

The Senate Public Safety and Homeland Security Committee offered the following substitute to HB 217:

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 4 of Article 1 of Chapter 8 of Title 40 of the Official Code of Georgia  
2 Annotated, relating to motor vehicle horns, exhaust systems, mirrors, windshields, tires,  
3 safety belts, and energy absorption systems, so as to require the use of certain child passenger  
4 restraints in motor vehicles; to change certain provisions relating to safety belts required as  
5 equipment and safety restraints for children four years of age or younger; to change certain  
6 provisions relating to use of safety belts in passenger vehicles; to provide for the  
7 implementation of a program to inform parents of the requirements and provisions of this  
8 Act; to provide for related matters; to provide for effective dates; to repeal conflicting laws;  
9 and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

11 Part 4 of Article 1 of Chapter 8 of Title 40 of the Official Code of Georgia Annotated,  
12 relating to motor vehicle horns, exhaust systems, mirrors, windshields, tires, safety belts, and  
13 energy absorption systems, is amended by striking Code Section 40-8-76, relating to safety  
14 belts required as equipment and safety restraints for children four years of age or younger,  
15 and inserting in lieu thereof the following:  
16

17 "40-8-76.

18 (a) No new private passenger automobile manufactured after January 1, 1964, shall be sold  
19 to the general public in this state unless such automobile shall be equipped with two sets  
20 of safety belts for the front seat thereof. The safety belts may be installed by the  
21 manufacturer prior to delivery to the dealer, or they may be installed by the dealer.

22 (b)(1) ~~On and after July 1, 1984, every~~ Every driver who transports a child ~~four years of~~  
23 ~~age or younger~~ under seven years of age in a passenger automobile, van, or pickup truck,  
24 other than a taxicab as defined by Code Section 33-34-5.1 or a public transit vehicle as  
25 defined by Code Section 16-5-20, shall, while such motor vehicle is in motion and  
26 operated on a public road, street, or highway of this state, provide for the ~~protection~~

1 proper restraint of such child in a child passenger restraining system appropriate for such  
 2 child's height and weight and approved by the United States Department of  
 3 Transportation under provisions of Federal Motor Vehicle Safety Standard 213 in effect  
 4 on January 1, 1983, or at the time of manufacture, subject to the following specific  
 5 requirements and exceptions:

6 (A) Any such child weighing at least 40 pounds may be secured by a lap belt when:

7 (i) The vehicle is not equipped with both lap and shoulder belts; or

8 (ii) Not including the driver's seat, the vehicle is equipped with one or more lap and  
 9 shoulder belts that are all being used to properly restrain other children;

10 (B) Any such child shall be properly restrained in a rear seat of the motor vehicle  
 11 consistent with the requirements of this paragraph. If the vehicle has no rear seating  
 12 position appropriate for correctly restraining a child or all appropriate rear seating  
 13 positions are occupied by other children, any such child may be properly restrained in  
 14 a front seat consistent with the requirements of this paragraph;

15 (C) A driver shall not be deemed to be complying with the provisions of this  
 16 subsection paragraph unless the any child passenger restraining system required by this  
 17 paragraph is installed and being used in accordance with the manufacturer's directions  
 18 for such system; and

19 (D) The provisions of this subsection paragraph shall not apply when the child's parent  
 20 or guardian either obtains a physician's written statement that a physical or medical  
 21 condition of the child prevents placing or restraining him or her in any such child  
 22 passenger restraining system in the manner required by this paragraph. If the parent or  
 23 guardian can show the child's height is over 4 feet and 9 inches, such child shall be  
 24 restrained in a safety belt as required in Code Section 40-8-76.1.

