

TITLE 42. VEHICLES AND TRAFFIC  
REGULATION OF VEHICLES AND TRAFFIC  
ARTICLE 4. REGULATION OF VEHICLES AND TRAFFIC  
PART 2. EQUIPMENT

C.R.S. 42-4-236 (2015)

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) (Deleted by amendment, L. 2010, [\(SB 10-110\), ch. 294, p. 1365, § 3](#), effective August 1, 2010.)

(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) (Deleted by amendment, L. 2010, [\(SB 10-110\), ch. 294, p. 1365, § 3](#), effective August 1, 2010.)

(a.8) "Motor vehicle" means a passenger car; a pickup truck; or a van, minivan, or sport utility vehicle with a gross vehicle weight rating of less than ten thousand pounds. "Motor vehicle" does not include motorcycles, low-power scooters, motorscooters, motorbicycles, motorized bicycles, and farm tractors and implements of husbandry designed primarily or exclusively for use in agricultural operations.

(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. Proper use of a safety

belt means the shoulder belt, if present, crosses the shoulder and chest and the lap belt crosses the hips, touching the thighs.

(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) (I) Unless exempted pursuant to subsection (3) of this section and except as otherwise provided in subparagraphs (II) and (III) of this paragraph (a), every child who is under eight years of age and who is being transported in this state in a motor vehicle or in a vehicle operated by a child care center, shall be properly restrained in a child restraint system, according to the manufacturer's instructions.

(II) 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 in a rear seat of the vehicle.

(III) 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 rear-facing or forward-facing child restraint system.

(b) Unless excepted pursuant to subsection (3) of this section, every child who is at least eight years of age but less than sixteen years of age who is being transported in this state in a motor vehicle or in a vehicle operated by a child care center, shall be properly restrained in a safety belt or child restraint system according to the manufacturer's instructions.

(c) If a parent is in the motor vehicle, it is the responsibility of the parent to ensure that his or her child or children are provided with and that they properly use a child restraint system or safety belt system. If a parent is not in the motor vehicle, it is the responsibility of the driver transporting a child or 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 \(4\)](#), subsection (2) of this section does not apply to a child who:

(a) Repealed.

(b) Is less than eight years of age and is being transported in a motor vehicle as a result of a medical or other life-threatening emergency and a child restraint system is not available;

(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;

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

(e) (Deleted by amendment, L. 2011, [\(SB 11-227\)](#), [ch. 295](#), [p. 1399](#), [§ 1](#), effective June 7, 2011.)

(f) Is being transported in a motor vehicle that is operated in the business of transporting persons for compensation or hire by or on behalf of a common carrier or a contract carrier as those terms are defined in [section 40-10.1-101, C.R.S.](#), or an operator of a luxury limousine service as defined in [section 40-10.1-301, C.R.S.](#)

(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 defendant presents the court with satisfactory evidence of proof of the acquisition, purchase, or rental of a child restraint system by the time of the court appearance.

(9) (Deleted by amendment, L. 2010, [\(SB 10-110\), ch. 294, p. 1365, § 3](#), effective August 1, 2010.)

(10) and (11) Repealed.

**HISTORY:** 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.L. 2010: (1)(a.3), (1)(a.7), (1)(b), (2), (3), (8), and (9) amended and (1)(a.8) and (11) added, [\(SB 10-110\), ch. 294, pp. 1365, 1364, § 3, 2](#), effective August 1.L. 2011: IP(3) and (3)(e) amended, [\(SB 11-227\), ch. 295, p. 1399, § 1](#), effective June 7; IP(3) and (3)(f) amended, [\(HB 11-1198\), ch. 127, p. 426, § 27](#), effective August 10.

Editor's note: (1) This section is similar to former § 42-4-235 as it existed prior to 1994, and the former § 42-4-236 was relocated to [§ 42-4-237](#).(2) Amendments to subsection (2)(b) by House Bill 03-1144 and House Bill 03-1381 were harmonized.(3) The introductory portion to

subsection (3) was amended in Senate Bill 11-227. Those amendments were superseded by the amendment of this section in House Bill 11-1198.(4) Subsection (11)(b) provided for the repeal of subsection (11), effective August 1, 2011. (See L. 2010, p. 1365.)

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).