

Ordinance No. 3371

An ordinance amending Chapter 23, Traffic, Article I, In General, Sec. 23-37. - Use of child passenger restraining system required; exceptions; penalty, specifically amending Section 23-37 to be in compliance with State Statute; repealing all ordinances to the contrary; and declaring an emergency.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BROKEN ARROW:

SECTION I. Broken Arrow Code Chapter 3, Traffic, Article I, In General, Sec. 23-37. - Use of child passenger restraining system required; exceptions; penalty, is hereby amended to read as follows:

Sec. 23-37. - Use of child passenger restraining system required; exceptions; penalty.

- (a) Every driver when transporting a child under eight (8) years of age in a motor vehicle operated on the roadways, streets, or highways in this municipality, shall provide for the protection of said child by properly using a child passenger restraint system as follows:
- (b) A child under the age of four (4) years of age shall be secured in a child passenger restraint system. The child restraint system shall be rear-facing until the child reaches two (2) years of age or until the child reaches the weight and height limit of the rear-facing child passenger restraint system as allowed by the manufacturer of the child passenger restraint system, whichever occurs first;
- (c) A child at least four (4) years of age but younger than eight (8) years of age, if not taller than 4 feet 9 inches in height, shall be properly secured in either a child passenger restraint system or child booster seat;
- (d) If a child is eight (8) years of age or is taller than 4 feet 9 inches in height, a seat belt properly secured to the vehicle shall be sufficient to meet the requirements of this section. For purposes of this section, a "child passenger restraint system" means an infant or child passenger restraint system that meets the federal standards, as set by 49 C.F.R. Section 571.213 or future amendments thereof.
- (e) The provisions of this section shall not apply to:
 - (1) The driver of a school bus, taxicab, moped, motorcycle, or other motor vehicle not required to be equipped with safety belts pursuant to state or federal laws;
 - (2) The driver of an ambulance or emergency vehicle;
 - (3) The driver of a vehicle in which all of the seat belts are in use;
 - (4) The transportation of children who for medical reasons are unable to be placed in such devices, provided that there is written documentation from a physician of such medical reason;
 - (5) The transportation of a child who weighs more than 40 pounds and who is being transported in the back seat of a vehicle while wearing only a lap safety belt when the back seat of the vehicle is not equipped with combination lap and shoulder safety belts, or when the combination lap and shoulder safety belts in the back seat are being used by other children who weigh more than 40 pounds. Provided, however, for purposes of this paragraph, back seat shall include all seats located behind the front seat of a vehicle operated by a licensed child care facility or church. Provided further, there shall be a

rebuttable presumption that a child has met the weight requirements of this paragraph if, at the request of any law enforcement officer, the licensed child care facility or church provides the officer with a written statement verified by the parent or legal guardian that the child weighs more than 40 pounds.

- (f) Any person convicted of violating subsection (a) or (b) of this section shall be punished by a fine of \$50.00 dollars and shall pay all court costs thereof. This fine shall be suspended and the court costs limited to a maximum of \$15.00 dollars in the case of the first offense upon proof of purchase or acquisition by loan of a child passenger restraint system.

SECTION II. Any ordinance or parts of ordinances found to be in conflict herewith are hereby repealed.

SECTION III. An emergency exists for the preservation of the public health, peace and safety, and therefore this ordinance shall become effective from and after the time of its passage and approval.

PASSED AND APPROVED this 17th day of November, 2015.

MAYOR

ATTEST:

(Seal) CITY CLERK

APPROVED:

Assistant City Attorney