

9-1-2001

MOTOR VEHICLES AND TRAFFIC Child Safety Restraint Requirements: Amend Provision Relating to Safety Belts as Equipment and Safety Restraints for Children Under Four Years of Age in Certain Vehicles; Require Children Four Years of Age or Younger in a Passenger Automobile to be Restrained in an Approved Child Safety Restraint; Amend Exceptions to the Law

Mauricia Allen

Follow this and additional works at: <https://readingroom.law.gsu.edu/gsulr>

 Part of the [Law Commons](#)

Recommended Citation

Mauricia Allen, *MOTOR VEHICLES AND TRAFFIC Child Safety Restraint Requirements: Amend Provision Relating to Safety Belts as Equipment and Safety Restraints for Children Under Four Years of Age in Certain Vehicles; Require Children Four Years of Age or Younger in a Passenger Automobile to be Restrained in an Approved Child Safety Restraint; Amend Exceptions to the Law*, 18 GA. ST. U. L. REV. (2001). Available at: <https://readingroom.law.gsu.edu/gsulr/vol18/iss1/21>

This Peach Sheet is brought to you for free and open access by the Publications at Reading Room. It has been accepted for inclusion in Georgia State University Law Review by an authorized editor of Reading Room. For more information, please contact mbutler@gsu.edu.

MOTOR VEHICLES AND TRAFFIC

Child Safety Restraint Requirements: Amend Provision Relating to Safety Belts as Equipment and Safety Restraints for Children Under Four Years of Age in Certain Vehicles; Require Children Four Years of Age or Younger in a Passenger Automobile to be Restrained in an Approved Child Safety Restraint; Amend Exceptions to the Law

CODE SECTION:	O.C.G.A. § 40-8-76 (amended)
BILL NUMBER:	HB 248
ACT NUMBER:	217
GEORGIA LAWS:	2001 Ga. Laws 740
SUMMARY:	The Act changes the Georgia Code section relating to safety belts and safety restraints for children four years old or younger riding in a passenger automobile, van, or pickup truck. Specifically, the Act requires that all children four years old and younger be restrained in a federally approved child safety restraint system. The Act permits an exception for children whose parents have obtained a physician's written statement indicating that a physical or medical condition prevents the child from being restrained in such a device.
EFFECTIVE DATE:	July 1, 2001

History

Motor vehicle accidents are the number one killer of children under four years of age.¹ A 1996 study by the Georgia Department of Human Resources Bureau of Injury Prevention found that a child four years old or younger is twenty times more likely to survive an automobile wreck if riding in a properly installed child restraint device.² Further, of the seventy-two children killed in Georgia automobile accidents from 1994

1. See Telephone Interview with David Tatum, Lobbyist for Children's Healthcare of Atlanta (Apr. 9, 2001) [hereinafter Tatum Interview].

2. *Id.*

through 1999, 31% were wearing only an adult seat belt.³ It is estimated that 50% of these children would have survived if properly restrained.⁴ Experts contend that adult seat belts are not safe for children less than eighty pounds because the shoulder and lap harnesses ride too high on their small bodies which can result in serious and even fatal neck, back, and abdominal injuries.⁵ The American Academy of Pediatrics recommends that children who are eight years old or younger and weigh less than eighty pounds be restrained in either a booster or youth seat.⁶

The current law only requires that children two years old and under be in a child restraint device while riding in an automobile.⁷ The law allows children three and four years old to be restrained in an adult seat belt.⁸ Further, the law provides an exception when the immediate or emergency needs of a child prevent him from being restrained.⁹

Because of the deficiency in the current law, Safe Kids, a child advocacy group, approached Representative Alan Powell of the 23rd House District, seeking his support in raising the mandatory age that a child must be in an approved child seat.¹⁰ At first, Representative Powell appeared an unlikely choice for sponsorship of this legislation.¹¹ Representative Powell is an advocate of adults having the freedom to decide whether or not to use safety equipment, such as motorcycle helmets; however, he does believe that children should be protected by the state.¹² Further, Safe Kids wanted him as the sponsor because he is a “bulldog” when he gets behind a piece of legislation, and Safe Kids believed he had the needed “oomph” to get the legislation passed through the House.¹³ The result was the creation of HB 248 that sought

3. See Audio Recording of House Proceeding, Mar. 14, 2001 (remarks by Rep. Alan Powell), at <http://www.state.ga.us/services/leg/audio/2001archive.html> [hereinafter House Audio].

4. See *id.*

5. See Diane Lore, *Youthful Restraint: Parents Have Gotten the Message About Car Seats for Babies, but Many Older Children Still Face Terrible Risks*, ATLANTA J. CONST., Mar. 13, 2000, at C1; see also Joey Ledford, *A Mother's Nightmare: Crippling Crash Turns a Commerce Woman into Crusader for Child Safety*, ATLANTA J. CONST., Mar. 4, 2001, at F2.

