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CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1029

Introduced by Assembly Member Frusetta

February 27, 1997

An act to amend Sections 27315 and 27803 of, and to add ~~Section~~ *Sections 21714 and 27368* to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 1029, as amended, Frusetta. Vehicles: safety belts: motorcycles: helmets: exemption: *traffic lanes*.

(1) *Existing law prohibits certain vehicles from being operated on traffic lanes that have been designated exclusive or preferential use lane for high-occupancy vehicles.*

Existing law requires that a vehicle be driven entirely within a single lane whenever any roadway has been divided into 2 or more clearly marked lanes for traffic in one direction, except as specified.

This bill would specify that these provisions of existing law apply to a fully enclosed 3-wheeled motor vehicle of specified dimensions, thereby imposing a state-mandated local

program by creating a new crime with regard to preferential use lanes.

(2) Existing law defines a motorcycle, for purposes of the Vehicle Code, as any motor vehicle having a seat or saddle for the use of the rider, designed to travel on not more than 3 wheels in contact with the ground, and weighing less than 1,500 pounds.

Existing law requires a driver and any passenger to wear a safety helmet that meets specified standards when riding on, among other things, a motorcycle.

This bill would exempt a person operating, or riding as a passenger in, a fully enclosed 3-wheeled motor vehicle of specified dimensions from the safety helmet requirement specified above.

(2)

(3) Existing law makes it an infraction for any person to operate a private passenger motor vehicle, as defined, on the highway without having that person and all passengers 16 years of age or over restrained by a safety belt. It is unlawful for any parent or legal guardian, when present in a private passenger motor vehicle to permit his or her child or ward who is between 4 years and 16 years of age to be transported on the highway in the vehicle without using a safety belt.

Existing law makes it unlawful for any parent or legal guardian, when present in a private passenger motor vehicle to permit his or her child or ward who is less than 4 years of age to be transported on the highway in the vehicle without using a specified child passenger restraint system.

This bill would make those provisions applicable to drivers and passengers in a fully enclosed 3-wheeled motor vehicle of specified dimensions. Because the bill would thereby expand the scope of existing crimes, it would impose a state-mandated local program.

(3)

(4) 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 21714 is added to the Vehicle*
2 *Code, to read:*

3 *21714. The driver of a vehicle described in subdivision*
4 *(f) of Section 27803 shall not do either of the following:*

5 *(a) Operate the vehicle in any lane established under*
6 *Section 21655.5 as an exclusive or preferential use lane for*
7 *high-occupancy vehicles.*

8 *(b) Operate the vehicle in either of the following:*

9 *(1) The area on, or immediately adjacent to, the*
10 *striping or other markers designating adjacent traffic*
11 *lanes.*

12 *(2) The area between two or more vehicles that are*
13 *traveling in adjacent traffic lanes.*

14 SEC. 2. Section 27315 of the Vehicle Code is amended
15 to read:

16 27315. (a) The Legislature finds that a mandatory
17 seatbelt law will contribute to reducing highway deaths
18 and injuries by encouraging greater usage of existing
19 manual seatbelts, that automatic crash protection systems
20 which require no action by vehicle occupants offer the
21 best hope of reducing deaths and injuries, and that
22 encouraging the use of manual safety belts is only a partial
23 remedy for addressing this major cause of death and
24 injury. The Legislature declares that the enactment of
25 this section is intended to be compatible with support for
26 federal safety standards requiring automatic crash
27 protection systems and should not be used in any manner
28 to rescind federal requirements for installation of
29 automatic restraints in new cars.

30 (b) This section shall be known and may be cited as the
31 Private Passenger Motor Vehicle Safety Act.

32 (c) As used in this section, "private passenger motor
33 vehicle" means any passenger vehicle and any
34 motortruck of less than 6,001 pounds unladen weight, but



1 “private passenger motor vehicle” does not include a
2 motorcycle.

3 (d) (1) No person shall operate a private passenger
4 motor vehicle on a highway unless that person and all
5 passengers 16 years of age or over are properly restrained
6 by a safety belt. This paragraph does not apply to the
7 operator of a taxicab, as defined in Section 27908, when
8 the taxicab is driven on a city street. The safety belt
9 requirement established by this paragraph is the
10 minimum safety standard applicable to employees being
11 transported in a private passenger motor vehicle. This
12 paragraph does not preempt any more stringent or
13 restrictive standards imposed by the Labor Code or any
14 other state or federal regulation regarding the
15 transportation of employees in a private passenger motor
16 vehicle.

