

PROPOSED NEW CHILD RESTRAINT LAWS FOR WESTERN AUSTRALIA

FREQUENTLY ASKED QUESTIONS

Western Australia is currently drafting amendments to local laws that will see a raft of new rules for the restraint of children in vehicles introduced in 2010.

The questions and answers below provide information on the proposed new laws and how they may impact on drivers.

GENERAL INFORMATION ABOUT THE PROPOSED NEW LAWS

1. What does the current law say about child restraints?

The *WA Road Traffic Code 2000* as it currently stands requires that children less than 12 months of age must be restrained in a suitable approved child restraint. However, children between 12 months and 16 years of age can be restrained in either an approved child restraint or a properly fastened seatbelt, where one is available.

Concern has been expressed both within WA and at the national level that allowing children over the age of 12 months to use a standard seatbelt does not provide many children with an adequate level of safety when travelling in vehicles.

2. In what way are the WA laws changing?

The new laws will reduce the risk of injury caused by the use of unsuitable restraints for a child's size by specifying the type of restraint to be used at different ages and where children must be seated in a vehicle.

Specifically, the new laws will require children –

- **From birth to the age of six months** to be restrained in a rearward facing child restraint (e.g. infant capsule);
- **From six months until the age of four years** to be restrained in either a rearward or forward facing child restraint with in-built harness; and

- **From four years until the age of seven years** to be restrained in either a forward facing child restraint or booster seat restrained by a correctly adjusted and fastened seatbelt or child safety harness.

Children **over the age of seven years** can be restrained in an adult seatbelt, as the law currently allows.

3. Why do WA's child restraint laws need to change?

In Western Australia, around 14 child passengers aged 0-16 years are killed on our roads each year, with a further 225-230 seriously injured. Just over 20 per cent of deaths in this age group, and nine per cent of those seriously injured, were not wearing a restraint at the time of the crash.

A child that is properly secured in an approved child restraint is less likely to be injured or killed in a car crash than one who is not restrained or restrained in a seat that is inappropriate for their size.

A 2005 Observational Study for Restraint Use in Western Australia found that, while restraint use for the entire population is generally high, correct restraint use for children is considerably lower. The survey observed that only around 60 per cent of those in the one to four year-old age group, and 80 per cent of those aged five to 11 years, were restrained in the correct manner.

People working in the area of child restraints continue to observe that many children are prematurely graduating to the next restraint type, or seatbelts alone, when this is not appropriate for their size. This is compromising their safety in the event of collision.

In January 2008, the Australian Transport Council (comprising of Transport and Road Safety Minister's from across Australia) approved new model laws which mandated for size-appropriate restraints for all children up to the age of seven years. As party to the national road rules, Western Australia is required to adopt these new laws to ensure that key rules such as this are consistent throughout Australia.

4. When will the new laws come into effect?

It is expected that the new laws will come into effect in the first half of 2010. For your child's safety the Government urges all parents and carers to ensure that they comply with the new rules as soon as possible.

To allow parents and carers sufficient time to purchase (or arrange hire) of the restraints they need, or to make necessary modifications to their vehicle, Western Australia is considering phasing the new laws in over time. If a staged implementation is introduced, the first phase to be introduced will be the new laws that impact on children aged zero to under four years, followed three to six months later by the laws for those aged four to seven years.

SPECIFIC INFORMATION ABOUT THE NEW LAWS

5. Under the new laws, will my child be able to sit in the front seat?

Under the new laws, if the vehicle has two or more rows of seats, only children four years and over will be permitted to sit in the front seat, provided they are suitably restrained.

Children aged between four and seven years will not be permitted to sit in the front seat unless all other seating positions are already occupied by children under seven.

Children up to four years of age must be restrained in a suitable restraint in the rear of the vehicle at all times.

If there is only one row of seats in the vehicle (eg a utility), then children under 7 years are permitted to be seated in the front, however, you will need to ensure that the vehicle has the necessary anchor points to ensure the relevant child restraint is fitted correctly.

If there is a passenger airbag in the front seating position occupied by a child, it is recommended that the seat is moved as far back as possible while still allowing correct restraint and seatbelt fit.

6. My car has extra seats in the back. What restraints should I use?

If the vehicle is fitted with an additional row of seats in the cargo space, and these seats are specifically constructed for children, you can use these seats to carry children between the ages of four to seven years. You should not use a booster seat in this situation because the additional seat will not be able to accommodate a booster seat of the appropriate height. The seats are also not likely to have upper tether attachment points, which are required for safe anchoring of a child restraint.

In this situation, the four to seven year old child should be restrained with the belts or harness supplied.

If the vehicle is fitted with an additional row of seats and these seats are designed for the carriage of adults, then an appropriate child restraint is required for children under the age of seven years. The type of restraint will depend on the age and size of the child. If the restraint requires an anchor point and tether strap (all child seats and some boosters) then these must be used.

7. What if the recommended restraint isn't suitable for my child?

Provisions in the WA regulations will ensure a child is not required to use a restraint that is unsuitable for their size and weight.

A child who is too tall or heavy for the restraint should use a restraint for the next age category.

A child that is too small for the type of restraint the laws say should be used can be restrained in a restraint specified for a younger child.

Standards Australia are currently reviewing the Standard for child restraints to include larger booster seats suitable for children up to 36 kg. This will allow parents of children under the age of seven who have outgrown their current booster, which currently only allows up to 26 kg in weight, to be appropriately restrained for longer.

8. I have been using just a normal seatbelt for my six year old child. Will I now need to use a booster seat?

If the child is aged between four and seven years, then yes, legally the child must be restrained in a suitable restraint, which is most likely to be a booster seat.

