

ORDINANCE NO. 2358

CONCERNING CHILD RESTRAINT SYSTEMS IN MOTOR VEHICLES AND THE WEARING OF SEAT BELTS IN MOTOR VEHICLES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION:

1. That Article XX of the Uniform Traffic Code for Colorado Municipalities, which is a part of Chapter 28 of the Code of Ordinances of the City of Grand Junction, is amended by the addition of a Section 20-18, reading as follows:

"20-18. Child restraint systems required - definitions, exemptions.

(a) As used in this section, unless the context otherwise requires:

(1) 'Child restraint system' means any device which is designed to protect, hold or restrain a child in a privately owned noncommercial passenger vehicle in such a way as to prevent or minimize injury to the child in an event of a motor vehicle accident and which conforms to all applicable federal motor vehicle safety standards.

(2) 'Safety belt' means a lap belt, a shoulder belt or any other belt of combination of belts installed in a motor vehicle to restrain drivers and passengers, except any such belt which is physically a part of a child restraint equipment directly related to the operation of safety belts.

(3) 'Seating position' means any motor vehicle interior space intended by the motor vehicle manufacturer to provide seating accommodation while the motor vehicle is in motion.

(b) Unless exempted pursuant to subsection (c) of this section, every child who is under four years of age and weighs under forty pounds being in this city in a privately owned noncommercial passenger vehicle which is driven by a resident of the State of Colorado shall be provided with a child restraint system suitable for the child's size and shall be properly fastened into such child restraint system which is in a seating position which is equipped with a safety belt or other means to secure said system according to the manufacturer's instructions. It is the responsibility of the driver transporting children, subject to the requirements of this section, to ensure that such children are provided with and that they properly use a child restraint system.

(c) The requirement of subsection (b) of this section shall not apply to a child who:

(1) Is being transported in a motor vehicle in which all seating positions equipped with safety belts or child restraint systems are occupied; or

(2) Is being transported in a motor vehicle as a result of a medical emergency.

(d) No person shall use a safety belt or child restraint system for children under four years of age and under in a motor vehicle unless it conforms to all applicable federal motor vehicle safety standards.

(e) Any violation of this section shall not constitute negligence per se or contributory negligence per se.

2. That Article XX of the Uniform Traffic Code for Colorado Municipalities, which is a part of Chapter 28 of the Code or Ordinances of the City of Grand Junction, is amended by the addition of a Section 20-19, reading as follows:

"20-19. Safety belt systems - mandatory use - exemptions - penalty.

(a) As used in this section:

(1) 'Motor vehicle' means a self-propelled vehicle intended primarily for use and operation on the public highways including passenger cars, station wagons, vans, taxicabs, ambulances, motor homes and pickups. The term does not include motorcycles, motorscooters, motorbicycles, motorized bicycles, passenger buses, school buses and farm tractors and implements of husbandry designed primarily or exclusively for use in agricultural operations.

(b) Unless exempted pursuant to subsection (c) of this section, every driver of every front seat passenger in a motor vehicle equipped with a safety belt system shall wear a fastened safety belt while the motor vehicle is being operated on a street or highway in this city.

(c) The requirement of subsection (b) of this section shall not apply to:

(1) A child required by section 20-12 to be restrained by a child restraint system;

(2) A member of an ambulance team, other than the driver, while involved in patient care;

(3) A peace officer, level I, as defined in section 18-1-901*(1)(I)*(3) C.R.S., while performing official duties so long as the performance of said duties is in accordance with rules and regulations applicable to said officer which are at least as restrictive as subsection (b) of this section and which only provide exceptions necessary to protect the officer;

(4) A person with a physically or psychologically disabling

condition whose physical or psychological disability prevents appropriate restraint by a safety belt system if such person possesses a written statement by a physician certifying the condition, as well as stating the reason why such restraint is inappropriate;

(5) A person driving or riding in a motor vehicle not equipped with a safety belt system due to the fact that federal law does not require such vehicle to be equipped with safety belt system;

(6) A rural letter carrier of the United States postal service while performing duties as a rural letter carrier; and

(7) A person operating a motor vehicle for commercial or residential delivery or pickup service; except that such person shall be required to wear a fastened safety belt during the time period prior to the first delivery or pickup of the day and during the time period following the last delivery or pickup of the day.

(d) Any person who operates a motor vehicle while he or any passenger is in violation of the requirement of subsection (b) of this section commits a misdemeanor punishable in accordance with the general violation section of this code or with the fine schedule established by the Municipal Judge under the Traffic Violations Bureau.

(e) No driver or passenger in a motor vehicle shall be cited for a violation of subsection (b) of this section unless the driver was stopped by a law enforcement officer for an alleged violation other than a violation of this section.

(f) Testimony at a trial for a violation charged pursuant to subsection (d) of this section may include:

(1) Testimony by a law enforcement officer that he observed the person charged operating a motor vehicle while said operator or any passenger was in violation of the requirement of subsection (b) of this section; or

(2) Evidence that the driver removed the safety belts or knowingly drove a vehicle from which the safety belts had been removed.

(g) Evidence of failure to comply with the requirement of subsection (b) of this section shall be admissible to mitigate damages with respect to any person who was involved in a motor vehicle accident and who seeks in any subsequent litigation to recover damages for injuries resulting from the accident. Such mitigation shall be limited to awards for pain and suffering and shall not be used for limiting recovery of economic loss and medical payments."

PASSED and ADOPTED this 19th day of August, 1987.

O.F. Ragsdale

