

A History of Maryland's Child Passenger Safety Law

Maryland's Child Passenger Safety Law, codified at § 22-412.2 of the Transportation Article of the Maryland Code, was enacted during the 1983 legislative session. There were substantive amendments or changes in the 1984, 1988, 1991, 1992, 1996, 2002, 2008, and 2013 legislative sessions, each of which will be outlined below.

Initial Statute - 1983. The original provisions of the child seat law as appearing in 1983 were as follows:

- (a)(1) In this section, "child seat safety" means a device that is manufactured in accordance with the 1981 Federal Motor Vehicle Safety Standards and is used to restrain, seat, or position a child who is transported in a motor vehicle.
- (2) "Child safety seat" does not mean a seat belt or combination seat belt-shoulder harness.
- (b) A child safety seat meets the requirements of this section only if it is installed and used in accordance with the directions of the manufacturer.
- (c) This section applies only to the transportation of a child in a Class A (passenger) or Class M (multipurpose) vehicle registered in this state.
- (d) Any person transporting a child under the age of 3 shall position and secure the child in a child safety seat.
- (e) Any person transporting a child at least 3 years old but under the age of 5 shall:
 - (1) Position and secure the child in a child safety seat; or
 - (2) Seat and secure the child in a properly fastened seat belt or combination seat belt-shoulder harness.
- (f) If a physician licensed to practice medicine in this state determines and so certifies in writing, that use of a child safety seat by a particular child would be impractical due to the child's weight, physical unfitness, or other medical reason, there is not a violation of this section.
- (g) A child safety seat, seat belt, or combination seat belt-shoulder harness may not be used to restrain, seat, or position more than 1 individual at a time.
- (h) If the number of children subject to the provisions of this section exceeds the number of passenger securing locations available for use by children affected by this section, and all of those securing locations are in use by children, there is not a violation of this section.
- (i) A violation of this section is not contributory negligence and may not be admitted as evidence in the trial of any civil action.

1984 Changes. The only change in the car seat law that occurred in 1984 was to subsection (f), providing for a medical exemption. Those changes did not change the substance of the provision, but rather placed more emphasis on the term "determines" by capitalizing it within the statute.

1988 Changes. During the 1988 legislative session, the Maryland General Assembly made several changes to the car seat law. The first substantive change was to subsection (c) of the statute. The General Assembly subjected Class E trucks to the purview of the car seat

requirement, if those trucks have a rated capacity of $\frac{3}{4}$ of a ton or less and weigh 7,000 pounds or less.

The General Assembly also added the following completely new provisions:

(j) A violation of this section is not considered a moving violation for purposes of [driver's license points assessment];

(k) The failure to provide a child safety seat, seat belt, or combination seat belt-shoulder harness for more than 1 child in the same vehicle at the same time, as required by this section, shall be treated as a single violation.

(l)(1) Any person convicted of a violation of this section is subject to a fine of \$25.

(2) A judge may waive the fine if the person charged with violation of this section:

(i) Did not possess a child safety seat at the time of the violation;

(ii) Acquires a child safety seat prior to the hearing date; and

(iii) Provides proof of acquisition to the court.

(m) The Department of Transportation and the Department of Health and Mental Hygiene shall jointly implement the Child Safety Seat Program and foster compliance with this section through educational and promotional efforts.

1991 Changes. The 1991 legislative changes to the car seat law primarily related to age and weight requirements. They were as follows:

(d) Any person transporting a child **under the age of 4 or weighing 40 pounds or less** shall position and secure the child in a child safety seat.

(e) Subject to the provisions of subsection (d) of this section, any person transporting a child **weighing more than 40 pounds and who is less than 10 years of age** shall:

(1) Position and secure the child in a child safety seat; or

(2) Seat and secure the child in a properly fastened seat belt or combination seat belt-shoulder harness.

