

Introduced by Senator Speier

February 19, 1999

An act to amend Sections 12810, 27360, 27360.5, 27361, and 27363 of, and to add Section 27362.5 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 567, as introduced, Speier. Vehicles: child passenger restraint system: seatbelts.

(1) It is unlawful for any parent or legal guardian, when present in a motor vehicle, as defined, to permit his or her child or ward who is less than 4 years of age or weighs less than 40 pounds to be transported on the highway in the vehicle without using a specified child passenger restraint system. Existing law specifies the fines for a violation of this prohibition, provides for the allocation of those fines that are collected in accordance with a specific schedule, and provides that the fines may be waived if the defendant establishes that he or she is economically disadvantaged.

This bill would increase the fines specified above.

The bill would delete the authority to waive the fines and, instead, would authorize the fines to be reduced, with respect to persons not previously convicted within a 36-month period of the offense or the offense described in (2). The bill would require persons subject to a reduced fine to attend an education program, and would allow the court to require other persons convicted of the offense to attend the education program. The bill would make certain conforming changes.

(2) Under existing law, it is unlawful for any parent or legal guardian, when present in a motor vehicle, as defined, to permit his or her child or ward who is between 4 and 16 years of age to be transported on the highway in the vehicle without using a safety belt.

This bill would authorize the court to order a person who is convicted of violating the above to attend an education program. The bill would also require fines collected for violating this prohibition to be allocated in accordance with a specified schedule. Because this would increase the duties imposed on local entities, this bill would impose a state-mandated local program.

(3) Existing law exempts from the requirements described in (1) and (2) regarding the use of seatbelts and child passenger restraint systems on children, instances involving the transportation of children in emergencies.

This bill would limit the exemption to life-threatening emergencies and to children who are at least one year of age. The bill would thereby expand the scope of existing crimes, and would create a state-mandated local program.

The bill would make a corresponding change.

(4) Existing law authorizes a court to exempt from the child passenger restraint system requirements any child for whom it is determined that the use of the system would be impractical by reason of physical unfitness, medical condition, or size. The court is authorized to require proof of those conditions.

This bill, additionally, would authorize the court to require proof that an appropriate special needs child passenger restraint system is not available.

The bill would authorize a child weighing more than 40 pounds to be transported in the back seat of a vehicle while wearing only a lap safety belt when the back seat of the vehicle is not equipped with a combination lap and shoulder safety belt.

(5) Existing law prohibits any manufacturer, wholesaler, or retailer to sell, offer for sale, or install in any motor vehicle any child passenger restraint system that does not conform to all applicable federal motor vehicle safety standards on the date of sale or installation.



This bill would prohibit any person from selling or offering for sale any motor vehicle any used child passenger restraint system. Because a violation of this prohibition would be an infraction under the Vehicle Code, the bill would impose a state-mandated program by creating a new crime.

(6) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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 12810 of the Vehicle Code is
- 2 amended to read:
- 3 12810. In determining the violation point count, the
- 4 following shall apply:
- 5 (a) Any conviction of failure to stop in the event of ~~an~~
- 6 *a traffic* accident in violation of Section 20001 or 20002
- 7 shall be given a value of two points.
- 8 (b) Any conviction of a violation of Section 23152 or
- 9 23153 shall be given a value of two points.
- 10 (c) Any conviction of reckless driving shall be given a
- 11 value of two points.
- 12 (d) (1) Any conviction of a violation of subdivision
- 13 (c) of Section 192 of the Penal Code, or of Section 2800.2
- 14 or 2800.3, subdivision (b) of Section 21651, subdivision (b)



1 of Section 22348, subdivision (a) of Section 23109,
2 subdivision (c) of Section 23109, or Section 31602 of this
3 code, shall be given a value of two points.

4 (2) Any conviction of a violation of subdivision (a) or
5 (b) of Section 23140 shall be given a value of two points.

6 (e) Except as provided in subdivision (g), any other
7 traffic conviction involving the safe operation of a motor
8 vehicle upon the highway shall be given a value of one
9 point.

10 (f) Any *traffic* accident in which the operator is
11 deemed by the department to be responsible shall be
12 given a value of one point.

13 (g) (1) A violation of paragraph (1), (2), (3), or (5)
14 of subdivision (b) of Section 40001 shall not result in a
15 violation point count being given to the driver if the
16 driver is not the owner of the vehicle.

17 (2) Any conviction of a violation of subdivision (a) of
18 Section 21116, Section 21207.5, 21708, 21710, 21716, 23120,
19 24800, or 26707 shall not be given a violation point count.

20 (3) A violation of Section 23136 shall not result in a
21 violation point count.

22 (h) A conviction for only one violation arising from
23 one occasion of arrest or citation shall be counted in
24 determining the violation point count for the purposes of
25 this section.

26 (i) Any conviction of a violation of Section 14601,
27 14601.1, 14601.2, 14601.3, or 14601.5 shall be given a value
28 of two points.

