

AMENDED IN SENATE JUNE 26, 2002

AMENDED IN SENATE JUNE 13, 2002

AMENDED IN ASSEMBLY MAY 23, 2002

AMENDED IN ASSEMBLY APRIL 17, 2002

AMENDED IN ASSEMBLY MARCH 21, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1902

Introduced by Assembly Member Reyes
(Principal coauthor: Senator Figueroa)

February 7, 2002

An act to amend Section 11580.011 of the Insurance Code, and to add Section 27362.1 to the Vehicle Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1902, as amended, Reyes. Automobile insurance: damaged child safety restraint systems.

Existing law provides for regulation of insurers by the Insurance Commissioner and describes the coverage required to be provided by various categories of automobile insurance. Under these provisions, coverage is required to be provided for the replacement of a child passenger restraint system that was in use by a child during an accident for which the policy is applicable due to the liability of an insured.

This bill, upon the filing of a claim pursuant to a policy, would impose an obligation upon an insurer to ~~determine~~ *ask, unless it is otherwise determined*, whether a child passenger restraint system was

in use by a child during an accident that is covered by the policy, and if so, to replace the child passenger restraint system in accordance with these provisions or reimburse the cost to a claimant for purchasing a new child passenger restraint system.

This bill would also provide that an insured may surrender a replaced child passenger restraint system to the nearest office of the Department of the California Highway Patrol.

Existing law prohibits a manufacturer, wholesaler, or retailer from selling or installing a child passenger restraint system in a motor vehicle if the system does not conform to all applicable federal motor vehicle safety standards on the date of sale or installation. A violation of this provision is a misdemeanor.

This bill would prohibit an individual from selling or offering for sale a child passenger restraint system that was in use by a child during an accident, subject to a fine of \$100. By creating a new crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11580.011 of the Insurance Code is
2 amended to read:

3 11580.011. (a) As used in this section, “child passenger
4 restraint system” means a system as described in Section 27360 of
5 the Vehicle Code.

6 (b) Every policy of automobile liability insurance, as described
7 in Section 16054 of the Vehicle Code, shall provide liability
8 coverage for replacement of a child passenger restraint system that
9 was in use by a child during an accident for which liability
10 coverage under the policy is applicable due to the liability of an
11 insured.

12 (c) Every policy of automobile liability insurance that provides
13 uninsured motorist property damage coverage, as described in



1 paragraph (2) of subdivision (a) of Section 11580.26, shall provide
2 coverage for replacement of a child passenger restraint system that
3 was in use by a child during an accident for which uninsured
4 motorist property damage coverage under the policy is applicable
5 due to the liability of an uninsured motorist.

6 (d) Every policy that provides automobile collision coverage
7 or automobile physical damage coverage, as described in Section
8 660, shall include a child passenger restraint system within the
9 definition of covered property, if the child passenger restraint
10 system was in use by a child during an accident.

11 (e) Upon the filing of a claim pursuant to a policy described in
12 subdivision (b), (c), or (d), *unless otherwise determined*, an
13 insurer shall have an obligation to ~~determine~~ *ask* whether a child
14 passenger restraint system was in use by a child during an accident
15 that is covered by the policy, and an obligation to replace the child
16 passenger restraint system in accordance with this section if it was
17 in use by a child during the accident or reimburse the claimant for
18 the cost of purchasing a new child passenger restraint system.

19 (f) An insured, upon acquiring a replacement child passenger
20 restraint system, may surrender the child passenger restraint
21 system that was replaced to the nearest office of the Department
22 of the California Highway Patrol.

23 SEC. 2. Section 27362.1 is added to the Vehicle Code, to read:

24 27362.1. (a) No individual may sell or offer for sale a child
25 passenger restraint system that was in use by a child during an
26 accident involving a motor vehicle.

27 (b) A violation of this section shall be punished by a fine of one
28 hundred dollars (\$100).

29 SEC. 3. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the penalty
34 for a crime or infraction, within the meaning of Section 17556 of
35 the Government Code, or changes the definition of a crime within
36 the meaning of Section 6 of Article XIII B of the California
37 Constitution.

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