1992 Changes. The 1992 changes to the car seat law related to the medical exemption for being in a car seat and where the exempting physician must be licensed. The prior version required the certifying physician to be licensed in the State of Maryland. The changes read:

(f) If a physician **who is licensed to practice medicine in the State in which the vehicle transporting the child is registered** certifies in writing that use of a child safety seat by a particular child would be impractical due to the child's weight, physical unfitness, or other medical reason, there is not a violation of this section.

1996 Changes. The 1996 legislative changes incorporated more specific definitions for the child seat law. Specifically, those changes were:

(a)(2) "Child safety seat" means a device that is manufactured in accordance with the 1981 Federal Motor Vehicle Safety Standards and is used to restrain, seat or position a child who is transported in a motor vehicle [the same as in the previous versions of the statute];

(3)(i) "Seat belt" means a restraining device described under § 22-412 of this subtitle;

(ii) "Seat belt" includes a combination seat belt-shoulder harness.

Additionally, the 1996 General Assembly substantially changed the age and weight requirements as follows:

(d) A person transporting [any] child shall secure the child in a child safety seat in accordance with the child safety seat and vehicle manufacturers' instructions if the child:

(1) **is under the age of 4 years, regardless of the child's weight; or**

(2) **weighs 40 pounds or less, regardless of the child's age.**

(e) A person may not transport a child under the age of 16 years unless the child is secured in: (1) a child safety seat in accordance with the child safety seat and vehicle manufacturers' instructions; or (2) a seat belt.

Previously, all children over the age of four were exempt from the requirement, and all children weighing more than forty pounds were exempt as well.

2002 Changes. The 2002 General Assembly made three main substantive changes to the car seat law. First, it eliminated what types of seats would qualify under the definition of child safety seat:

(a)(2)(i) "Child safety seat" means a device, **including a child booster seat**, that the **manufacturer:**

1. Certifies is manufactured in accordance with applicable Safety Standards;

2. Intends to be used to restrain, seat, or position a child who is transported in a motor vehicle.

The other two changes related to age and weight restrictions based upon where the car is registered:

(d) A person transporting a child **in a motor vehicle registered in the State** shall secure the child in a child safety seat in accordance with the child safety seat and vehicle manufacturers' instructions if the child:

(1) **is under the age of 6 years, regardless of the child's weight; or**

(2) **weighs 40 pounds or less, regardless of the child's age.**

(d-1) A person transporting a child in a motor vehicle registered in another State, in the District of Columbia, or in another country, shall secure the child in a child safety seat in accordance with the child safety seat and vehicle manufacturers' instructions if the child:

(1) is under the age of 4 years, regardless of the child's weight; or

(2) weighs 40 pounds or less, regardless of the child's age.

2008 Changes. The 2008 changes essentially removed the 2002 distinction between Maryland and non-Maryland registered vehicles by repealing § 22-412.2(d-1). The car seat law as revised in 2008 instead applied to cars in accordance with the following:

(c) This section applies to the transportation of a child in a:

(1) Motor vehicle registered, or of a type capable of being registered, in this State as a: (i) Class A (passenger) vehicle; (ii) Class E (truck) vehicle; or (iii) Class M (multipurpose) vehicle; and

(2) A vehicle registered in another state or Puerto Rico that is the same type of vehicle as a vehicle identified in item (1) of this subsection.

Additionally, the 2008 General Assembly made changes to age, weight, and height restrictions as follows:

(d) A person transporting a child under the age of 8 years in a motor vehicle shall secure the child in a child safety seat in accordance with the child safety seat and vehicle manufacturers' instructions, **unless** the child:

- (1) is 4 feet 9 inches tall or taller; or
- (2) weighs more than 65 pounds.

2012 Changes. The car seat law was again amended in 2012 to make one substantive change. The weight exemption for children required to be in a car seat was totally removed from subsection d. Thus, it read as follows:

(d) A person transporting a child under the age of 8 years in a motor vehicle shall secure the child in a child safety seat in accordance with the child safety seat and vehicle manufacturers' instructions, **unless** the child: (1) is 4 feet 9 inches tall or taller.