29 (j) Any conviction of a violation of Section 27360 *or*
30 27360.5 within a 37-month period shall be given a value of
31 one point.

32 SEC. 2. Section 27360 of the Vehicle Code is amended
33 to read:

34 27360. (a) No parent or legal guardian, when present
35 in a motor vehicle, as defined in Section 27315, shall
36 permit his or her child or ward under the age of four
37 years, regardless of weight, or weighing less than 40
38 pounds, regardless of age, to be transported upon a
39 highway in the motor vehicle without providing and
40 properly using, for each child or ward, a child passenger



1 restraint system meeting applicable federal motor
2 vehicle safety standards.

3 (b) No driver shall transport on a highway any child
4 under four years of age, regardless of weight, or weighing
5 less than 40 pounds, regardless of age, in a motor vehicle,
6 as defined in Section 27315, without providing and
7 properly securing the child in a child passenger restraint
8 system meeting applicable federal motor vehicle safety
9 standards. This subdivision does not apply to a driver if
10 the parent or legal guardian of the child is also present in
11 the vehicle and is not the driver.

12 (c) (1) A first offense under this section is punishable
13 by a fine of one hundred dollars (\$100), except that the
14 court may ~~waive~~ *reduce* the fine if the defendant
15 establishes to the satisfaction of the court that he or she
16 is economically disadvantaged, *has not had a previous*
17 *conviction for a violation of this section or subdivision (c)*
18 *of Section 27360.5 within 36 months of the recent*
19 *violation, and the court, instead, refers the defendant to*
20 *a community education program that includes, but is not*
21 *limited to, demonstration of the proper installation and*
22 *use of child passenger restraint systems for children of all*
23 *ages, and provides economically disadvantaged families*
24 *with a child passenger restraint low-cost purchase or*
25 *loaner program. Upon completion of the program, the*
26 *defendant shall provide proof of participation in the*
27 *program, that includes an inspection of a child passenger*
28 *restraint system that meets applicable federal safety*
29 *standards. If an education program on the proper*
30 *installation and use of a child passenger restraint system*
31 *is not available within 50 miles of the residence of the*
32 *defendant, the requirement to participate in that*
33 *program shall be waived. If the fine is paid, waived, or*
34 *reduced, the court shall—nevertheless report the*
35 *conviction to the department pursuant to Section 1803.*

36 *The court may, at its discretion, require any defendant*
37 *described under this section to attend an education*
38 *program that includes demonstration of proper*
39 *installation and use of child passenger restraint systems*
40 *and provides certification to the court that the defendant*



1 *has presented for inspection a child passenger restraint*
2 *system that meets applicable federal safety standards.*

3 (2) A second or subsequent offense under this section
4 is punishable by a fine of ~~one~~ *two hundred fifty* dollars
5 ~~(\$100)~~ *(\$250)*, no part of which may be waived by the
6 court.

7 (d) Notwithstanding any other provision of law, the
8 fines collected for a violation of this section shall be
9 allocated as follows:

10 (1) Sixty percent to ~~county~~ *county* health departments of *local*
11 *jurisdictions, as defined in Section 16700 of the Welfare*
12 *and Institutions Code, where the violation occurred, to be*
13 *used for a community education program that includes,*
14 *but is not limited to, demonstration of the installation of*
15 *a child passenger restraint system for children of all ages*
16 *and also assists economically disadvantaged families in*
17 *obtaining those restraint systems through low-cost*
18 ~~*purchase purchases or —loaner program which shall*~~
19 ~~*include, but not be limited to, education on the proper*~~
20 ~~*installation and use of a child passenger restraint system*~~
21 *loans.* The county *or city* health department shall
22 designate a coordinator to facilitate the creation of a
23 special account and to develop a relationship with the
24 municipal court system to facilitate the transfer of funds
25 to the program. The county *or city* may contract for the
26 implementation of the program. Prior to obtaining
27 possession of a child passenger restraint system pursuant
28 to this section, a person shall ~~receive information relating~~
29 ~~to the importance of utilizing that system~~ *attend an*
30 *education program that includes demonstration of*
31 *proper installation and use of child passenger restraint*
32 *systems.*

33 As the proceeds from fines become available, county *or*
34 *city* health departments shall prepare and maintain a
35 listing of all child passenger restraint low-cost purchase or
36 loaner programs in their counties, including a semiannual
37 verification that all programs listed are in existence. Each
38 county *or city* shall forward the listing to the Office of
39 Traffic Safety in the Business, Transportation and
40 Housing Agency and the courts, birthing centers,



1 community child health and disability prevention
2 programs, county clinics, prenatal clinics, women,
3 infants, and children programs, and county hospitals in
4 that county, who shall make the listing available to the
5 public. The Office of Traffic Safety shall maintain a listing
6 of all of the programs in the state.

7 (2) Twenty-five percent to the county *or city* for the
8 administration of the program.

9 (3) Fifteen percent to the city, to be deposited in its
10 general fund except that, if the violation occurred in an
11 unincorporated area, this amount shall be allocated to the
12 county for purposes of paragraph (1).