17 (2) The operator of a limousine for hire or the operator
18 of an authorized emergency vehicle, as defined in
19 subdivision (a) of Section 165, shall not operate the
20 limousine for hire or authorized emergency vehicle
21 unless the operator and any passengers four years of age
22 or over and weighing 40 pounds or more, in the front seat
23 are properly restrained by a safety belt.

24 (3) The operator of a taxicab shall not operate the
25 taxicab unless any passengers four years of age or over and
26 weighing 40 pounds or more, in the front seat are
27 properly restrained by a safety belt.

28 (e) No person 16 years of age or over shall be a
29 passenger in a private passenger motor vehicle on a
30 highway unless that person is properly restrained by a
31 safety belt.

32 (f) Every owner of a private passenger motor vehicle,
33 including every owner or operator of a taxicab, as defined
34 in Section 27908, or a limousine for hire, operated on a
35 highway shall maintain safety belts in good working order
36 for the use of occupants of the vehicle. The safety belts
37 shall conform to motor vehicle safety standards
38 established by the United States Department of
39 Transportation. This subdivision does not, however,
40 require installation or maintenance of safety belts where



1 not required by the laws of the United States applicable
2 to the vehicle at the time of its initial sale.

3 (g) This section does not apply to a passenger or
4 operator with a physically disabling condition or medical
5 condition which would prevent appropriate restraint in
6 a safety belt, if the condition is duly certified by a licensed
7 physician and surgeon or by a licensed chiropractor who
8 shall state the nature of the condition, as well as the reason
9 the restraint is inappropriate. This section also does not
10 apply to a public employee, when in an authorized
11 emergency vehicle as defined in paragraph (1) of
12 subdivision (b) of Section 165, or to any passenger in any
13 seat behind the front seat of an authorized emergency
14 vehicle as defined in paragraph (1) of subdivision (b) of
15 Section 165 operated by the public employee, unless
16 required by the agency employing the public employee.

17 (h) Notwithstanding subdivision (a) of Section 42001,
18 any violation of subdivision (d), (e), or (f) is an infraction
19 punishable by a fine, including all penalty assessments
20 and court costs imposed on the convicted person, of not
21 more than twenty dollars (\$20) for a first offense, and a
22 fine, including all penalty assessments and court costs
23 imposed on the convicted person, of not more than fifty
24 dollars (\$50) for each subsequent offense. In lieu of the
25 fine and any penalty assessment or court costs, the court,
26 pursuant to Section 42005, may order that a person
27 convicted of a first offense attend a school for traffic
28 violators or a driving school in which the proper use of
29 safety belts is demonstrated.

30 (i) For any violation of subdivision (d), (e), or (f), in
31 addition to the fines provided for pursuant to subdivision
32 (h) and the penalty assessments provided for pursuant to
33 Section 1464 of the Penal Code, an additional penalty
34 assessment of two dollars (\$2) shall be levied for any first
35 offense, and an additional penalty assessment of five
36 dollars (\$5) shall be levied for any subsequent offense.

37 All moneys collected pursuant to this subdivision shall
38 be utilized in accordance with Section 1464 of the Penal
39 Code.



1 (j) In any civil action, a violation of subdivision (d),
2 (e), or (f) or information of a violation of subdivision (h)
3 shall not establish negligence as a matter of law or
4 negligence per se for comparative fault purposes, but
5 negligence may be proven as a fact without regard to the
6 violation.

7 (k) If the United States Secretary of Transportation
8 fails to adopt safety standards for manual safety belt
9 systems by September 1, 1989, no private passenger
10 motor vehicle manufactured after that date for sale or
11 sold in this state shall be registered unless it contains a
12 manual safety belt system which meets the performance
13 standards applicable to automatic crash protection
14 devices adopted by the Secretary of Transportation
15 pursuant to Federal Motor Vehicle Safety Standard No.
16 208 (49 C.F.R. 571.208) as in effect on January 1, 1985.

17 (l) Each private passenger motor vehicle offered for
18 original sale in this state which has been manufactured on
19 or after September 1, 1989, shall comply with the
20 automatic restraint requirements of Section S4.1.2.1 of
21 Federal Motor Vehicle Safety Standard No. 208 (49 C.F.R.
22 571.208), as published in Volume 49 of the Federal
23 Register, No. 138, page 29009. Any automobile
24 manufacturer who sells or delivers a private passenger
25 motor vehicle subject to the requirements of this
26 subdivision, and fails to comply with this subdivision, shall
27 be punished by a fine of not more than five hundred
28 dollars (\$500) for each sale or delivery of a noncomplying
29 private passenger motor vehicle.

