

321.446 Child restraint devices.

1. *a.* A child under one year of age and weighing less than twenty pounds who is being transported in a motor vehicle subject to registration, except a school bus or motorcycle, shall be secured during transit in a rear-facing child restraint system that is used in accordance with the manufacturer's instructions.

b. A child under six years of age who does not meet the description in paragraph "*a*" and who is being transported in a motor vehicle subject to registration, except a school bus or motorcycle, shall be secured during transit by a child restraint system that is used in accordance with the manufacturer's instructions.

2. A child at least six years of age but under eleven years of age who is being transported in a motor vehicle subject to registration, except a school bus or motorcycle, shall be secured during transit by a child restraint system that is used in accordance with the manufacturer's instructions or by a safety belt or safety harness of a type approved under section 321.445.

3. This section does not apply to peace officers acting on official duty. This section also does not apply to the transportation of children in 1965 model year or older vehicles, authorized emergency vehicles, buses, or motor homes, except when a child is transported in a motor home's passenger seat situated directly to the driver's right. This section does not apply to the transportation of a child who has been certified by a physician licensed under chapter 148, 150, or 150A as having a medical, physical, or mental condition that prevents or makes inadvisable securing the child in a child restraint system, safety belt, or safety harness.

4. *a.* An operator who violates subsection 1 or 2 is guilty of a simple misdemeanor and subject to the penalty provisions of section 805.8A, subsection 14, paragraph "*c*".

b. During the eighteen-month period beginning July 1, 2004, and ending December 31, 2005, peace officers shall issue only warning citations for violations of subsections 1 and 2, provided the operator is, at a minimum, in compliance with the provisions of subsections 1 and 2, Code 2003. A peace officer may issue a citation for a violation of this section or section 321.445, as applicable, to an operator who is not in compliance with section 321.446, subsections 1 and 2, Code 2003, in regard to a child under six years of age, or section 321.445, Code 2003, in regard to a child at least six years of age but under eleven years of age. This paragraph is repealed January 1, 2006.

5. A person who is first charged for a violation of subsection 1 and who has not purchased or otherwise acquired a child restraint system shall not be convicted if the person produces in court, within a reasonable time, proof that the person has purchased or otherwise acquired a child restraint system which meets federal motor vehicle safety standards.

6. Failure to use a child restraint system, safety belts, or safety harnesses as required by this section does not constitute negligence nor is the failure admissible as evidence in a civil action.

7. For purposes of this section, "*child restraint system*" means a specially designed seating system, including a belt-positioning seat or a booster seat, that meets federal motor vehicle safety standards set forth in 49 C.F.R. § 571.213.

84 Acts, ch 1016, § 1; 86 Acts, ch 1069, § 1; 2000 Acts, ch 1133, §11; 2001 Acts, ch 132, §11; 2001 Acts, ch 137, §5; 2004 Acts, ch 1113, §2, 3

For education program requirements and compliance assistance requirements, see 2004 Acts, ch 1113, § 4