

Senate Bill 88

By: Senators Mullis of the 53rd, Staton of the 18th, Grant of the 25th, Brown of the 26th, Murphy of the 27th and others

**AS PASSED**

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 8 of Title 40 of the Official Code of Georgia Annotated, relating to  
2 equipment and inspection of motor vehicles, so as to increase age requirements for use of  
3 child restraint systems; to provide for related matters; to provide for an effective date; to  
4 repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 **SECTION 1.**

7 Chapter 8 of Title 40 of the Official Code of Georgia Annotated, relating to equipment and  
8 inspection of motor vehicles, is amended by revising of subsections (b) and (d) of Code  
9 Section 40-8-76, relating to safety belts and child restraint systems, as follows:

10 "(b)(1) Every driver who transports a child under ~~six~~ eight years of age in a passenger  
11 automobile, van, or pickup truck, other than a taxicab as defined by Code Section  
12 33-34-5.1 or a public transit vehicle as defined by Code Section 16-5-20, shall, while  
13 such motor vehicle is in motion and operated on a public road, street, or highway of this  
14 state, provide for the proper restraint of such child in a child passenger restraining system  
15 appropriate for such child's height and weight and approved by the United States  
16 Department of Transportation under provisions of Federal Motor Vehicle Safety Standard  
17 213 in effect on January 1, 1983, or at the time of manufacture, subject to the following  
18 specific requirements and exceptions:

- 19 (A) Any such child weighing at least 40 pounds may be secured by a lap belt when:
  - 20 (i) The vehicle is not equipped with both lap and shoulder belts; or
  - 21 (ii) Not including the driver's seat, the vehicle is equipped with one or more lap and
  - 22 shoulder belts that are all being used to properly restrain other children;
- 23 (B) Any such child shall be properly restrained in a rear seat of the motor vehicle
- 24 consistent with the requirements of this paragraph. If the vehicle has no rear seating
- 25 position appropriate for correctly restraining a child or all appropriate rear seating

26 positions are occupied by other children, any such child may be properly restrained in  
 27 a front seat consistent with the requirements of this paragraph;

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

31 (D) The provisions of this paragraph shall not apply when the child's parent or guardian  
 32 either obtains a physician's written statement that a physical or medical condition of the  
 33 child prevents placing or restraining him or her in the manner required by this  
 34 paragraph. If the parent or guardian can show the child's height is over 4 feet and 9  
 35 inches, such child shall be restrained in a safety belt as required in Code Section  
 36 40-8-76.1.

37 (2) Upon a first conviction of an offense under this subsection, the defendant shall be  
 38 punished by a fine of not more than \$50.00, except in the case of a child who is ~~five~~ six  
 39 or seven years of age, if the defendant shows to the court having jurisdiction of the case  
 40 that a child passenger restraining system meeting the applicable requirements of this  
 41 subsection has been purchased by him or her after the time of the offense and prior to the  
 42 court appearance, the court may waive or suspend the fine for such first conviction. This  
 43 exception shall apply until January 1, ~~2005~~ 2012. Upon a second or subsequent  
 44 conviction of an offense under this subsection, the defendant shall be punished by a fine  
 45 of not more than \$100.00. No court shall impose any additional fees or surcharges to a  
 46 fine for such a violation. The court imposing a fine for any violation of this Code section  
 47 shall forward a record of the disposition of the cases ~~annually~~ to the Department of ~~Public~~  
 48 ~~Safety~~ Driver Services for the sole purpose of data collection on a county by county  
 49 basis."

50 "(d) The provisions of this Code section shall not apply to buses, as defined in paragraph  
 51 (7) of Code Section 40-1-1, used in the transport of children over four years of age until  
 52 July 1, ~~2007~~ 2012, provided that the bus is operated by a licensed or commissioned child  
 53 care facility, has a current annual transportation safety inspection certificate as required by  
 54 the appropriate licensing body, and has evidence of being inspected for use by a child care  
 55 facility. If the bus is not a school bus, as defined in paragraph (55) of Code Section 40-1-1,  
 56 or a multifunction school activities bus, as defined in 49 C.F.R. 571.3(B), each child over  
 57 four years of age and under ~~six~~ eight years of age shall be properly restrained by a ~~safety~~  
 58 ~~belt~~ child passenger restraining system. Multifunction school activities buses, as defined  
 59 in 49 C.F.R. 571.3(B), shall not be required to transport children five years of age or older  
 60 in a child passenger restraining system."

61 **SECTION 2.**

62 Said chapter is further amended by revising paragraph (3) of subsection (e) of Code Section  
63 40-8-76.1, relating to use of safety belts in passenger vehicles, as follows:

64 "(3) Each minor ~~six~~ eight years of age or older who is an occupant of a passenger vehicle  
65 shall, while such passenger vehicle is being operated on a public road, street, or highway  
66 of this state, be restrained by a seat safety belt approved under Federal Motor Vehicle  
67 Safety Standard 208. In any case where a minor passenger ~~six~~ eight years of age or older  
68 fails to comply with the requirements of this paragraph, the driver of the passenger  
69 vehicle shall be guilty of the offense of failure to secure a seat safety belt on a minor and,  
70 upon conviction thereof, may be fined not more than \$25.00. The court imposing such  
71 a fine shall forward a record of the court disposition of the case of failure to secure a seat  
72 safety belt on a minor to the Department of Driver Services."

73 **SECTION 3.**

74 This Act shall become effective on July 1, 2011.

75 **SECTION 4.**

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