

# State of South Dakota

EIGHTIETH SESSION  
LEGISLATIVE ASSEMBLY, 2005

392L0721

## HOUSE BILL NO. 1230

Introduced by: Representatives Glenski, Bradford, Dennert, Frost, Howie, McCoy, Miles, Roberts, Schafer, Sigdestad, Street, Tidemann, Weems, and Willadsen and Senators Kooistra, Abdallah, Broderick, Dempster, Gray, Hanson (Gary), Koetzle, Olson (Ed), Peterson (Jim), and Sutton (Duane)

1 FOR AN ACT ENTITLED, An Act to require certain children to be in a booster seat when in  
2 a motor vehicle and to provide that certain penalties be waived if a child passenger restraint  
3 system or booster seat is acquired.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 32-37-1 be amended to read as follows:

6 32-37-1. Any operator of any passenger vehicle transporting a child under five years of age  
7 on the streets and highways of this state shall properly secure the child in a child passenger  
8 restraint system according to its manufacturer's instructions. The child passenger restraint  
9 system shall meet Department of Transportation Motor Vehicle Safety Standard 213 as in effect  
10 January 1, ~~1981~~ 2005. The requirements of this section are met if the child is under five years  
11 of age and is at least forty pounds in weight by securing the child in a ~~seat belt~~ booster seat  
12 properly secured by a lap and shoulder belt system. An operator who violates this section  
13 commits a petty offense.

14 Section 2. That § 32-37-1.1 be amended to read as follows:



1       32-37-1.1. Any operator of a passenger vehicle operated on a public street or highway in this  
2 state transporting a passenger who is at least five and under seven years of age shall assure that  
3 the passenger is seated in a booster seat properly secured by a lap and shoulder belt system. Any  
4 operator of a passenger vehicle operated on a public street or highway in this state transporting  
5 a passenger who is at least seven and under eighteen years of age shall assure that the passenger  
6 is wearing a properly adjusted and fastened safety seat belt system, required to be installed in  
7 the passenger vehicle if manufactured pursuant to Federal Motor Vehicle Safety Standard  
8 Number 208 (49 C.F.R. 571.208) in effect January 1, ~~1989~~ 2005, at all times when the vehicle  
9 is in motion. A violation of this section is a petty offense.

10       Section 3. That chapter 32-37 be amended by adding thereto a NEW SECTION to read as  
11 follows:

12       For the purposes of this chapter, the term, booster seat, means a backless child passenger  
13 restraint system meeting the requirements of Federal Motor Vehicle Safety Standard Number  
14 213 (49 CFR 571.213) in effect on January 1, 2005 or a belt-positioning seat meeting the  
15 requirements of Federal Motor Vehicle Safety Standard Number 213 (49 CFR 571.213) in effect  
16 on January 1, 2005.

17       Section 4. That chapter 32-37 be amended by adding thereto a NEW SECTION to read as  
18 follows:

19       No judgment may be issued against a person charged with violating § 32-37-1 or 32-37-1.1  
20 for failure to have a child passenger restraint system or a booster seat if the person produces in  
21 court, on or before the appearance date for violation, proof that the person has purchased, rented,  
22 or has on loan a child passenger restraint system or booster seat.