

Regulatory Analysis Form

2000-5 11/8/01

<b>Regulatory Analysis Form</b>	<p><b>This space for use by IRRC</b></p>  <p>IRRC Number: <b>2439</b></p>
<p>(1) Agency</p> <p>Transportation</p>	
<p>(2) I.D. Number (Governor's Office Use)</p> <p>#18-393</p>	
<p>(3) Short Title <b>Child Passenger Protection</b></p>	
<p>(4) Pa Code Cite</p> <p>67 Pa. Code, Chapter 102</p>	<p>(5) Agency Contacts &amp; Telephone Numbers</p> <p>Primary Contact: Dianna Reed (717) 787-6853</p> <p>Secondary Contact: Jessica Petrewicz (717) 787-6853</p>
<p>(6) Type of Rulemaking (Check One)</p> <p>.....</p> <p><input checked="" type="checkbox"/> Proposed Rulemaking</p> <p style="padding-left: 20px;">Final Order Adopting Regulation</p> <p style="padding-left: 20px;">Final Order, Proposed Rulemaking Omitted</p>	<p>(7) Is a 120-Day Emergency Certification Attached?</p> <p><input checked="" type="checkbox"/> No</p> <p style="padding-left: 20px;">Yes: By the Attorney General</p> <p style="padding-left: 20px;">Yes: By the Governor</p>
<p>(8) Briefly explain the regulation in clear and non-technical language.</p> <p>The purpose of this rulemaking is to provide guidance for the use of child passenger restraint systems as required by Section 4581 of the Vehicle Code, 75 Pa. C.S. § 4581, <i>as amended by the Act of December 23, 2002, P.L. 1982, No. 229.</i></p>	
<p>(9) State the statutory authority for the regulation and any relevant state or federal court decisions.</p> <p>The statutory authority for this rulemaking is Section 4581 of the Vehicle Code, 75 Pa. C.S. § 4581 <i>as amended by the Act of December 23, 2002, P.L. 1982, No. 229.</i></p>	
<p>(10) Is the regulation mandated by any federal or state law or court, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.</p> <p>This rulemaking is required by Section 4581 of the Vehicle Code, 75 Pa. C.S. § 4581 <i>as amended by the Act of December 23, 2002, P.L. 1982, No. 229.</i></p>	

(11) Explain the compelling public interest that justifies this regulation. What is the problem it addresses?

The public interest that justifies this rulemaking is the enhancement of safety in the use of child passenger restraint systems. There are some circumstances when the use of a required child passenger restraint system is actually dangerous to the child. This rulemaking provides guidance as to when there should be exemption from use of the child passenger restraint.

(12) State the public health, safety, environmental or general welfare risks associated with non-regulation.

The safety of children over a certain weight and height may be jeopardized if fastened into an automobiles seat belt system with a booster seat. It is also dangerous to use booster seats with only a lap seat belt. In addition, there may be children who, because of a medical condition, should not be fastened into a vehicle's passenger restraint system with a booster seat and who would be safer secured in a specialized child passenger restraint system . The safety of these children would be at risk if not exempted from the required use of a child passenger restraint system. In addition, this rulemaking is required by law as noted in items (9) and (10) above.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

This rulemaking will benefit all citizens in the Commonwealth through enhanced safety of children traveling in motor vehicles.

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

This rulemaking will not adversely affect any specific group except to the extent that the enabling legislation provides that vehicle operators will be subject to fines for failure to fasten a child into an appropriate child passenger restraint system, unless exempted under this rulemaking.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be require to comply.)