25 (2) Upon a first conviction of an offense under this subsection, the defendant shall be  
 26 punished by a fine of not more than \$50.00, except in the case of a child who is five or  
 27 six years of age, if the defendant shows to the court having jurisdiction of the case that  
 28 a child passenger restraining system meeting the applicable requirements of this  
 29 subsection has been purchased by him or her after the time of the offense and prior to the  
 30 court appearance, the court may waive or suspend the fine for such first conviction. This  
 31 exception shall apply until January 1, 2005. Upon a second or subsequent conviction of  
 32 an offense under this subsection, the defendant shall be punished by a fine of not more  
 33 than \$100.00. No court shall impose any additional fees or surcharges to a fine for such  
 34 a violation. The court imposing a fine for any violation of this Code section shall forward  
 35 a record of the disposition of the cases annually to the Department of Public Safety for  
 36 the sole purpose of data collection on a county by county basis.

1 ~~(c) It shall be the duty of the Governor's Office of Highway Safety to implement and~~  
 2 ~~coordinate a program to inform parents and other citizens of Georgia of the reasons for the~~  
 3 ~~enactment of subsection (b) of this Code section. Such program shall be carried out prior~~  
 4 ~~to January 1, 1997. The Governor's Office of Highway Safety shall solicit the cooperation~~  
 5 ~~and assistance of the Georgia State Patrol, the Georgia Sheriffs Association, the Georgia~~  
 6 ~~Association of Chiefs of Police, Incorporated, the Peace Officers' Association of Georgia,~~  
 7 ~~the Medical College of Georgia, the Georgia Hospital Association, the Georgia Association~~  
 8 ~~of Educators, the Georgia Parent-Teacher Association, and other appropriate organizations~~  
 9 ~~in educating the citizens of the state and in implementing, coordinating, and carrying out~~  
 10 ~~the program provided for herein.~~

11 ~~(d)~~(c) Violation of this Code section shall not constitute negligence per se nor contributory  
 12 negligence per se. Violation of ~~child safety restraint requirements~~ subsection (b) of this  
 13 Code section shall not be the basis for cancellation of coverage or increase in insurance  
 14 rates.

15 (d) The provisions of this Code section shall not apply to buses, as defined in paragraph  
 16 (7) of Code Section 40-1-1, used in the transport of children over four years of age until  
 17 July 1, 2007, provided that the bus is operated by a licensed or commissioned child care  
 18 facility, has a current annual transportation safety inspection certificate as required by the  
 19 appropriate licensing body, and has evidence of being inspected for use by a child care  
 20 facility. If the bus is not a school bus, as defined in paragraph (55) of Code Section 40-1-1,  
 21 or a multifunction school activities bus, as defined in 49 CFR 571.3(B), each child over  
 22 four years of age and under seven years of age shall be properly restrained by a safety belt.  
 23 Multifunction school activities buses, as defined in 49 CFR 571.3(B), shall not be required  
 24 to transport children five and six years of age in a child passenger restraining system."

## 25 SECTION 2.

26 Said part is further amended by striking Code Section 40-8-76.1, relating to use of safety  
 27 belts in passenger vehicles, and inserting in lieu thereof the following:

28 "40-8-76.1.

29 (a) As used in this Code section, the term 'passenger vehicle' means every motor vehicle  
 30 designed to carry ten passengers or less and used for the transportation of persons but shall  
 31 not mean pickup trucks, motorcycles, motor driven cycles, or vehicles equipped for  
 32 off-road use, provided that the term 'passenger vehicle' includes any sport utility vehicle  
 33 and also includes pickup trucks for any occupant who is under 18 years of age.

34 (b) Each occupant of the front seat of a passenger vehicle shall, while such passenger  
 35 vehicle is being operated on a public road, street, or highway of this state, be restrained by  
 36 a seat safety belt approved under Federal Motor Vehicle Safety Standard 208.

1 (c) The requirement of subsection (b) of this Code section shall not apply to:

2 (1) A driver or passenger frequently stopping and leaving the vehicle or delivering  
3 property from the vehicle, if the speed of the vehicle between stops does not exceed 15  
4 miles per hour;

5 (2) A driver or passenger possessing a written statement from a physician that such  
6 person is unable, for medical or physical reasons, to wear a seat safety belt;

7 (3) A driver or passenger possessing an official certificate or license endorsement issued  
8 by the appropriate agency in another state or country indicating that the driver is unable  
9 for medical, physical, or other valid reasons to wear a seat safety belt;

10 (4) A driver operating a passenger vehicle in reverse;

11 (5) A passenger vehicle with a model year prior to 1965;

12 (6) A passenger vehicle which is not required to be equipped with seat safety belts under  
13 federal law;

14 (7) A passenger vehicle operated by a rural letter carrier of the United States Postal  
15 Service while performing duties as a rural letter carrier;

16 (8) A passenger vehicle from which a person is delivering newspapers; or

17 (9) A passenger vehicle performing an emergency service.