30 (m) Compliance with subdivision (k) or (l) by a
31 manufacturer shall be made by self-certification in the
32 same manner as self-certification is accomplished under
33 federal law.

34 (n) This section does not apply to a person actually
35 engaged in delivery of newspapers to customers along the
36 person's route if the person is properly restrained by a
37 safety belt prior to commencing and subsequent to
38 completing delivery on the route.

39 (o) This section does not apply to a person actually
40 engaged in collection and delivery activities as a rural



1 delivery carrier for the United States Postal Service if the
2 person is properly restrained by a safety belt prior to
3 stopping at the first box and subsequent to stopping at the
4 last box on the route.

5 (p) This section applies to any person in a fully
6 enclosed three-wheeled motor vehicle that is not less
7 than seven feet in length; *and* not less than four feet in
8 width, and has an unladen weight of 900 pounds or more.

9 (q) Subdivisions (d), (e), (f), (g), and (h) shall
10 become inoperative immediately upon the date that the
11 United States Secretary of Transportation, or his or her
12 delegate, determines to rescind the portion of the
13 Federal Motor Vehicle Safety Standard No. 208 (49 C.F.R.
14 571.208) which requires the installation of automatic
15 restraints in new private passenger motor vehicles,
16 except that those subdivisions shall not become
17 inoperative if the secretary's decision to rescind that
18 Standard No. 208 is not based, in any respect, on the
19 enactment or continued operation of those subdivisions.

20 ~~SEC. 2.—~~

21 *SEC. 3.* Section 27368 is added to the Vehicle Code, to
22 read:

23 27368. This article applies to child passengers in a fully
24 enclosed three-wheeled motor vehicle that is not less
25 than seven feet in length; *and* not less than four feet in
26 width, and has an unladen weight of 900 pounds or more.

27 ~~SEC. 3.—~~

28 *SEC. 4.* Section 27803 of the Vehicle Code is amended
29 to read:

30 27803. (a) A driver and any passenger shall wear a
31 safety helmet meeting requirements established
32 pursuant to Section 27802 when riding on a motorcycle,
33 motor-driven cycle, or motorized bicycle.

34 (b) It is unlawful to operate a motorcycle,
35 motor-driven cycle, or motorized bicycle if the driver or
36 any passenger is not wearing a safety helmet as required
37 by subdivision (a).

38 (c) It is unlawful to ride as a passenger on a
39 motorcycle, motor-driven cycles, or motorized bicycle if



1 the driver or any passenger is not wearing a safety helmet
2 as required by subdivision (a).

3 (d) This section applies to persons who are riding on
4 motorcycles, motor-driven cycles, or motorized bicycles
5 operated on the highways.

6 (e) For the purposes of this section, “wear a safety
7 helmet” or “wearing a safety helmet” means having a
8 safety helmet meeting the requirements of Section 27802
9 on the person’s head that is fastened with the helmet
10 straps and that is of a size that fits the wearing person’s
11 head securely without excessive lateral or vertical
12 movement.

13 (f) This section does not apply to a person operating,
14 or riding as a passenger in, a fully enclosed three-wheeled
15 motor vehicle that is not less than seven feet in length,
16 *and* not less than four feet in width, and has an unladen
17 weight of 900 pounds or more.

18 (g) In enacting this section, it is the intent of the
19 Legislature to ensure that all persons are provided with
20 an additional safety benefit while operating or riding a
21 motorcycle, motor-driven cycle, or motorized bicycle.

22 ~~SEC. 4.—~~

23 *SEC. 5.* No reimbursement is required by this act
24 pursuant to Section 6 of Article XIII B of the California
25 Constitution because the only costs that may be incurred
26 by a local agency or school district will be incurred
27 because this act creates a new crime or infraction,
28 eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section
30 17556 of the Government Code, or changes the definition
31 of a crime within the meaning of Section 6 of Article
32 XIII B of the California Constitution.

33 Notwithstanding Section 17580 of the Government
34 Code, unless otherwise specified, the provisions of this act
35 shall become operative on the same date that the act
36 takes effect pursuant to the California Constitution.