All vehicle operators transporting children under the age of eight (8) years will be affected by this rulemaking.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

This rulemaking was published as a statement of policy in the March 29, 2003 issue of the *Pennsylvania Bulletin* thereafter included in the Pennsylvania Code, 67 Pa Code, Chapter 102. Prior to publication as a statement of policy it was circulated among the Pennsylvania Chapter of the Academy of Pediatrics, PA SAFE KIDS, the Pennsylvania State Police and within the Department's Bureau of Highway Safety & Traffic Engineering and Bureau of Driver Licensing.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

The cost to the regulated community will be in the additional secondary fines imposed for violations of the statute and in the cost of purchasing booster seats. These costs cannot be readily calculated. The cost of a booster seat may range between \$25 and \$130. Cost to the regulated community results directly from the provisions of the statute. This rulemaking may result in marginal savings as parents with children falling within the exemption will not have to purchase booster seats.

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including and legal, accounting or consulting procedures which may be required.

The cost to the local governments will be in the additional cost of purchasing booster seats for school vehicles not otherwise exempted. These costs cannot be readily calculated but will be dependent on the number of subject children transported in vehicles operated by local governments or their contractors. The cost of a booster seat may range between \$25 and \$130. This cost to local government results directly from the provisions of the statute. This rulemaking may effect some marginal relief from those costs by exempting some transported children.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including and legal, accounting or consulting procedures which may be required.

This rulemaking is not expected to result in any costs or savings to state government.

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local governments, and state government for the current year and five subsequent years.

Estimated cost to the general public in the form of additional fines cannot be readily measured. The estimated costs associated with this rulemaking upon the general motoring public and local governments cannot be readily estimated. The cost of a booster seat may range between \$25 and \$130.

**REGULATORY ANALYSIS**

	Current FY Year	FY + 1 Year	FY + 2 Year	FY + 3 Year	FY + 4 Year	FY + 5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
Regulated Community	Not Readily measurable, if any					
Local Government	Not Readily measurable, if any					
State Government	Not Readily measurable, if any					
<b>Total Savings</b>						
<b>COSTS:</b>						
Regulated Community	Not Readily measurable					
Local Government	Not Readily measurable					
State Government	Not Readily measurable					
<b>Total Costs</b>	Not Readily measurable					
<b>REVENUE LOSSES:</b>						
Regulated Community	None					
Local Government	None					
State Government	None					
<b>Total Revenue Losses</b>						

(20a) Explain how the cost estimates listed above were derived.  
 The cost of a booster seat ranges between \$25 and \$130. The aggregate cost to implement the requirements of the statute and savings from exemption from the requirements under this rulemaking is dependent on demographic information not readily available to the Department and child transport patterns which have not been recorded.



(20b) Provide the past three year expenditure history for programs affected by this regulation.

Program	FY-3	FY-2	FY-1	CurrentFY
N/A				

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.  
A measurable cost/benefit analysis cannot be computed for this rulemaking.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.  
There were no nonregulatory alternatives considered since the rulemaking is required by the Act of December 23, 2002, P.L. 1982, No. 229.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide reasons for their dismissal.  
There were no alternative regulatory schemes considered since Act 229 required the promulgation of this rulemaking.

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.  
No, this rulemaking is not more stringent than Federal Standards.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?  
This rulemaking will not put Pennsylvania at a competitive disadvantage with other states.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.  
This rulemaking will not affect other existing or proposed regulations of the promulgating agency or other state agencies.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.  
This rulemaking will be subjected to the regulatory review process which involves publication in the *Pennsylvania Bulletin* for public comment. The regulations will also be forwarded to the House and Senate Transportation Committees and will be considered at a public meeting of the Independent Regulatory Review Commission.

(28) Will the regulation change existing reporting, record keeping, or other paperwork

Regulatory Analysis Form

requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

This rulemaking will not change any existing reporting, record keeping or other paperwork requirements.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small business, and farmers.

There are no special provisions in these regulations developed to meet the needs of any particular group, except to the extent that the rulemaking addresses the safety of children under eight (8) years of age.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

This rulemaking will become effective upon publication in the final form in the *Pennsylvania Bulletin*.

(31) Provide the schedule for continual review of the regulation.

The Department will review the regulation as changes in the design of child passenger restraint systems and studies relating to their proper use may emerge.

**FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE  
LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)

# 2439

2004 OCT -5 PM 3: 01

**DO NOT WRITE IN THIS SPACE**

Copy below is hereby approved as to form and legality.  
Attorney General.

By: Amy M. Elliott  
(Deputy Attorney General)

SEP 30 2004

Date of Approval

Check if applicable  
Copy not approved. Objections attached.

Copy of below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:

Department  
of  
Transportation  
(Agency)

DOCUMENT/FISCAL NOTE NO. 18-393----

DATE OF ADOPTION \_\_\_\_\_

BY Allen D. Pickler  
Secretary of Transportation

Copy below is hereby approved as to form and legality. Executive or Independent Agencies.

By: [Signature]

9/21/04

(Date of Approval)

(Deputy General Counsel)  
(Chief Counsel, Independent Agency)  
(Strike Inapplicable Title)

Check if applicable. No attorney General Approval or Objection within 30 days after submission.

**TITLE 67 TRANSPORTATION**

**PART I. DEPARTMENT OF TRANSPORTATION**

**SUBPART A. VEHICLE CODE PROVISIONS**

**ARTICLE VI. OPERATION OF VEHICLES**

**CHAPTER 102: CHILD PASSENGER PROTECTION**

**Proposed Rulemaking**

**TITLE 67 TRANSPORTATION**  
**PART I. DEPARTMENT OF TRANSPORTATION**  
**SUBPART A. VEHICLE CODE PROVISIONS**  
**ARTICLE VI. OPERATION OF VEHICLES**  
**CHAPTER 102: CHILD PASSENGER PROTECTION**

**Notice of Proposed Rulemaking**

**Preamble**

The Department of Transportation, pursuant to the authority contained in Sections 4581 and 6103 of the Vehicle Code, Act of June 17, 1976, P.L. 162, No. 81, *as amended* (75 Pa C.S. §§ 4581 and 6103), proposes to amend Title 67 of the Department of Transportation regulations by establishing Chapter 102, Child Passenger Protection, as set forth in Annex A to this Notice.

***Purpose of this Chapter***

The purpose of this chapter is to improve safety in transporting children by providing for exemption from the booster seat requirements in the Vehicle Code for children over a certain weight or height, or for children with a medical condition which makes use of a standard child passenger restraint system inappropriate.

***Summary of Significant Provisions***

Section 102.102(a) provides the general rule that children under 4 years of age must be fastened into a child passenger restraint system and children 4 years of age but younger than 8 years must be fastened into the vehicle's safety seat belt system with the use of an appropriately fitting booster seat.



Section 102.102(b) provides that children 4 years of age but younger than 8 who weigh less than 40 pounds may be secured in a child passenger restraint system in lieu of the use of a booster seat. If the vehicle was not originally equipped with a shoulder safety belt system, the child may be fastened in the safety seat belt system without the use of a booster seat. Children who weigh more than 80 pounds or who are 4 feet 9 inches or taller may also be fastened in the safety seat belt system without the use of a booster seat.

Section 102.102(c) provides that the requirements of the chapter can be satisfied through appropriate use of child restraint systems, booster seats or vehicle seats designed to accommodate children under 80 pounds, which are integrated into the design of the vehicle by the vehicle manufacturer.

Section 102.103 provides that, upon certification by a physician, children with a medical condition which makes use of a child passenger restraint system or booster seat impractical may also be exempted from the requirements of the regulation. The section delineates the information required to obtain a medical exemption.

***Persons and Entities Affected***

This rulemaking will affect all vehicle operators transporting children under the age of eight (8) years.

***Fiscal Impact***

These regulations will not require the expenditure of any additional funds by the Commonwealth. The cost to the regulated community will be in the cost of a booster seat which range between \$25 and \$130. This rulemaking may also result in marginal savings to parents with children falling within the exemptions who will thus not have to purchase booster seats.

