

# Research Department

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# Minnesota House of Representatives

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TO: Interested parties

FROM: Matt Burress, Legislative Analyst (651-296-5045)

RE: 2009 passenger restraint legislation

In 2009, the legislature made changes to passenger restraint requirements that expanded the situations under which child restraints and seat belt use are mandated. This memo reviews the changes, outlines transportation issues that have subsequently arisen, and highlights some potential legislative options.

## Summary of Passenger Restraint Law Changes

2009 legislation made a number of modifications that expanded the required use of passenger restraint devices (namely, infant carriers, booster seats, and seat belts). The key changes are to:

- Require seat belt use by all passengers in passenger autos, pickup trucks, SUVs, vans, and commercial motor vehicles;
- Expand the mandate to use a “child passenger restraint system” so that it applies to additional older children, making a child restraint necessary if the child is (1) under age eight, and (2) under four feet nine inches tall;
- Make violation of the seat belt law a primary offense (allowing a peace officer to stop a vehicle solely on the basis of a violation of the seat belt requirement); and
- Modify the responsibility for fines for seat belt violations.

The child restraint and seat belt laws do not apply to all vehicles operated on streets and highways. The following table summarizes the passenger restraint regulations for four basic categories of vehicles: passenger vehicles such as cars and SUVs, type III vehicles (i.e., certain passenger vehicles used in school transportation), commercial motor vehicles, and buses equipped with seat belts. (The vehicles are further described in the following section.)

**Summary of Passenger Restraint Requirements (Certain Vehicles with Seat Belts Installed)**

|     |            | Height          |                 |
|-----|------------|-----------------|-----------------|
|     |            | 0 to 4' 8"      | 4' 9" or Taller |
| Age | 0 to 7     | Child restraint | Seat belt       |
|     | 8 or older | Seat belt       | Seat belt       |

**Notes**  
 The table only applies to passenger vehicles, type III vehicles, buses, school buses, and commercial motor vehicles.  
 For buses, including school buses, the requirements only apply if the bus is equipped with seat belts.  
 For school buses, an exception to the child restraint requirement may apply when the vehicle is operated by contract with a school.

As is implied from the above table, the revised child restraint and seat belt laws dovetail with each other. If a child is subject to the child restraint requirement, a child restraint system must be used instead of wearing a seat belt.

**Vehicle Types**

There are various vehicle categories under Minnesota law. The following describes the vehicles that are relevant to the child restraint and seat belt laws.

- A **passenger vehicle** includes (1) any motor vehicle that can carry up to 15 passengers, including the driver; (2) a pickup truck of any size; (3) a cargo van or passenger van that can carry up to 15 passengers, including the driver; and (4) a recreational vehicle. Minn. Stat. § 169.686, subd. 1a. See Laws 2009, ch. 165, sec. 3.
- A **type III vehicle** is a passenger automobile, station wagon, SUV, or van that (1) has a seating capacity of 10 or fewer people, including the driver; and (2) weighs 10,000 pounds or less. Such vehicles are used by school districts to transport smaller groups of children, and can be driven by teachers, coaches, and other school district employees who meet certain requirements. Minn. Stat. §§ 169.011, subd. 71; 171.02, subd. 2b.

Type III vehicles are not physically different from personal cars, minivans, and SUVs owned by families.<sup>1</sup> The vehicles must generally carry additional safety equipment such as a fire extinguisher, and have to undergo an annual safety inspection by the State Patrol. To drive a type III vehicle, a person must be an employee of a school district and meet certain driver qualifications.

- A **commercial motor vehicle**, for the purposes of the child restraint and seat belt laws, is a motor vehicle that (1) weighs more than 26,000 pounds, (2) is a vehicle combination that weighs over 26,000 pounds with a towed unit that weighs over 10,000 pounds, (3)

<sup>1</sup> That is, the difference between a personal family automobile and a type III vehicle is not the vehicle itself, but rather lies in the usage: type III vehicles are owned or leased by schools for pupil transportation.

transports certain hazardous materials, or (4) is a bus or school bus (excluding type A-I school buses and type III vehicles). Minn. Stat. § 169.011, subd. 16.