6. See Lore, *supra* note 5.

7. 1983 Ga. Laws 1464, § 1, at 1465 (formerly found at O.C.G.A. § 40-8-76(b)(1) (Supp. 2000)).

8. *Id.*

9. *Id.*

10. See Tatum Interview, *supra* note 1.

11. See Telephone Interview with Rep. Alan Powell, House District No. 23 (Apr. 3, 2001) [hereinafter Powell Interview]; Tatum Interview, *supra* note 1.

12. See Powell Interview, *supra* note 11.

13. See Tatum Interview, *supra* note 1.

to close the loophole in the current law by requiring that three- and four-year-olds be restrained in an approved car restraint system.¹⁴

HB 248

Introduction

Representatives Alan Powell and Bobby Parham, of the 23rd and 122nd House Districts, respectively, sponsored HB 248.¹⁵ The bill was introduced in the House on January 26, 2001.¹⁶ The House assigned the bill to its Motor Vehicle Committee, which favorably reported the bill, as introduced, on January 30, 2001.¹⁷ The House passed the bill, with a floor amendment, on February 14, 2001.¹⁸ On February 15, 2001, the Senate assigned the bill to its Transportation Committee, which created its own substitute and favorably reported the bill on February 27, 2001.¹⁹ The Senate adopted the Transportation Committee substitute and unanimously passed the bill, as substituted, on March 13, 2001.²⁰ The House agreed to the Senate version,²¹ and Governor Roy Barnes signed the bill into law on April 26, 2001.²²

Consideration by the House

Upon introduction, the House assigned the bill to its Motor Vehicle Committee, which favorably reported the bill as introduced on January 30, 2001.²³ On February 14, 2001, Representative Powell presented the bill on the House floor.²⁴ Representative Lynn Westmoreland of the 104th House District proposed a floor amendment to add language stating that a child would not be required to be in a child safety seat “when the child’s parent or guardian reasonably determines a physical or medical condition of the child prevents placing or restraining him or her in any such child passenger restraining

14. *See id.*

15. *See* HB 248, as introduced, 2001 Ga. Gen. Assem.

16. *See* State of Georgia Final Composite Status Sheet, HB 248, Mar. 21, 2001.

17. *Id.*

18. *See* Georgia House of Representatives Voting Record, HB 248 (Feb. 14, 2001).

19. *See* State of Georgia Final Composite Status Sheet, HB 248, Mar. 21, 2001.

20. *See* Georgia Senate Voting Record, HB 248 (Mar. 13, 2001).

21. *See* Georgia House of Representatives Voting Record, HB 248 (Mar. 19, 2001).

22. *See* 2001 Ga. Laws 740, § 2, at 740.

23. *See* State of Georgia Final Composite Status Sheet, HB 248, Mar. 21, 2001.

24. *See* House Audio, *supra* note 3 (remarks by Rep. Alan Powell).

system.”²⁵ Representative Westmoreland believed that it should be left up to the discretion of the parent, not the government, whether his child is in the position to be so restrained.²⁶ Representative Ray Holland voiced concern on the floor that the amendment would make the bill “virtually impossible” to enforce because it would basically be left up to the parent’s discretion whether to properly restrain the child;²⁷ however, the House adopted this floor amendment.²⁸ A motion was made to reconsider the adoption of the amendment.²⁹ Upon voting, the House failed to reconsider its action and the amendment stood.³⁰

Senate Consideration

Upon introduction, the Senate assigned the bill to its Transportation Committee, which favorably reported the bill, as substituted, on February 27, 2001.³¹ The Committee deleted the language of the House floor amendment and replaced it with language stating that for a parent not to have a child four years old or younger in a child seat, the parent or guardian has to obtain “a physician’s written statement that a physical or medical condition of the child prevents” the child from being in a child restraint seat.³² The General Assembly was seeking to strengthen the bill in order to comply with the federal government’s highway requirements.³³ The federal government felt that the House amendment wording was too broad and as a result, the state stood to lose approximately \$300,000 in federal highway funds.³⁴ In fact, after the federal government reviewed the existing 1984 language regarding a

25. HB 248 (HFA), 2001 Ga. Gen. Assem.; House Audio, *supra* note 3 (reading of proposed amendment). Compare HB 248, as introduced, 2001 Ga. Gen. Assem., with HB 248 (HFA), 2001 Ga. Gen. Assem.