2013 Changes. The last substantive change to the car seat safety law came with the 2013 legislative session. This change removed the provision (subsection (h)) stating that it was not a violation of the car seat law if a child required to be secured in a car seat was not so secured if all available securing locations were in use by children. (In other words, a ticket can be issued if there are more children in the vehicle than approved seat positions.) Thus, the statute as it currently stands reads as follows:

Definitions

(a)(1) In this section the following words have the meanings indicated.

(2)(i) "Child safety seat" means a device, including a child booster seat, that the manufacturer:

1. Certifies is manufactured in accordance with applicable federal safety standards; and

2. Intends to be used to restrain, seat, or position a child who is transported in a motor vehicle.

(2)(ii) "Child safety seat" does not mean a seat belt or combination seat belt-shoulder harness used alone.

(3)(i) "Seat belt" means a restraining device described under § 22-412 of this subtitle.

(3)(ii) "Seat belt" includes a combination seat belt-shoulder harness.

Child safety seat meeting requirements of section

(b) A child safety seat meets the requirements of this section only if it is installed and used in accordance with the directions of the manufacturer.

Application of section

(c) This section applies to the transportation of a child in:

(1) A motor vehicle registered, or of a type capable of being registered, in this State as a:

(i) Class A (passenger) vehicle;

(ii) Class E (truck) vehicle; or

(iii) Class M (multipurpose) vehicle; and

(2) A vehicle registered in another state or Puerto Rico that is the same type of vehicle as a vehicle identified in item (1) of this subsection.

Children required to be secured in child safety seat

(d) A person transporting a child under the age of 8 years in a motor vehicle shall secure the child in a child safety seat in accordance with the child safety seat and vehicle manufacturers' instructions unless the child is 4 feet, 9 inches tall or taller.

Children under the age of 16 years required to use child safety seat or seat belt

(e) Subject to subsection (d) of this section, a person may not transport a child under the age of 16 years unless the child is secured in:

- (1) A child safety seat in accordance with the child safety seat and vehicle manufacturers' instructions; or
- (2) A seat belt.

Certification for exception to child safety seat or seat belt requirements for medical reasons

(f) Notwithstanding subsection (d) of this section, if a physician, who is licensed to practice medicine in the state in which the vehicle transporting the child is registered, certifies in writing that use of a child safety seat by a particular child would be impractical due to the child's weight, height, physical unfitness, or other medical reason, there is not a violation of this section.

Child safety seat or seat belt used for 1 individual only

(g) A child safety seat or seat belt may not be used to restrain, seat, or position more than one individual at a time.

Violation of section not contributory negligence

(h) A violation of this section is not contributory negligence and may not be admitted as evidence in the trial of any civil action.

Violation of section not a moving violation

(i) A violation of this section is not considered a moving violation for purposes of § 16-402 of this article.

Failure to provide child safety seat or seat belt for more than one child

(j) The failure to provide a child safety seat or seat belt for more than one child in the same vehicle at the same time, as required by this section, shall be treated as a single violation.

Fines and penalties

(k)(1) Any person convicted of a violation of this section is subject to a fine of \$50.

(2) A judge may waive the fine if the person charged with violation of this section:

- (i) Did not possess a child safety seat at the time of the violation;
- (ii) Acquires a child safety seat prior to the hearing date; and
- (iii) Provides proof of acquisition to the court.

Implementation of Child Safety Seat Program

(l) The Department of Transportation and the Department of Health and Mental Hygiene shall jointly implement the Child Safety Seat Program and foster compliance with this section through educational and promotional efforts.

Note: As of 2013, the adult portion of Maryland's occupant protection law requires use of a seat belt by all passengers in all seats. This means that police officers are able to ticket drivers and passengers for not wearing a seat belt. This covers the front and back seats. Each adult person that is not buckled up may receive a ticket of \$83 (including court costs) for not wearing a seat belt.