- A **bus** is a motor vehicle designed to carry more than 15 passengers including the driver. The category includes transit buses, school buses (whether owned by a school district or by a pupil transport contractor), Head Start buses, and buses used by childcare providers. Minn. Stat. § 169.011, subd. 11.
- A **school bus** is a motor vehicle that is used by a school or school district (whether directly operated or under contract) to transport students (1) to or from a school, or (2) to or from school-related activities. School buses are classified into types A, B, C, and D based on certain vehicle weight and design characteristics. Type A school buses are further divided into Type A-I and Type A-II based on vehicle weight. Type A-I school buses are the smallest classification (and in some cases they can be operated with fewer driver requirements).

## 2009 Law Changes – Child Restraints

One of the legislative changes concerns child restraint systems (which are infant carriers, convertible car seats, and child booster seats). It was designed to expand the use of a child restraint system. Under the revised law, use of child restraint system is required – in vehicles equipped with factory installed seat belts – when transporting a child who is (1) under age eight, and (2) under four feet nine inches tall. Laws 2009, ch. 82. Raising the age threshold for use of child restraint expands the set of children for whom child restraints are required. Note that the child restraint requirement overrides the seat belt requirement: if a child restraint is required for a person, then it must be used instead of a seat belt.

Prior to the 2009 change in state law, a child passenger restraint system was only required to transport children under age four. From ages four through 10 the child was required to wear a seat belt. Minn. Stat. §§ 169.685, subd. 5; 169.686, subd. 1.

The legislation also clarified that a “child passenger restraint system” is a device that meets federal safety standards and includes a booster seat. It also specifically authorized a peace officer to provide, at the time of issuance of a citation, information on obtaining a free or low-cost child restraint. The changes went into effect July 1, 2009.

Exceptions to the law remain unchanged, and include:

- Transport of a child in an emergency medical vehicle in the performance of official duties when medical needs make child restraints unreasonable or a restraint system is not available;
- Transportation of a child by a peace officer in the performance of official duties, if a restraint system is not available;
- Transporting a child in “a motor vehicle for hire, including a taxi, airport limousine, and bus, but excluding a rented, leased, or borrowed motor vehicle” (this exception is discussed further in a subsequent section); and

- Transport of a child who can not use a child restraint due to a medical condition, body size, or physical disability (which requires a statement from a physician). Minn. Stat. § 169.685, subd. 6.

Also unchanged is a requirement that (after January 1, 1964) new motor vehicles offered for sale in Minnesota must be able to have seat belts installed in the front seat. This requirement only extends to vehicles that must be registered with the state, and does not apply to some vehicles including buses, school buses, motorcycles, and farm tractors. Minn. Stat. § 169.685, subd. 1.

## **2009 Law Changes – Seat Belts**

The 2009 Legislature also made a series of changes regarding seat belts that essentially made their use mandatory and the law more easily enforceable. Laws 2009, ch.165; ch. 168, §§ 6-7. Some have referred to the legislation as the “primary seat belt” law, but there are actually several changes made in addition making a seat belt violation a primary offense. Most of the provisions went into effect June 9, 2009. The various modifications are identified below.

- Requires that everyone riding in a passenger vehicle or a commercial motor vehicle must wear a seat belt. Prior to the change, a seat belt had to be worn by the driver, front seat passengers, and any passengers under age 11 (if a child restraint was not instead required).
- Eliminates a provision prohibiting issuance of a citation for failure to wear a seat belt unless the issuing officer stopped the vehicle for some other moving violation. This makes violation of the seat belt statute a primary offense.
- Expands the types of vehicles for which the seat belt provision applies, to specifically include type III vehicles and type III Head Start vehicles. The seat belt requirement applies to various “passenger vehicles,” a category that includes passenger automobiles that can carry up to 15 people; pickup trucks of any size; vans; commuter vans; and recreational vehicles.
- Modifies the cases when the driver can be cited for a seat belt violation due to failure of a passenger to wear a seat belt. The driver can be cited for each passenger who is under age 15 and requires a seat belt but is not wearing one. Passengers age 15 or over can be cited for failure to use a seat belt, but the driver would be cited for any passengers under age 15 who are in violation of the seat belt law.
- Clarifies that the driver is subject to more than one \$25 fine for failure to wear a seat belt. This would occur if the driver receives multiple citations, such as (1) if both the driver and a passenger under age 15 were identified as in violation of the seat belt law, or (2) if multiple passengers under age 15 failed to wear a seat belt.
- Expands the exceptions to the mandatory seat belt requirement to include newspaper delivery persons when working on the job. Other exceptions are unchanged, and include operating a vehicle in reverse; riding in a vehicle in which all seating positions containing safety belts are occupied and the belts are in use; driving or riding in a vehicle manufactured before January 1, 1965; and driving or riding in a pickup truck engaged in farming work.