### ***Regulatory Review***

Under Section 5(a) of the Regulatory Review Act, the Act of June 25, 1982 (P.L. 633, No. 181), *as amended*, 71 P.S. § 745.5(a), the agency submitted a copy of these proposed regulations, on October 5, 2004 to the Independent Regulatory Review Commission and to the Chairpersons of the House and Senate Transportation Committees. In addition to submitting the regulations, the agency has provided the Commission and the Committees with a copy of a detailed Regulatory Analysis Form. A copy of this material is available to the public upon request.

Under Section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed regulations within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria that have not been met. The Act specifies detailed procedures for review, prior to final publication of the regulation, by the Department, the General Assembly and the Governor of comments recommendation, or objections.

### ***Sunset Date***

The Department of Transportation is not establishing a sunset date for these regulations, since these regulations are needed to administer provisions required by the Vehicle Code (75 Pa. C.S. 101, et seq.). The Department of Transportation, however, will continue to closely monitor these regulations for their effectiveness.

### ***Public Comments***

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed amendments to Dianna J. Reed, Transportation

Planning Manager, Bureau of Highway Safety and Traffic Engineering, Pennsylvania  
Department of Transportation, Commonwealth Keystone Building, 400 North Street,  
P.O. Box 2047, Harrisburg, PA 17105-2047, within 30 days of publication of this notice  
in the *Pennsylvania Bulletin*.

***Contact Person***

The contact person for this regulation is Dianna J. Reed, Transportation Planning  
Manager, Bureau of Highway Safety and Traffic Engineering, Pennsylvania Department  
of Transportation, Commonwealth Keystone Building, 400 North Street, P.O. Box 2047,  
Harrisburg, PA 17105-2047; Telephone: (717) 787-6853.

Allen D. Biehler, P.E.

Secretary of Transportation

Annex A

TITLE 67 TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

SUBPART A. VEHICLE CODE PROVISIONS

ARTICLE VI. OPERATION OF VEHICLES

CHAPTER 102: CHILD PASSENGER PROTECTION

Proposed Rulemaking

- § 102.1 [Purpose.] (Reserved).
- § 102.2 [Definitions.] (Reserved).
- § 102.3 [Physical criteria for use of child passenger restraint system.] (Reserved).
- § 102.4 [Medical exemption from use of child  
passenger restraint system.] (Reserved).

§ 102.101 Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Child booster seat*—A child passenger restraint system or a belt positioning seat designed and manufactured to meet Federal motor vehicle safety standards in 49 CFR 571.213 (relating to child restraint systems) to position a child to properly sit in a Federally approved safety seat belt system.

*Child passenger restraint system*—A device or system to enhance the safety of children in motor vehicles which is designed and manufactured for use in motor

vehicles equipped with a safety seat belt system and which meets the Federal motor vehicle safety standards in 49 CFR 571.213.

Department — The Department of Transportation of the Commonwealth.

Safety seat belt system — Any strap, webbing or similar device designed to secure a person in a motor vehicle in order to mitigate the results of any accident, including buckles, fasteners and all installation hardware as specified by Federal Motor Vehicle Safety Standards No. 209 (49 C.F.R. § 571.209).

**§ 102.102 Physical criteria for use of child passenger restraint system.**

(a) General criteria. Children under 4 years of age shall be securely fastened in a safety seat belt system and a child passenger restraint system appropriate for their height and weight in accordance with the recommendations of the manufacturer. Children 4 years of age but younger than 8 years of age shall be securely fastened in a safety seat belt system and an appropriately fitting child booster seat in accordance with the recommendations of the manufacturer.

(b) Exemption based on child's weight or height, or on vehicle characteristics.

Exemption from the general criteria in subsection (a) shall be as follows:

(1) Children 4 years of age but younger than 8 years of age who weigh less than 40 pounds may, in lieu of use of a booster seat, be securely fastened in a child passenger restraint system appropriate for their height and weight in accordance with the recommendations of the manufacturer.

