

## SENATE BILL NO. 319

INTRODUCED BY J. ESSMANN

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CHILD SAFETY RESTRAINT STANDARDS; WAIVING THE FINE FOR VIOLATION OF THE CHILD RESTRAINT REQUIREMENT UNDER CERTAIN CONDITIONS; LIMITING THE LIABILITY OF CHILD SAFETY RESTRAINT TECHNICIANS; ELIMINATING THE SECONDARY ENFORCEMENT RESTRICTION FOR CERTAIN RESTRAINT VIOLATIONS; AMENDING SECTIONS 61-9-420, 61-9-423, AND 61-13-103, MCA; AND PROVIDING AN EFFECTIVE DATE."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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**Section 1.** Section 61-9-420, MCA, is amended to read:

**"61-9-420. Child safety restraint systems -- standards -- exemptions.** (1) If a child under 6 years of age and weighing less than 60 pounds is a passenger in a motor vehicle, that motor vehicle must be equipped with one child safety restraint for each child in the vehicle and each child must be properly restrained. The child safety restraint must be appropriate for the height and weight of the child as indicated by manufacturer standards.

(2) The department shall by rule establish standards in compliance with 61-9-419 through 61-9-423 and applicable federal standards for approved types of child safety restraint systems.

(3) The department may by rule exempt from the requirements of subsection (1) a child who because of a physical or medical condition or body size cannot be placed in a child safety restraint."

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**Section 2.** Section 61-9-423, MCA, is amended to read:

**"61-9-423. Penalty.** ~~(1) Violation~~ Except as provided in subsection (2), violation of 61-9-420 is punishable by a fine of not more than \$100.

(2) The fine provided for in subsection (1) must be waived if proof of acquisition of an appropriate child safety restraint is presented within 7 days of the violation to the office of the charging officer and there has been no previous dismissal of a violation of 61-9-420 under this subsection."

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**NEW SECTION. Section 3. Limitation of liability.** A person with current national certification as a child safety restraint technician who in good faith provides inspection, adjustment, or educational services regarding

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1 child safety restraints is not liable for civil damages resulting from any act or omission in providing services, other  
2 than acts or omissions constituting gross negligence or willful and wanton misconduct.

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4 **Section 4.** Section 61-13-103, MCA, is amended to read:

5 **"61-13-103. Seatbelt use required -- exceptions.** (1) A driver may not operate a motor vehicle upon  
6 a highway of the state of Montana unless each occupant of a designated seating position is wearing a properly  
7 adjusted and fastened seatbelt or, if 61-9-420 applies, is properly restrained in a child safety restraint.

8 (2) The provisions of this section do not apply to:

9 (a) an occupant of a motor vehicle who possesses a written statement from a licensed physician,  
10 licensed physician assistant, or advanced practice registered nurse, as defined in 37-8-102, that the occupant  
11 is unable to wear a seatbelt for medical reasons;

12 (b) an occupant of a motor vehicle in which all seatbelts are being used by other occupants;

13 (c) an operator of a motorcycle or a motor-driven cycle;

14 (d) an occupant of a vehicle licensed as special mobile equipment; or

15 (e) an occupant who makes frequent stops with a motor vehicle during official job duties and who may  
16 be exempted by the department.

17 (3) The department may adopt rules to implement subsection (2)(e).

18 (4) The department or its agent may not require a driver who may be in violation of this section to stop  
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20 (a) upon reasonable cause to believe that the driver has violated another traffic regulation or that the  
21 driver's vehicle is unsafe or not equipped as required by law; or

22 (b) if a person in the vehicle who is under ~~18~~ 6 years of age AND WEIGHS LESS THAN 60 POUNDS is not  
23 properly restrained under 61-9-420 or this section."

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25 **NEW SECTION. Section 5. Codification instruction.** [Section 3] is intended to be codified as an  
26 integral part of Title 61, chapter 9, part 4, and the provisions of Title 61, chapter 9, part 4, apply to [section 3].

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28 **NEW SECTION. Section 6. Effective date.** [This act] is effective July 1, 2011.

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