26. See *Lawmakers 2001* (GPTV broadcast, Mar. 14, 2001) (on file with the *Georgia State University Law Review*).

27. See House Audio, *supra* note 3 (remarks by Rep. Ray Holland).

28. See Georgia House of Representatives Voting Record, HB 248 (Feb. 14, 2001). Compare HB 248 as introduced, 2001 Ga. Gen. Assem., with HB 248 (HFA), 2001 Ga. Gen. Assem. A floor amendment was also made to add a subsection to the Code which would have read, “a violation of the Code section not being a moving traffic violation for purposes of Code section 40-8-57”; however, the amendment was withdrawn prior to a vote. See House Audio, *supra* note 3 (proposed amendment withdrawn without discussion).

29. See House Audio, *supra* note 3 (rejection of motion to reconsider amendment).

30. See Georgia House of Representatives Voting Record, HB 248 (Feb. 14, 2001).

31. See State of Georgia Final Composite Status Sheet, HB 248, Mar. 21, 2001.

32. Compare HB 248 (HFA), 2001 Ga. Gen. Assem., with HB 248 (SCS), 2001 Ga. Gen. Assem.

33. See Audio Recording of Senate Proceedings, Mar. 13, 2001, at <http://www.state.ga.us/services/leg/audio/2001archive.html> [hereinafter Senate Audio].

34. See Tatum Interview, *supra* note 1.

child not having to be restrained if the parent was attending to the “child’s immediate or personal needs,” the wording was deemed too broad and the state was at risk of losing federal funding even if the current language was not altered.³⁵ On March 13, 2001, the Senate unanimously passed the bill as substituted.³⁶

From the Senate to Version as Passed

The bill returned to the House on March 19, 2001, and the House agreed to the Senate version.³⁷ The General Assembly forwarded the bill to the Governor, who signed HB 248 into law on April 26, 2001.³⁸

The Act

The Act amends Code section 40-8-76(b)(1) in two significant ways.³⁹ First, the Act requires that children four years old and younger who are being transported in a passenger car, van, or pickup truck be confined in a federally approved child restraint system.⁴⁰ This eliminates the loophole that existed in the prior Code section that allowed three- and four-year-olds to be restrained by an adult seat belt alone.⁴¹

Second, the Act changes the preexisting exception that allowed a child under four years old not to be restrained when the child’s personal needs required “immediate or emergency attention.”⁴² The Act narrows this exception to include only those cases where the parent or guardian obtains a physician’s written statement that a physical or medical condition prevents the child from being placed in a child restraint seat.⁴³ This exception is usually implicated when a child suffers from a medical

35. *See id.*

36. *See* Georgia Senate Voting Record, HB 248 (Mar. 13, 2001).

37. *See* Georgia House Voting Record, HB 248 (Mar. 19, 2001). Rep. Powell said that he agreed with the intent of the substitute, but considered it “federal extortion” over highway funds. *See* Audio Recording of House Proceeding, Mar. 19, 2001 (remarks by Rep. Alan Powell), at <http://www.state.ga.us/services/leg/audio/2001archive.html>; Powell Interview, *supra* note 11.

38. *See* 2001 Ga. Laws 740, § 2, at 740.

39. *Compare* 1983 Ga. Laws 1464, § 1, at 1465 (formerly found at O.C.G.A. § 40-8-1(b)(1) (Supp. 2000)), with O.C.G.A. § 40-8-76(b)(1) (2001).

40. *Compare* 1983 Ga. Laws 1464, § 1, at 1465 (formerly found at O.C.G.A. § 40-8-1(b)(1) (Supp. 2000)), with O.C.G.A. § 40-8-76(b)(1) (2001).

41. *Compare* 1983 Ga. Laws 1464, § 1, at 1465 (formerly found at O.C.G.A. § 40-8-1(b)(1) (Supp. 2000)), with O.C.G.A. § 40-8-76(b)(1) (2001).

42. *Compare* 1983 Ga. Laws 1464, § 1, at 1465 (formerly found at O.C.G.A. § 40-8-1(b)(1) (Supp. 2000)), with O.C.G.A. § 40-8-76(b)(1) (2001).

43. *Compare* 1983 Ga. Laws 1464, § 1, at 1465 (formerly found at O.C.G.A. § 40-8-1(b)(1) (Supp. 2000)), with O.C.G.A. § 40-8-76(b)(1) (2001).

condition that requires transport in a wheelchair or when the child is unusually large for his age.⁴⁴

Violation of the Act results in a fifty dollar fine (the fine for an adult not wearing a seat belt is only fifteen dollars) and the addition of one point on the individual's driving record for insurance purposes.⁴⁵ Two points are added for a second offense.⁴⁶ Despite these penalties, the real purpose of the Act is to save the lives of Georgia's young children by putting their parents and guardians on notice regarding the safest way to transport them.⁴⁷

Mauricia Allen

44. See Tatum Interview, *supra* note 1.

45. See *id.*

46. See *id.*

47. See Powell Interview, *supra* note 11; Tatum Interview, *supra* note 1.