

## SENATE BILL No. 213

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 9-19-11.

**Synopsis:** Passenger restraint systems for children. Makes it a: (1) Class D felony for a person to operate a motor vehicle carrying a child who is not properly restrained if the motor vehicle is involved in an accident that causes serious bodily injury to the child; and (2) Class C felony if the accident results in the death of the child. Makes conforming amendments.

**Effective:** July 1, 2012.

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January 4, 2012, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

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## SENATE BILL No. 213



A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 9-19-11-2, AS AMENDED BY P.L.146-2009,  
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2012]: Sec. 2. (a) **Except as provided in subsection (b)**, a  
4 person who operates a motor vehicle in which there is a child less than  
5 eight (8) years of age who is not properly fastened and restrained  
6 according to the child restraint system manufacturer's instructions by  
7 a child restraint system commits a Class D infraction. A person may not  
8 be found to have violated this subsection if the person carries a  
9 certificate from a physician, physician's assistant, or advanced practice  
10 nurse stating that it would be impractical to require that a child be  
11 fastened and restrained by a child restraint system because of:  
12 (1) a physical condition, including physical deformity; or  
13 (2) a medical condition;  
14 of the child and presents the certificate to the police officer or the court.  
15 **(b) A person who knowingly or intentionally operates a motor**  
16 **vehicle in which there is a child less than eight (8) years of age who**  
17 **is not properly fastened and restrained by a child restraint system**



1 according to the child restraint system manufacturer's instructions  
2 commits a Class D felony if the motor vehicle is involved in an  
3 accident that results in serious bodily injury to the child. However,  
4 the offense is a Class C felony if the accident results in the death of  
5 the child.

6 ~~(b)~~ (c) This subsection does not apply to a person charged with  
7 a crime under subsection (b). Notwithstanding IC 34-28-5-5(c), funds  
8 collected as judgments for violations under this section shall be  
9 deposited in the child restraint system account established by section  
10 9 of this chapter.

11 (d) It is a defense to a prosecution under subsection (b) that a  
12 physician, physician's assistant, or advanced practice nurse  
13 certified that it would be impractical to require that the child be  
14 fastened and restrained by a child restraint system because of:

- 15 (1) a physical condition, including physical deformity; or
  - 16 (2) a medical condition;
- 17 of the child.

18 SECTION 2. IC 9-19-11-3.6 IS AMENDED TO READ AS  
19 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3.6. (a) **Except as**  
20 **provided in subsection (b)**, a person who operates a motor vehicle in  
21 which there is a child and that is equipped with a safety belt meeting  
22 the standards stated in the Federal Motor Vehicle Safety Standard  
23 Number 208 (49 CFR 571.208) commits a Class D infraction if:

- 24 (1) the child is at least eight (8) years of age but less than sixteen  
25 (16) years of age; and
- 26 (2) the child is not properly fastened and restrained according to  
27 the child restraint system manufacturer's instructions by a:
  - 28 (A) child restraint system; or
  - 29 (B) safety belt.

30 (b) A person who knowingly or intentionally violates subsection  
31 (a) commits a Class D felony if the motor vehicle is involved in an  
32 accident that results in serious bodily injury to the child. However,  
33 the offense is a Class C felony if the accident results in the death of  
34 the child.

35 ~~(b)~~ (c) This subsection does not apply to a person charged with  
36 a crime under subsection (b). Notwithstanding IC 34-28-5-5(c), funds  
37 collected as judgments for violations under this section shall be  
38 deposited in the child restraint system account established by section  
39 9 of this chapter.

40 SECTION 3. IC 9-19-11-5 IS AMENDED TO READ AS  
41 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. If at a **civil**  
42 proceeding to enforce section 2 of this chapter the court finds that the

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1 person:  
2 (1) has violated this chapter; and  
3 (2) possesses or has acquired a child restraint system;  
4 the court shall enter judgment against the person. However,  
5 notwithstanding IC 34-28-5-4, the person is not liable for any costs or  
6 monetary judgment if the person has no previous judgments of  
7 violation of this chapter against the person.  
8 SECTION 4. IC 9-19-11-6 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 6. (a) If at a **civil**  
10 proceeding to enforce section 2 of this chapter the court finds that the  
11 person:  
12 (1) has violated this chapter; and  
13 (2) does not possess or has not acquired a child restraint system;  
14 the court shall enter judgment against the person and shall order the  
15 person to provide proof of possession or acquisition within thirty (30)  
16 days.  
17 (b) Notwithstanding IC 34-28-5-4, if the person:  
18 (1) complies with a court order under this section; and  
19 (2) has no previous judgments of violation of this chapter against  
20 the person;  
21 the person is not liable for any costs or a monetary judgment.

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