13 SEC. 3. Section 27360.5 of the Vehicle Code is
14 amended to read:

15 27360.5. (a) No parent or legal guardian, when
16 present in a motor vehicle, as defined in Section 27315,
17 ~~shall~~ *may* permit his or her child or ward who is four years
18 of age or older but less than 16 years of age and weighs 40
19 pounds or more to be transported upon a highway in the
20 motor vehicle without providing and properly using, for
21 each child or ward, ~~a~~ *an appropriate child passenger*
22 *restraint system or* safety belt meeting applicable federal
23 motor vehicle safety standards.

24 (b) No driver shall transport on a highway any child
25 who is four years of age or older but less than 16 years of
26 age and weighs 40 pounds or more in a motor vehicle, as
27 defined in Section 27315, without providing and properly
28 using a safety belt meeting applicable federal motor
29 vehicle safety standards. This subdivision does not apply
30 to a driver if the parent or legal guardian of the child is
31 also present in the vehicle and is not the driver.

32 (c) (1) A first offense under this section is punishable
33 by a fine of ~~fifty~~ *one hundred* dollars (~~\$50~~) (*\$100*).

34 *The court may, at its discretion, require any defendant*
35 *punishable under this paragraph to attend an education*
36 *program that includes demonstration of the proper use of*
37 *occupant restraint systems for children of all ages.*

38 (2) A second or subsequent offense under this section
39 is punishable by a fine of ~~one~~ *two* hundred *fifty* dollars



1 ~~(\$100)~~ (\$250), no part of which may be waived by the
2 court.

3 (d) Notwithstanding any other provision of law, the
4 fines collected for a violation of this section shall be
5 allocated as follows:

6 (1) Sixty percent to county or city health departments
7 where the violation occurred, to be used for an education
8 program that includes, but is not limited to, the
9 demonstration of proper installation and use of child
10 passenger restraint systems for children of all ages and
11 provides child restraints for loan or low-cost purchase.

12 (2) Twenty-five percent to the county or city for the
13 administration of the program.

14 (3) Fifteen percent to the city, to be deposited in its
15 general fund except that, if the violation occurred in an
16 unincorporated area, this amount shall be allocated to the
17 county for purposes of paragraph (1).

18 SEC. 4. Section 27361 of the Vehicle Code is amended
19 to read:

20 27361. Any law enforcement officer reasonably
21 suspecting a violation of Section 27360 or 27360.5, or both
22 of those sections, may stop any vehicle transporting a
23 child appearing to the officer to be within the age or
24 weight specified in Section 27360 or 27360.5. The officer
25 may issue a notice to appear for a violation of Section
26 27360 or 27360.5.

27 SEC. 5. Section 27362.5 is added to the Vehicle Code,
28 to read:

29 27362.5. No person may sell or offer for sale any used
30 child passenger restraint system.

31 SEC. 6. Section 27363 of the Vehicle Code is amended
32 to read:

33 27363. (a) The court may exempt from the
34 requirements of this article any class of child by age,
35 weight, or size if it is determined that the use of a child
36 passenger restraint system would be impractical by
37 reason of physical unfitness, medical condition, or size.
38 The court may require satisfactory proof of the child's
39 physical unfitness, medical condition, or size and that an



1 *appropriate special needs child passenger restraint*
2 *system is not available.*

3 (b) In case of ~~an~~ *a life-threatening* emergency, or
4 when a child is being transported in an authorized
5 emergency vehicle, if there is no child passenger restraint
6 system available *and the child is at least one year of age,*
7 a child may be transported without the use of such a
8 system, but the child shall be secured by a ~~seat-belt~~
9 *seatbelt.*

10 (c) *A child weighing more than 40 pounds may be*
11 *transported in the back seat of a vehicle while wearing*
12 *only a lap safety belt when the back seat of the vehicle is*
13 *not equipped with a combination lap and shoulder safety*
14 *belt.*

15 SEC. 7. No reimbursement is required by this act
16 pursuant to Section 6 of Article XIII B of the California
17 Constitution for certain costs that may be incurred by a
18 local agency or school district because in that regard this
19 act creates a new crime or infraction, eliminates a crime
20 or infraction, or changes the penalty for a crime or
21 infraction, within the meaning of Section 17556 of the
22 Government Code, or changes the definition of a crime
23 within the meaning of Section 6 of Article XIII B of the
24 California Constitution.

25 However, notwithstanding Section 17610 of the
26 Government Code, if the Commission on State Mandates
27 determines that this act contains other costs mandated by
28 the state, reimbursement to local agencies and school
29 districts for those costs shall be made pursuant to Part 7
30 (commencing with Section 17500) of Division 4 of Title
31 2 of the Government Code. If the statewide cost of the
32 claim for reimbursement does not exceed one million
33 dollars (\$1,000,000), reimbursement shall be made from
34 the State Mandates Claims Fund.

