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**HOUSE BILL NO. 254**

Offered January 9, 2002

Prefiled January 7, 2002

*A BILL to amend and reenact §§ 46.2-1095 and 46.2-1098 of the Code of Virginia, relating to child restraint devices; penalty.*

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 Patron—McQuigg

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 Referred to Committee on Militia, Police and Public Safety

**Be it enacted by the General Assembly of Virginia:****1. That §§ 46.2-1095 and 46.2-1098 of the Code of Virginia are amended and reenacted as follows:**

§ 46.2-1095. Child restraint devices required; safety belts for children four to sixteen required; penalty.

A. Any person who drives on the highways of Virginia any motor vehicle manufactured after January 1, 1968, shall ensure that any child under the age of four whom he transports therein is provided with and properly secured in a child restraint device of a type which meets the standards adopted by the United States Department of Transportation.

B. Any person transporting any child at least four years of age, but less than sixteen years of age, shall ensure that such child is provided with and properly secured by an appropriate safety belt system when driving on the highways of Virginia in any motor vehicle manufactured after January 1, 1968, equipped or required by the provisions of this title to be equipped with a safety belt system, consisting of lap belts, shoulder harnesses, combinations thereof or similar devices.

C. A violation of this section shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence or be the subject of comment by counsel in any action for the recovery of damages in a civil action.

D. Any person who violates subsection B of this section shall be subject to a civil penalty of twenty-five dollars to be paid into the state treasury and credited to the Child Restraint Device Special Fund pursuant to ~~§ 46.2-1097~~. No assignment of demerit points shall be made under Article 19 (~~§ 46.2-489 et seq.~~) of Chapter 3 of this title and no court costs shall be assessed for violations of this section.

E. A violation of this section may be charged on the uniform traffic summons form.

F. Nothing in this section shall apply to taxicabs, school buses, executive sedans, limousines, or the rear cargo area of vehicles other than pickup trucks.

§ 46.2-1098. Penalties; violations not negligence per se.

Any person, including those subject to jurisdiction of a juvenile and domestic relations district court, found guilty of violating this article shall be subject to a *mandatory* civil penalty of ~~five~~ \$100 dollars, *which shall not be suspended in whole or in part*, for a violation of *subsection A* of § 46.2-1095, or, if applicable, a civil penalty of twenty dollars for failure to carry a statement as required by § 46.2-1096. ~~The~~ *Notwithstanding the foregoing provisions of this section, the* court may waive or suspend the imposition of the penalty for a violation of § 46.2-1095 if it finds that the failure of the defendant to comply with the section was due to his financial inability to acquire a child restraint system. All civil penalties collected pursuant to this section shall be paid into the Child Restraint Device Special Fund as provided for in § 46.2-1097.

Violations of this article shall not constitute negligence per se; nor shall violation of this article constitute a defense to any claim for personal injuries to a child or recovery of medical expenses for injuries sustained in any motor vehicle accident.

INTRODUCED

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