

ASSEMBLY, No. 2165

STATE OF NEW JERSEY

INTRODUCED JUNE 20, 1996

By Assemblywoman CRUZ-PEREZ

1 AN ACT concerning child passenger restraint systems, supplementing
2 Title 2A of the New Jersey Statutes and supplementing and
3 amending P.L.1983, c.128.

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5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

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8 1. (New section) a. (1) For a period of 24 months following the
9 effective date of this section, no person or organization that establishes
10 a program to lend child passenger restraint systems of a type approved
11 by the Office of Highway Traffic Safety in the Department of Law and
12 Public Safety shall be liable in any civil action for damages or physical
13 injury arising during that 24-month period from any act of commission
14 or omission if:

15 (a) the person or organization files an affidavit with the court
16 certifying the correct identity and address of the manufacturer of the
17 child passenger restraint system which was in use at the time of the
18 injury or death; and

19 (b) the manufacturer is subject to the jurisdiction of the courts of
20 this State.

21 (2) If the requirements of subparagraphs (a) and (b) of paragraph
22 (1) of this subsection have been satisfied, and the claim against the
23 person or organization is dismissed, a party may vacate the dismissal
24 if:

25 (a) the statute of limitations bars the assertion of a claim against
26 the manufacturer;

27 (b) any of the information provided by the person or organization
28 in its affidavit is incorrect; or

29 (c) the court determines that the manufacturer is ultimately unable
30 to satisfy a judgment.

31 b. Nothing in this section shall preclude liability for civil damages
32 if:

33 (1) the person or organization has modified in any way the child
34 passenger restraint system;

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 (2) the person or organization failed to make reasonable safety
2 inspections of the child passenger restraint system;
- 3 (3) the child passenger restraint system was not in proper operating
4 condition when loaned;
- 5 (4) the person or organization improperly installed the child
6 passenger restraint system;
- 7 (5) the person or organization provided a child passenger restraint
8 system inappropriate for its intended use as prescribed by State or
9 federal regulation;
- 10 (6) the person or organization had actual knowledge that the child
11 passenger restraint system was defective; or
- 12 (7) the person or organization caused or created a defect in the
13 child passenger restraint system which did not exist when it left the
14 hands of the manufacturer.

15 c. No later than 21 months following the effective date of this
16 section, the Director of the Office of Highway Traffic Safety shall
17 report to the Legislature on the impact the provisions of subsection a.
18 of this section have made on the establishment or expansion of
19 programs to lend child passenger restraint systems and their overall
20 availability through such programs. The report shall include a
21 comparison of the number of such programs in operation and the
22 number of child passenger restraint systems available through those
23 programs at the time this act takes effect, with the number of
24 programs and child passenger restraint systems available through those
25 programs at the time the report is made, as well as any
26 recommendations of the director with respect to continuing the
27 provisions of subsection a. and any amendments thereto as part of that
28 continuation.

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30 2. (New section) There is established a nonlapsing revolving fund,
31 to be known as the Office of Highway Traffic Safety Child Passenger
32 Restraint System Assistance Fund, administered by the State
33 Treasurer. All fine moneys collected pursuant to the provisions of
34 section 4 of P.L.1983, c.128 (C.39:3-76.2d) shall be deposited in the
35 fund to be used exclusively by the Office of Highway Traffic Safety in
36 the Department of Law and Public Safety to purchase child passenger
37 restraint systems for distribution to persons and organizations that
38 establish and maintain child passenger restraint system lending
39 programs. Any interest earned on moneys in the fund shall be credited
40 to the fund. The Director of the Office of Highway Traffic Safety, in
41 accordance with the "Administrative Procedure Act," P.L.1968, c.410
42 (C.52:14B-1 et seq.), shall promulgate rules and regulations to
43 effectuate the purposes of this section.

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45 3. Section 4 of P.L.1983, c.128 (C.39:3-76.2d) is amended to read
46 as follows:

1 4. a. Any person guilty of violating any of the provisions of this
2 act shall be fined not less than \$10.00 and not more than \$25.00. The
3 court shall suspend any fine imposed for failure to use a child restraint
4 system if the defendant demonstrates that he possesses a child restraint
5 system that complies with the federal standard applicable when it was
6 manufactured and is using it according to the manufacturer's
7 instructions.

8 b. All fine moneys collected pursuant to the provisions of this
9 section shall be deposited in the Office of Highway Traffic Safety
10 Child Passenger Restraint System Assistance Fund established under
11 the provisions of section 2 of P.L. c. (C.) (now pending before
12 the Legislature as this bill).
13 (cf: P.L.1983, c.128, s.4)
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15 5. This act shall take effect one the first day of the third month
16 following enactment, except that the Director of the Office of
17 Highway Traffic Safety may take immediately after enactment such
18 anticipatory administrative action as shall be necessary for the
19 implementation of this act.

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STATEMENT

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24 The purpose of this bill is to encourage persons or organizations to
25 establish programs to lend child passenger restraint systems by giving
26 those organizations certain liability protections.

27 A number of organizations and agencies, particularly hospitals, have
28 explored the possibility of establishing child passenger restraint system
29 lending programs, but have been hesitant to implement such programs
30 for liability reasons. There is a need for such lending programs,
31 especially in providing specially designed child passenger restraint
32 systems to families whose children have had surgery or have other
33 medical problems which make it impossible for them to use the normal
34 passenger restraint systems. At one time, the Office of Highway
35 Traffic Safety even offered to provide some of these specially designed
36 restraint systems to hospitals to lend to the families of discharged
37 patients, but the hospitals refused because of their potential liability
38 exposure.

39 The bill specifies that all the fine moneys collected from persons
40 who are found guilty of transporting children under the age of five in
41 a vehicle without a child passenger restraint system be deposited in a
42 special fund. The moneys in the fund are to be used by the Director
43 of the Office of Highway Traffic Safety to purchase child passenger
44 restraint systems for distribution to organizations that have established
45 lending programs.

1 The bill is modeled after a provision of the Pennsylvania seat belt
2 law.

3 The immunity provisions of the bill are limited to a period of 24
4 months following the effective date, and require the Director of the
5 Office of Highway Traffic Safety to report to the Legislature within 21
6 months following the bill's effective date on its impact on the
7 establishment or expansion of programs to lend child passenger
8 restraint systems and their overall availability through such programs.

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13 Provides liability protection to organizations which lend child
14 passenger restraint systems.