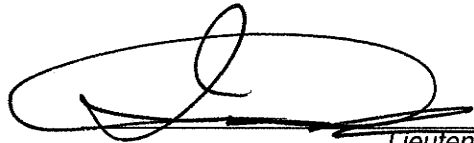


PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL


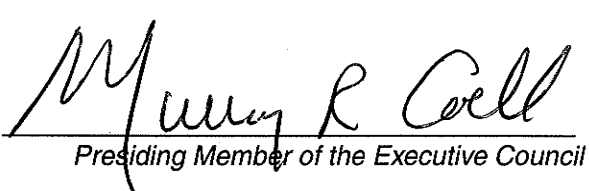
Order in Council No.

258 , Approved and Ordered MAY 10 2007

  
Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that Division 36 of the Motor Vehicle Act Regulations, B.C. Reg. 26/58, is repealed and the attached Division 36 substituted.

  
Minister of Public Safety and Solicitor General  
Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section:- Motor Vehicle Act, R.S.B.C. 1996, c. 318, s. 220 (9)

Other (specify):- oic 1004/58

May 3, 2007

## DIVISION 36 – CHILD SEATING AND RESTRAINT SYSTEMS

### Definition

**36.01** In this Division, the following definitions apply:

“**booster seat**” has the same meaning as “booster cushion” in the RSSR;

“**child**” means a person under age 9;

“**CMVSS**” means the Canada Motor Vehicle Safety Standards, as amended from time to time;

“**designated seating position**” means a seating position for which a seat belt assembly is provided or is required to be provided under the Act;

“**MVSR**” means the Motor Vehicle Safety Regulations, C.R.C., c. 1038, as amended from time to time;

“**RSSR**” means the Motor Vehicle Restraint Systems and Booster Cushions Safety Regulations, SOR/98-159, as amended from time to time.

### Exemption from the Act

**36.02** Section 220 (6) and (7) of the Act does not apply to the driver of a vehicle in respect of a passenger who is a child within the meaning of this Division.

### Obligation on driver

**36.03** (1) A person must not drive or operate on a highway a motor vehicle in which there is a child unless the driver or operator does the following:

(a) causes the child, other than a child referred to in paragraph (b), to be securely fastened in a designated seating position in the vehicle, in compliance with this Division, using

(i) an infant restraint system that complies with all the requirements set out in the RSSR, Schedule 4, CMVSS 213.1,

(ii) a child restraint system that complies with all the requirements set out in

(A) the RSSR, Schedule 3, CMVSS 213, if the child restraint system is not built into the vehicle, or

(B) the MVSR, Schedule IV, Part III, Standard 213.4, if the child restraint system is built into the vehicle,

(iii) a booster seat that complies with all the requirements set out in

(A) the RSSR, Schedule 5, CMVSS 213.2, if the booster seat is not built into the vehicle, or

(B) the MVSR, Schedule IV, Part III, Standard 213.4, if the booster seat is built into the vehicle, or

(iv) a seat belt assembly;

(b) causes the child, if the child has special needs or mobility impairments, to be securely fastened in the vehicle, in compliance with this Division, using

- (i) an infant restraint system for infants with special needs that complies with all the requirements set out in the RSSR, Schedule 7, CMVSS 213.5, or
  - (ii) a restraint system for disabled persons that complies with all the requirements set out in the RSSR, Schedule 6, CMVSS 213.3;
- (c) ensures that the child
  - (i) remains securely fastened, and
  - (ii) if the child is in a designated seating position, is the only occupant of that designated seating position.
- (2) A child referred to in subsection (1) must be securely fastened as follows:
  - (a) in a restraint system or booster seat referred to in subsection (1) (a) (i), (ii) (A) or (iii) (A) or (b) in accordance with the device manufacturer's instructions for that restraint system or booster seat;
  - (b) in a restraint system referred to in subsection (1) (a) (ii) (B) or (iii) (B) in accordance with the vehicle manufacturer's instructions;
  - (c) in a seat belt assembly, in accordance with the vehicle manufacturer's instructions,
    - (i) with the pelvic restraint placed firmly across the hips of the child, and
    - (ii) with the upper torso restraint, if there is one, placed over the shoulder and across the chest of the child and closely against the child's body.
- (3) A restraint system referred to in subsection (1) (a) (i) or (ii) (A) or (b) must be secured in the motor vehicle in accordance with the device manufacturer's instructions for that restraint system.

