SPONSOR: Sen. Gay & Sen. Lockman & Sen. Townsend & Rep. Griffith & Rep. Heffernan
Sens. Hoffner, Huxtable, Pettyjohn, Pinkney; Reps. Cooke, Dukes, Gray, K. Johnson

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 68

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO OCCUPANT PROTECTIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 4803, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

~~(a) Every person shall be responsible, when transporting a child through the age of 7 and up to and including the weight of 65 pounds in a motor vehicle operated on the roadways, streets or highways of this State, for providing protection of the child by properly securing the child in all seating positions, according to manufacturer's instruction, in a child safety seat or booster seat meeting federal motor vehicle safety standards, and that is appropriate for the child's weight and height. Every child who has either attained the age of 8 or a weight in excess of 65 pounds and has not yet attained the age of 16 shall, in all seating positions, wear a properly secured seatbelt while in a motor vehicle operated on the roadways, streets or highways of this State. The duty imposed by this subsection shall not apply to any operator or passenger of a motor bus, limousine or taxicab as defined in § 1801 of Title 2.~~

(a) (1) The driver shall be responsible, when transporting a child under the age of 16 in a motor vehicle operated on the roadways, streets, or highways of this State, for providing protection of the child by properly securing the child in all seating positions, according to manufacturer's instructions, in a child safety seat or booster seat meeting federal motor vehicle safety standards, and that is appropriate for the child's age, weight and height, or a properly secured seatbelt. The duty imposed by this subsection shall not apply to any operator or passenger of a charter bus, limousine or taxicab as defined in § 1801 of Title 2.

(2) A child under the age of 2 years and less than 30 pounds shall be properly secured in a rear-facing child restraint equipped with a 5-point harness.

(3) A child under the age of 4 and less than 40 pounds shall be properly secured in a child restraint equipped with a 5-point harness. This restraint shall be either rear-facing or forward facing until they reach the upper height or weight limits of the restraint.

(4) A child shall be properly secured in a belt positioning booster until they reach the upper height or weight limits of the restraint per the manufacturer's guidelines.

(5) Every child who has reached the upper height and weight limits per the manufacturer's guidelines of a belt position booster seat and has not yet attained the age of 16 shall, in all seating positions, wear a properly secured seatbelt while in a motor vehicle operated on the roadways, street, or highways of this State.

(b) (1) No child who is ~~65 inches~~ 5'5" or less in height and who is under 12 years of age shall occupy the front passenger seat of any vehicle equipped with a passenger-side airbag that has not been deliberately rendered inoperable in conformity with federal law. This subsection shall not apply to vehicles equipped with a passenger-side airbag specifically designed or modified by the vehicle's manufacturer for use by children and small adults.

(2) It shall not be a violation of this section for a child ~~65 inches~~ 5'5" or less in height and under 12 years of age to occupy the front passenger seat of a vehicle equipped with a passenger-side airbag that has not been deliberately rendered inoperable in conformity with federal law if such vehicle does not have a rear passenger seat or if all rear passenger seats are occupied by other children ~~65 inches~~ 5'5" or less in height and under 12 years of age. A violation of this subsection shall be considered a secondary offense, and no motor vehicle shall be stopped by a police officer solely for failure to comply with this subsection.

(c) A second or subsequent violation of this section shall be an offense punishable by a fine of $25 for each violation. The failure to provide a child restraint system or seat belt for more than 1 child in the same vehicle at the same time, as required by this section, shall not be treated as a separate offense. Law enforcement should provide a referral to the Office of Highway Safety car seat fitting station for guidance and education regarding proper use of a child restraint.

(d) A violation of this section shall not be considered as evidence of either comparative or contributory negligence in any civil suit or of criminal negligence or recklessness in any criminal action arising out of any motor vehicle accident in which a child under 16 is injured, nor shall failure to wear a child passenger restraint system or seat belt in violation of this section be admissible as evidence in the trial of any civil action.

(e) ~~Following May 9, 2002, and prior to January 1, 2003,~~ No less than 180 days following the enactment of this Act, the Department of Safety and Homeland Security shall implement an awareness campaign to educate motorists about the components of the law and to encourage the public to correctly and consistently uses child safety seats, booster seats and seatbelts.

(f) Section (e) of this Act takes effect on its enactment into law. The remainder of this Act takes effect 1 year following its enactment into law.

SYNOPSIS

This Act revises Delaware's child safety seat requirements which currently requires an "appropriate" car seat or booster. Under this Act, children under 2 years and under 30 pounds must be seated in a rear-facing seat with a 5-point harness. Children under 4 years and under 40 pounds must be seated in either a forward facing or rear-facing seat with a 5-point harness. Children between the ages of 4 and 16, must be seated in a booster based upon the manufacturer's guidelines or a seatbelt.

This Act removes the existing fine for the first offense and requests law enforcement to provide a referral to the Office of Highway Safety car seat fitting station for guidance and education regarding proper use of a child restraint.

Under this Act, the Department of Safety and Homeland Security is required to implement an awareness campaign within 180 days of enactment. The remainder of the Act will not take effect until 1 year following its enactment.

Author: Senator Gay