## Implications for Child Transport

**Law application to schools and transit.** There is not a clear exception for school buses from the mandate to use a child restraint system. Except for the driver's seat, a bus or school bus does not have to be manufactured to include seat belt equipment. Minn. Stat. §§ 169.685, subd. 1; 169.447, subd. 2. However, if a school bus is "equipped with factory-installed seat belts," it appears that children who do fit within the age or height threshold must be secured using a child restraint system. Minn. Stat. § 169.685, subd. 5. Based on this language, the general interpretation seems to be that the child restraint requirement applies to transport of children in type III vehicles as well as seat belt equipped school buses, Head Start buses, and other buses used by preschools or childcare centers. Similarly, the new requirements seem to extend to buses used for transit and paratransit services that have seat belts.

Because the age threshold increased under the 2009 legislation, schools and childcare providers are impacted by required use of child restraints. Previously, the age cut-off was low enough that child restraints were not mandated for use by most of the children transported by schools and childcare providers.

The seat belt law changes do not seem to have had a parallel impact. A separate statute specific to school buses requires that "a passenger on a school bus equipped with lap belts or lap and shoulder belts must use these lap belts or lap and shoulder belts" unless a parent or guardian (or the passenger if the person is age 18 or older) opts out.<sup>2</sup> Minn. Stat. § 169.447, subd. 2a. Apparently, the opt out provision is rarely used.

Although the child restraint mandate only applies to those buses with seat belts installed, a small portion of the bus fleet among many school districts and childcare providers is so equipped. Buses equipped with seat belts are necessary, for instance, in transporting some students with special needs under their individual education plans (IEPs). Similarly, transit agencies have a fleet that includes some buses equipped with seat belts. It is not clear how many buses or what proportions of the bus fleets in Minnesota are equipped with seat belts.

**Issues.** This situation has raised concerns within the transportation community, a couple of which center on costs. First, many school districts and transit providers do not have a large enough inventory of child restraints to use in conjunction with all of the seats on those buses that have seat belts installed. Second, because some child restraints take up additional space, there will likely be cases where bus capacity is insufficient for the children being transported, causing additional vehicles and drivers to become necessary. Further, some number of buses in school and transit fleets are only equipped with lap belts, so they lack a shoulder strap. However, to be secured properly many child restraint devices require both a lap and a shoulder belt. More specialized and expensive restraints, such as the STAR (produced by Safe Guard), therefore become necessary.

Third, there are also safety concerns raised with transporting children in a child restraint mixed with older or taller children who are not secured in restraints. This is an issue concerning "compartmentalization." Following federal motor vehicle safety standards, school buses are

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<sup>2</sup> This requirement arguably conflicts with the child restraint law. Staff at the State Patrol have indicated that their interpretation is that the child restraint law takes precedence over this language requiring a lap belt or lap and shoulder belt.

manufactured with a higher degree of crash protection than a typical passenger vehicle. Additional protection is provided both in the structure of the vehicle (through enhanced body reinforcement) as well as in the passenger seating area. In essence, each seating area is compartmentalized to protect passengers through (1) high seat backs that prevent them from being thrown or ejected from their seating area, (2) padding on the back of the seat to minimize passenger contact with a hard surface, and (3) seat back energy absorption through partial yielding (i.e., folding) of the seat as the occupant crashes into it.

Use of child restraints requires securing the restraint device to the seat, which in turn can affect the seat back behavior in the event of a crash. The dynamics of the seat back could change if that seat undergoes additional stresses due to holding a child restraint device in place. Compartmentalization relies on unsecured passengers having a relatively cushioned impact with the partially yielding seat back located in front of them, but this might not be the case if the seat in front of an unsecured passenger has a child restraint attached to it.<sup>3</sup>

To my knowledge, there was not public deliberation in the House over the potential interaction of the passenger restraint bills with school buses, type III vehicles, buses used in childcare transport, and transit buses. I am not aware of the extent to which the issue was raised by stakeholders, discussed privately, or deliberated by the Senate, but it appears that the situation faced by those who transport children may not have been fully understood. Specific exemptions from the child restraint requirement were not modified in the 2009 legislation, and it may have been assumed by some that exemptions for buses and school buses were already in place.