#### **Infant restraint systems**

- 36.04** (1) A child must be fastened in an infant restraint system used in a rearward facing position and specified by the manufacturer to be appropriate for the child's height and weight, until the child attains age one and weighs 9 kg or more.
- (2) A child who has attained age one and weighs 9 kg or more may continue to be fastened in a restraint system referred to in subsection (1) until, according to the manufacturer's specifications, the restraint system is no longer appropriate for the child's height and weight.
- (3) The restraint system referred to in subsection (1) or (2) must not be used in a designated seating position that has an active frontal airbag for that seat.

#### **Child restraint systems**

- 36.05** (1) A child who
- (a) has attained age one,
  - (b) weighs 9 kg or more, and
  - (c) is not required, or permitted, to be fastened in an infant restraint system in accordance with section 36.04

must be fastened in a child restraint system used in a forward facing position and specified by the manufacturer to be appropriate for the child's height and weight, until the child weighs 18 kg or more.

- (2) A child who has attained age one and weighs 18 kg or more may continue to be fastened in a restraint system referred to in subsection (1) until, according to the manufacturer's specifications, the restraint system is no longer appropriate for the child's height and weight.

#### **Booster seats and seat belt assemblies**

- 36.06** (1) A child who is no longer required, or permitted, to be fastened in a child restraint system in accordance with section 36.05 must be fastened on a booster seat, specified by the manufacturer to be appropriate for the child's height and weight, using the vehicle's seat belt assembly until the child reaches a height of 145 cm or more.
- (2) If the vehicle has an available seat belt assembly with an upper torso restraint and a pelvic restraint, other than the driver's seat belt assembly, a child referred to in subsection (1) must be fastened on the booster seat using that seat belt assembly.
  - (3) Despite subsection (1), if none of the available seat belt assemblies in the vehicle have an upper torso restraint, other than the driver's seat belt assembly, then a child referred to in subsection (1) must be fastened without a booster seat using a seat belt assembly with a pelvic restraint.
  - (4) A child who has attained a height of 145 cm or more may continue to be fastened on a booster seat referred to in subsection (1) until, according to the manufacturer's specifications, the booster seat is no longer appropriate for the child's height and weight.

#### **Seat belt assemblies**

- 36.07** A child who is no longer required, or permitted, to be fastened in a booster seat in accordance with section 36.06 must be fastened
- (a) in a seat belt assembly with an upper torso restraint and a pelvic restraint, if, other than the driver's seat belt assembly, there is one available in the vehicle, or
  - (b) in a seat belt assembly with a pelvic restraint, if, other than the driver's seat belt assembly, there is in the vehicle no available seat belt assembly with an upper torso restraint and a pelvic restraint.

#### **Restraint systems for infants with special needs and children with mobility impairments**

- 36.08** (1) Despite section 36.04, a child under age one who weighs less than 9 kg and who has special needs may be fastened in a vehicle using an infant restraint system for infants with special needs that is specified by the manufacturer to be appropriate for the child's height and weight.
- (2) Despite sections 36.05 to 36.07, a child age one or older who weighs 9 kg or more and who has mobility impairments may be fastened in a vehicle using a restraint

system for disabled persons that is specified by the manufacturer to be appropriate for the child's height and weight.

### **Exemptions**

**36.09** This Division does not apply to the driver or operator

- (a) of a motor vehicle licensed in a jurisdiction outside Canada if the driver or operator is using an infant or child restraint system, booster seat or seat belt assembly in compliance with the laws of that jurisdiction,
- (b) of a motor vehicle which is being operated as a taxi as defined in section 32.01,
- (c) who is a peace officer operating the vehicle in the lawful performance of his or her duties,
- (d) who is in possession of and produces on request to a peace officer a valid and subsisting certificate issued by a medical practitioner certifying that the child is unable for medical or physical reasons to wear or be fitted into an infant or child restraint system, booster seat or seat belt assembly, including a child who does not fit within the specifications of any manufactured infant or child restraint system or booster seat that is available for purchase,
- (e) of a motor vehicle that was not required to have a seat belt assembly under the *Motor Vehicle Safety Act* (Canada) at the time the vehicle was manufactured or imported into Canada unless the vehicle was modified so that there is a seat belt assembly for an available seating position for a child,
- (f) of an emergency vehicle, and
- (g) of a bus, other than a bus with
  - (i) a registered model year 1994 or later, and
  - (ii) a manufacturer's gross vehicle weight rating of less than 4 536 kg.