

ORDINANCE NO. 14,947

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, by amending Sections 114-445 and 114-446, relating to safety belts and child restraint devices.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, is hereby amended by amending Sections 114-445 and 114-446 relating to safety belts and child restraint devices, as follows:

**Sec. 114-445. Use of safety belts and safety harnesses required.**

- (a) Except for motorcycles or motorized bicycles, 1966 model year or newer motor vehicles subject to registration in this state shall be equipped with safety belts and safety harnesses which conform with federal motor vehicle safety standards specified in I.C. § 321.445 subsection 1.
- (b) The driver and front seat occupants of a type of motor vehicle which is subject to registration in this state, except a motorcycle or a motorized bicycle, shall each wear a properly adjusted and fastened safety belt or safety harness any time the vehicle is in forward motion on a street or highway in this state, except that a child under eighteen years of age shall be secured as required under section 114-446 of this division. This subsection does not apply to the following:
  - (1) The driver or front seat occupants of a motor vehicle which is not required to be equipped with safety belts or safety harnesses under rules adopted by the state department of transportation.
  - (2) The driver and front seat occupants of a motor vehicle who are actively engaged in work which requires them to alight from and reenter the vehicle at frequent intervals, providing the vehicle does not exceed 25 miles per hour between stops.
  - (3) The driver of a motor vehicle while performing duties as a rural letter carrier for the United States Postal Service. This exemption applies only between the first delivery point after leaving the post office and the last delivery point before returning to the post office.
  - (4) Passengers on a bus.

- (5) A person possessing a written certification from a health care provider licensed under I.C. chs. 148 or 151 on a form provided by the state department of transportation that the person is unable to wear a safety belt or safety harness due to physical or medical reasons. The certification shall specify the time period for which the exemption applies. The time period shall not exceed 12 months, at which time a new certification may be issued, unless the certifying physician is from a United States military facility, in which case the certificate may specify a longer period of time or a permanent exemption.
  - (6) Front seat occupants of an authorized emergency vehicle while they are being transported in an emergency. However, this exemption does not apply to the driver of the authorized emergency vehicle.
- (c) The driver and front seat passengers may be each charged separately for improperly used or unused equipment under subsection (b) of this section. However, the driver shall not be charged for a violation committed by a passenger who is fourteen years of age or older unless the passenger is unable to properly fasten a seat belt due to a temporary or permanent disability. The owner of the motor vehicle may be charged for equipment violations under subsection (a) of this section.

**State law reference(s)**--Similar provisions, I.C. § 321.445.

**Sec. 114-446. Child restraint devices.**

- (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 under state law, 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 under state law, 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.
- (c) A child at least six years of age but under eighteen years of age who is being transported in a motor vehicle subject to registration under state law, 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 114-445.
- (d) This section does not apply to the following:
  - (1) Peace officers acting on official duty.

- (2) 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.
  - (3) The transportation of a child who has been certified by a physician licensed under I.C. ch. 148 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 back seat occupant of a motor vehicle for whom no safety belt is available because all safety belts are being used by other occupants or cannot be used due to the use of a child restraint system in the seating position for which a belt is provided.
- (e) The operator who violates subsection (a), (b) or (c) of this section is guilty of a misdemeanor and subject to a scheduled fine as required under I.C. § 805.8. Violations shall be charged as follows:
- (1) An operator who transports a passenger under fourteen years of age in violation of subsections (a), (b) or (c) may be charged with a violation of this section.
  - (2) If a passenger fourteen years of age or older is unable to properly fasten a seatbelt due to a temporary or permanent disability, an operator who transports such a person in violation of subsection (c) may be charged with a violation of this section. Otherwise, a passenger fourteen years of age or older who violates subsection (c) shall be charged in lieu of the operator.
  - (3) If a child under fourteen years of age, or a child fourteen years of age or older who is unable to fasten a seatbelt due to a temporary or permanent disability, is being transported in a taxicab in a manner that is not in compliance with subsection (a), (b) or (c), the parent, legal guardian, or other responsible adult traveling with the child shall be served with a citation for a violation of this section in lieu of the taxicab operator. Otherwise, if a passenger being transported in the taxicab is fourteen years of age or older, the citation shall be served on the passenger in lieu of the taxicab operator.
- (f) A person who is first charged for a violation of subsection (a) or (b) of this section 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.

- (g) 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.
- (h) 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 specified in I.C. § 321.446.

**State law reference(s)**--Similar provisions, I.C. § 321.446.

Sec. 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

T. M. Franklin Cownie, Mayor

Attest:

I, Diane Rauh, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 10-1055), passed by the City Council of said City at a meeting held June 28, 2010 signed by the Mayor on June 28, 2010 and published as provided by law in the Business Record on July 5, 2010. Authorized by Publication Order No. 7157.

Diane Rauh, City Clerk