**The “for hire” exemption.** An element of the current child restraint requirement that seems to be unclear is the “for hire” exemption. As mentioned, the statute governing child restraints and requiring their use contains several exceptions, one of which is for “a person while operating a motor vehicle for hire, including a taxi, airport limousine, and bus, but excluding a rented, leased, or borrowed motor vehicle.” Minn. Stat. § 169.685, subd. 6. Some have argued that students need not be secured in a child restraint when transported by a school bus contractor since the contractor is providing transport services “for hire.” A similar argument can be made that transit buses are operating for hire, since a fare is required to travel on the bus. By this line of reasoning, child restraints would not be mandatory when (1) transporting students in seat belt equipped buses operated under contract to a school district, and (2) riding in a transit bus.

It does not appear from this line of analysis that the exemption applies when the school district transports children itself rather than by contract. Further, it is not clear how the seat belt use requirement would subsequently apply, since there is no equivalent exemption from seat belt use (and as noted there is a separate requirement seat belts must be worn on school buses so equipped unless the parent or guardian provides an opt-out for the student).

## Legislative Options

This section highlights some possible avenues that the 2010 Legislature could pursue on the topic, and is intended as a brief review of some options.

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<sup>3</sup> By some accounts, the approach to addressing this safety concern is to load the restrained children starting from the rear of the bus, so that unsecured passengers are not located behind secured ones.

## 1) Leave the law unchanged

The legislature could choose to keep the law as is. Bills on the issue will probably be introduced in the 2010 session, and it is likely that there will be legislative hearings on the matter.

## 2) Create exceptions from the restraint requirements

There are various exceptions under current law to require use of a child passenger restraint system, and they could be expanded to include school buses, transit buses, and type III vehicles. The “for hire” exception could be clarified. Crafting the exceptions raises a couple of policy questions regarding its scope.

- *Should the exception have any age, height, or weight cut-off?*

This question regards age, height, or weight at which a child restraint would not be mandated. Prior to the 2009 law changes, child restraints were required for children under age four (regardless of height or weight) in all school buses, type III vehicles, and other buses equipped with seat belts. An exception could: remove the child restraint requirement for all ages and heights; restore the age cut-off in effect before the 2009 change; or establish a different age/height/weight cut-off.

Further research would be necessary to explore whether there is an age at which school bus compartmentalization is clearly inferior, from a safety standpoint, to child passenger restraint systems. For instance, infant seats presumably provide the best form of protection for newborns.

- *For which vehicles should the exemption apply?*

An exception could be narrowly tailored to certain types of school buses (such as applying only to those larger than type A-I school buses), or it could apply more broadly to all school buses, transit buses, and Head Start buses.

The exemption could also apply to type III vehicles. As noted above, school buses have additional crash protection compared to passenger vehicles like cars and SUVs. They use compartmentalization as one method to protect occupants, generally in lieu of seat belts. However, type III vehicles are distinct from school buses. They are passenger-type vehicles that are physically identical to personal vehicles owned by individuals or families.

Since the physical safety of a type III vehicle does not change when operated by a school district employee as opposed to an individual, policymakers may want to consider whether a child restraint exception should extend to type III vehicles. Without an exception, however, school districts and childcare centers are faced with some degree of increased costs from child seats and possible loss of vehicle carrying capacity.

- *Should the exception apply to child restraint systems, seat belts, or both?*

The concerns currently being raised regard mandating child restraints, and the mandatory seat belt law was unchanged in 2009. Presumably the exception would only address child restraint use.

### **3) Provide funding to cover part or all of the increased costs**

Another approach is to keep the law unchanged, but increase school district, childcare provider, and transit agency funding to counteract all or part of the associated increases in costs. Such funding could be structured in a variety of ways. Given the current budgetary challenges, however, a fiscal approach seems less viable.

### **4) Require further data collection to better analyze the issue**

To date, I have not found a data source that can illuminate the scope of the concerns, such as by answering questions on the number of transit buses and school buses in Minnesota that are equipped with seat belts. Legislation could require collection of such data, along with more specific information on the actual increased costs to school and transit agencies as a result of the law changes. This would aid development of more information on the magnitude of the issues faced by the transport community. Data collection would impose some costs, and such an approach implies a delay in any further action. However, a data collection requirement could potentially be established in conjunction with other legislative changes such as creating some exceptions.