18 (d) The failure of an occupant of a motor vehicle to wear a seat safety belt in any seat of  
19 a motor vehicle which has a seat safety belt or belts shall not be considered evidence of  
20 negligence or causation, shall not otherwise be considered by the finder of fact on any  
21 question of liability of any person, corporation, or insurer, shall not be any basis for  
22 cancellation of coverage or increase in insurance rates, and shall not be evidence used to  
23 diminish any recovery for damages arising out of the ownership, maintenance, occupancy,  
24 or operation of a motor vehicle.

25 (e)(1) Except as otherwise provided in paragraphs (2) and (3) of this subsection, a person  
26 failing to comply with the requirements of subsection (b) of this Code section shall not  
27 be guilty of any criminal act and shall not be guilty of violating any ordinance. A  
28 violation of this Code section shall not be a moving traffic violation for purposes of Code  
29 Section 40-5-57.

30 (2) A person failing to comply with the requirements of subsection (b) of this Code  
31 section shall be guilty of the offense of failure to wear a seat safety belt and, upon  
32 conviction thereof, may be fined not more than \$15.00; but, the provisions of Chapter 11  
33 of Title 17 and any other provision of law to the contrary notwithstanding, the costs of  
34 such prosecution shall not be taxed nor shall any additional penalty, fee, or surcharge to  
35 a fine for such offense be assessed against a person for conviction thereof. The court  
36 imposing such fine shall forward a record of the disposition of the case of failure to wear  
37 a seat safety belt to the Department of Motor Vehicle Safety.

1 (3) Each minor ~~over four~~ seven years of age or older who is an occupant of a passenger  
2 vehicle shall, while such passenger vehicle is being operated on a public road, street, or  
3 highway of this state, be restrained by a seat safety belt approved under Federal Motor  
4 Vehicle Safety Standard 208. In any case where a minor passenger ~~over four~~ seven years  
5 of age or older fails to comply with the requirements of this paragraph, the driver of the  
6 passenger vehicle shall be guilty of the offense of failure to secure a seat safety belt on  
7 a minor and, upon conviction thereof, may be fined not more than \$25.00. The court  
8 imposing such a fine shall forward a record of the court disposition of the case of failure  
9 to secure a seat safety belt on a minor to the Department of Motor Vehicle Safety.

10 (f) Probable cause for violation of this Code section shall be based solely upon a law  
11 enforcement officer's clear and unobstructed view of a person not restrained as required  
12 by this Code section. Noncompliance with the restraint requirements of this Code section  
13 shall not constitute probable cause for violation of any other Code section."

### 14 SECTION 3.

15 It shall be the duty of the Governor's Office of Highway Safety to implement and coordinate  
16 a program to inform parents and other citizens of Georgia of the provisions of subsection (b)  
17 of Code Section 40-8-76 and paragraph (3) of subsection (e) of Code Section 40-8-76.1 as  
18 amended by this Act. Such program shall be carried out prior to January 1, 2005. The  
19 Governor's Office of Highway Safety shall solicit the cooperation and assistance of the  
20 Georgia State Patrol, Department of Motor Vehicle Safety, Georgia Sheriffs Association,  
21 Georgia Association of Chiefs of Police, Incorporated, Peace Officers' Association of  
22 Georgia, Medical College of Georgia, Georgia Hospital Association, Georgia Association  
23 of Educators, Professional Association of Georgia Educators, Georgia Parent-Teacher  
24 Association, and other appropriate organizations in educating the citizens of the state and in  
25 implementing, coordinating, and carrying out such provisions.

### 26 SECTION 4.

27 All laws and parts of laws in conflict with this Act are repealed.