

PROPOSED RULEMAKING

DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 102] Child Passenger Protection

The Department of Transportation (Department), under 75 Pa.C.S. §§ 4581 and 6103 (relating to restraint system; and promulgation of rules and regulations by department), proposes to amend Chapter 102 (relating to child passenger protection) to read as set forth in Annex A.

Purpose of Chapter 102

The purpose of Chapter 102 is to improve safety in transporting children by providing for exemption from the booster seat requirements in 75 Pa.C.S. (relating to the Vehicle Code) for children over a certain weight or height or for children with a medical condition which makes use of a standard child passenger restraint system inappropriate.

Summary of Significant Provisions

Section 102.102(a) (relating to physical criteria for use of child passenger restraint system) provides the general rule that children under 4 years of age must be fastened into a child passenger restraint system and children 4 years of age but younger than 8 years must be fastened into the vehicle's safety seat belt system with the use of an appropriately fitting booster seat.

Section 102.102(b) provides that children 4 years of age but younger than 8 years of age who weigh less than 40 pounds may be secured in a child passenger restraint system instead of the use of a booster seat. If the vehicle was not originally equipped with a shoulder safety belt system, the child may be fastened in the safety seat belt system without the use of a booster seat. Children who weigh more than 80 pounds or who are 4 feet 9 inches or taller may also be fastened in the safety seat belt system without the use of a booster seat.

Section 102.102(c) provides that the requirements of the chapter can be satisfied through appropriate use of child restraint systems, booster seats or vehicle seats designed to accommodate children under 80 pounds, which are integrated into the design of the vehicle by the vehicle manufacturer.

Section 102.103 (relating to medical exemption from use of child passenger restraint system) provides that, upon certification by a physician, children with a medical condition which makes use of a child passenger restraint system or booster seat impractical may also be exempted from the requirements of the proposed rulemaking. The section delineates the information required to obtain a medical exemption.

Persons and Entities Affected

This proposed rulemaking will affect all vehicle operators transporting children under 8 years of age.

Fiscal Impact

The proposed rulemaking will not require the expenditure of any additional funds by the Commonwealth. The cost to the regulated community will be in the cost of a booster seat which range between \$25 and \$130. This proposed rulemaking may also result in marginal savings

to parents with children falling within the exemptions who will thus not have to purchase booster seats.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on October 5, 2004, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Transportation Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

Sunset Date

The Department is not establishing a sunset date for the proposed rulemaking, since the proposed rulemaking is needed to administer provisions required under 75 Pa.C.S. The Department, however, will continue to closely monitor the proposed rulemaking for effectiveness.

Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to Dianna J. Reed, Transportation Planning Manager, Bureau of Highway Safety and Traffic Engineering, Department of Transportation, Commonwealth Keystone Building, 400 North Street, P. O. Box 2047, Harrisburg, PA 17105-2047 within 30 days of publication of this notice in the *Pennsylvania Bulletin*.

Contact Person

The contact person for this proposed rulemaking is Dianna J. Reed, Transportation Planning Manager, Bureau of Highway Safety and Traffic Engineering, Department of Transportation, Commonwealth Keystone Building, 400 North Street, P. O. Box 2047, Harrisburg, PA 17105-2047, (717) 787-6853.

ALLEN D. BIEHLER, P. E.,
Secretary

Fiscal Note: 18-393. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

Subpart A. VEHICLE CODE PROVISIONS

ARTICLE VI. OPERATION OF VEHICLES

CHAPTER 102. CHILD PASSENGER PROTECTION [—STATEMENT OF POLICY]

(Editor's Note: As part of this proposed rulemaking, the Department is proposing to delete the text of a statement of policy which appears at 67 Pa. Code pages 102-1 and 102-2, serial pages (296581) to (296582).)

§§ 102.1—102.4. (Reserved).**§ 102.101. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Child booster seat—A child passenger restraint system or a belt positioning seat designed and manufactured to meet Federal motor vehicle safety standards in 49 CFR 571.213 (relating to child restraint systems) to position a child to properly sit in a Federally approved safety seat belt system.

Child passenger restraint system—A device or system to enhance the safety of children in motor vehicles which is designed and manufactured for use in motor vehicles equipped with a safety seat belt system and which meets the Federal motor vehicle safety standards in 49 CFR 571.213.

Department—The Department of Transportation of the Commonwealth.

Safety seat belt system—Any strap, webbing or similar device designed to secure a person in a motor vehicle in order to mitigate the results of any accident, including buckles, fasteners and all installation hardware as specified by 49 CFR 571.209 (relating to Standard No. 209; seat belt assemblies).

§ 102.102. Physical criteria for use of child passenger restraint system.

(a) *General criteria.* Children under 4 years of age shall be securely fastened in a safety seat belt system and a child passenger restraint system appropriate for their height and weight in accordance with the recommendations of the manufacturer. Children 4 years of age but younger than 8 years of age shall be securely fastened in a safety seat belt system and an appropriately fitting child booster seat in accordance with the recommendations of the manufacturer.

(b) *Exemption based on child's weight or height, or on vehicle characteristics.* Exemption from the general criteria in subsection (a) is as follows:

(1) Children 4 years of age but younger than 8 years of age who weigh less than 40 pounds may, in lieu of use of a booster seat, be securely fastened in a child passenger restraint system appropriate for their height and weight in accordance with the recommendations of the manufacturer.

(2) Children 4 years of age but younger than 8 years of age riding in a passenger position in the vehicle which

was not originally equipped with a shoulder safety seat belt shall be fastened in the safety seat belt system without the use of a child booster seat or may be fastened in a child passenger restraint system appropriate for their height and weight in accordance with the recommendations of the manufacturer.

(3) Children 4 years of age but younger than 8 years of age who weigh more than 80 pounds or who are of a height of 4 feet 9 inches or taller may be fastened in the safety seat belt system without the use of a child booster seat.

(c) *Integrated child restraint or booster seat.* The requirements of this chapter may be satisfied by securing a child, in accordance with the recommendations of the manufacturer, in a child restraint system, booster seat or vehicle seat designed to accommodate children under 80 pounds, which is integrated into the design of the vehicle by the vehicle manufacturer.

§ 102.103 Medical exemption from use of child passenger restraint system.

(a) Exemption from the use of a child passenger restraint system for medical reasons may be obtained upon written certification by a physician that use of a child passenger restraint system is impractical. The certification must be made on a form developed by the Department which requires the following information:

(1) The physician's name and practice address.

(2) The date the form was completed.

(3) The name, age and weight of the child.

(4) The medical or physical reasons that the use of a particular child passenger restraint system or systems is impractical.

(5) A recommendation of the type of restraint the child should be fastened into or a statement that no appropriate restraint system is known.

(6) A recommendation regarding the length of time the exemption should extend, or a statement of the conditions under which the exemption should be lifted.

(7) Other information deemed relevant by the physician, such as whether the child can be fastened into the child passenger restraint system but for only limited periods of time.

(b) The completed form must be in the possession of the vehicle operator whenever the child is being transported.

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