(2) Children 4 years of age but younger than 8 years of age riding in a passenger position in the vehicle which was not originally equipped with a shoulder safety seat

belt shall be fastened in the safety seat belt system without the use of a child booster seat or may be fastened in a child passenger restraint system appropriate for their height and weight in accordance with the recommendations of the manufacturer.

(3) Children 4 years of age but younger than 8 years of age who weigh more than 80 pounds or who are of a height of 4 feet 9 inches or taller may be fastened in the safety seat belt system without the use of a child booster seat.

(c) Integrated child restraint or booster seat. The requirements of this chapter may be satisfied by securing a child, in accordance with the recommendations of the manufacturer, in a child restraint system, booster seat or vehicle seat designed to accommodate children under 80 pounds, which is integrated into the design of the vehicle by the vehicle manufacturer.

**§ 102.103 Medical exemption from use of child passenger restraint system.**

(a) Exemption from the use of a child passenger restraint system for medical reasons may be obtained upon written certification by a physician that use of a child passenger restraint system is impractical. The certification shall be made on a form developed by the Department which shall require the following information:

- (1) The physician's name and practice address.
- (2) The date the form was completed.
- (3) The name, age and weight of the child.
- (4) The medical or physical reasons that the use of a particular child passenger restraint system or systems is impractical.

(5) A recommendation of the type of restraint the child should be fastened into or a statement that no appropriate restraint system is known.

(6) A recommendation regarding the length of time the exemption should extend, or a statement of the conditions under which the exemption should be lifted.

(7) Any other information deemed relevant by the physician, such as whether the child can be fastened into the child passenger restraint system but for only limited periods of time.

(b) The completed form shall be in the possession of the vehicle operator whenever the child is being transported.

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

www.dot.state.pa.us

Office of Chief Counsel

P.O. Box 8212

Harrisburg, Pennsylvania 17105-8212

(717) 787-6485



October 5, 2004

Robert E. Nyce  
Executive Director  
14<sup>th</sup> Floor Harrisstown 2  
333 Market Street  
Harrisburg, PA 17101

**Re: Proposed Rulemaking  
Regulation #18-393: 67 Pa. Code, Chapter 102 —  
Child Passenger Protection**

Dear Mr. Nyce:

Enclosed please find a copy of the Face Sheet, Preamble, Annex A and Regulatory Analysis Form for a new regulatory chapter which the Department of Transportation intends to adopt following proposed rulemaking in accordance with the provisions of Section 204 of the Commonwealth Documents Law, Act of July 31, 1968, P.L. 769, 45 P.S. § 1204.

Copies of these materials were also delivered today to the majority and minority chairpersons of the Pennsylvania House and Senate Transportation Committees and to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

The Department of Transportation will provide you with any assistance you require to facilitate a thorough review of this regulation. Thank you for your attention.

Very truly yours,

A handwritten signature in black ink, appearing to read "S. F. J. Martin". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Stephen F. J. Martin  
Regulatory Counsel



**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

I.D. NUMBER: #18-393 #2439  
SUBJECT: Child Passenger Protection, 67 Pa. Code, Chapter 102  
AGENCY: Department of Transportation

**TYPE OF REGULATION**

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- X Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor

**FILING OF REGULATION**

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<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
<u>10/5/04</u>	<u><i>Jim Feriello</i></u> for Majority Chair	SENATE COMMITTEE ON TRANSPORTATION
<u>10/5/04</u>	<u><i>Mary E. Flaherty</i></u> for Minority Chair	
<u>10/5/04</u>	<u><i>Kimberly A. Roberts</i></u> for Majority Chair	HOUSE COMMITTEE ON TRANSPORTATION
<u>10/5/04</u>	<u><i>Margaret J. [unclear]</i></u> for Minority Chair	
<u>10/5/04</u>	<u><i>[unclear]</i></u>	LEGISLATIVE REFERENCE BUREAU
<u>10/5/04</u>	<u><i>D. Pagan</i></u>	INDEPENDENT REGULATORY REVIEW COMMISSION

Date: October 5, 2004