If the child is too tall or too heavy for a booster seat, then they may graduate to the adult seatbelt, preferably with an approved child safety harness. A child is too tall for a booster seat when the child's eyes are at the same level as the top of the booster seat. If a child is too heavy for a booster seat, they are too heavy for a booster cushion; both have a maximum weight limit of 26 kg.

9. Why do the new rules refer to age instead of size or height and weight?

Research conducted by the Centre for Automotive Safety Research in Adelaide indicates that age, rather than height or weight, will result in the smallest number of children being inappropriately restrained. Guidance to parents and carers are also easier to follow if they are described in the law in terms of age.

The use of age in the laws will also make it easier for Police to enforce the restraint wearing requirements.

Child restraint information provided by manufacturers and child safety groups will still refer to the height and weight of the child as important determinants of what is an appropriate restraint for a particular child. As there can be wide variations in the height and weight of children of the same age, the new laws will allow for children who are too large for the suggested restraint to be legally restrained in an approved restraint that is specified for the next age level.

10. Is it possible to fit three child restraints across the back seat of my car?

There is considerable variation in the types of child restraints and brands available for purchase, including some that are specifically designed as 'compact' or slimline.

The number of restraints that can be correctly fitted to any particular vehicle model will depend on both the make and model of the vehicle and

the child restraints chosen, including the combination of restraints required. You will need to ensure that you have enough anchor points in the vehicle to fit the restraints.

Depending on the type of restraints required, most medium to large cars will take three restraints across the back seat.

11. Is it legal to use an H harness with or without a booster seat?

Under the Australian Standard for child restraints (AS/NZ 1754), harnesses are suitable for children weighing between 14 and 32 kg.

Under the new laws if the child is 14 kg - 26kg and between 4 and 7 years of age, then the harness should be used in conjunction with a booster seat. This is because evidence suggests that a child is safest if it remains in a structured seat that is designed for a child until he/she is too heavy or tall to fit in it.

Harnesses can be used without a booster seat when the child outgrows the booster seat (ie weighs between 26 kg and 32 kg, is over 7 years of age or is too tall).

Parents/carers could consider the use of an H harness for a child weighing 14-32 kg if the child is to travel in a taxi where there is no suitable child seat or booster seat available. H harnesses must be used in conjunction with the top tether and vehicle's anchor point.

12. What do the new laws mean for bus and taxi drivers?

Bus drivers will continue to be exempt from ensuring passengers under 16 years of age are restrained.

Under the *WA Road Traffic Code 2000*, a "bus" is defined as a motor vehicle, built mainly to carry people, that seats over 12 adults (including the driver).

If the vehicle involved is designed to carry 12 adults or less (including the driver) it is not a bus and the driver is required to ensure that all passengers are appropriately restrained.

Taxi drivers will be exempt from the new provisions if there is no suitable, approved child restraint available. If the taxi has two or more rows of seats, children under the age of seven years must not be in the front row of seats.

Taxi drivers will continue to be responsible for ensuring passengers between the ages of seven and 16 years are appropriately restrained.

For the purposes of the *Road Traffic Code 2000*, taxi means a taxi within the meaning of the Taxi Act 1994 or a taxi-car within the meaning of section 47Z of the Transport Co-ordination Act 1966.

Omnibus drivers (including small charter vehicles) will also be exempted from the new provisions, similar to taxi drivers.

13. Who is responsible for ensuring children are appropriately restrained when travelling in a vehicle?

By law, drivers are responsible for making sure that all occupants (including themselves) are appropriately restrained. Drivers will be fined and incur demerit points if passengers are unrestrained when travelling in a vehicle.

This rule does not apply to drivers of buses or motor bikes. Under the new rules, taxi drivers will not be responsible for ensuring children under 7 years of age are appropriately restrained, or for passengers over 16 years as is currently the case.

14. I need to transport a number of small children to kindergarten or other venue, what are my options?

Under the new laws, you will only be able to transport children under seven years in an appropriate child restraint or booster seat. All child restraints need to be correctly anchored to the vehicle and the occupants properly fastened.

You will therefore only be able to carry as many children under four years as there are anchor points in the vehicle for child restraints. This is no different to the existing requirement for children under the age of 12 months.

Children aged four to seven years will need to be transported in booster seats, or in an adult seatbelt (preferably with harness) if they are too tall or heavy for a booster seat.

The new laws do not require the fitment of additional anchor points, however, it is recommended that carers or organisations who transport children on a regular basis consider whether the vehicles being used are suitable for the number and ages of children requiring to be carried. Information on the fitment of anchor points to a vehicle can be obtained from the Department of Transport's Vehicle Safety Section on 9216 8000.

15. I am picking someone up from the airport and they have a young child. Do I need a child restraint?

Yes. It is the driver's responsibility to ensure restraints are fitted and used.

Visitors are encouraged to bring their own child restraint from home for travel within WA or to make other arrangements to ensure that a restraint appropriate to the age, size and weight of the child is available during their stay.

If the visitor chooses to use a taxi, they will not be required by the law to use a restraint if the child is under seven years of age. However, it is recommended that child restraints be used wherever possible in order to provide the best protection for a child in the event of a crash. Prior arrangements with the taxi company may need to be made.

16. What is the penalty for not wearing a seatbelt or suitable approved child restraint?

In WA the driver of the motor vehicle is responsible for ensuring that all passengers are suitably restrained, including children under the age of 16 years. The penalty increases in line with the number of unrestrained passengers, including unrestrained children.

The penalties that will apply to the driver carrying children who are not restrained in an appropriate restraint are as follows:

Offence	Fines	Demerit Points*
Unrestrained Driver	\$500	4
with one unrestrained passenger	\$600	4
with two unrestrained passengers	\$700	4
with three unrestrained passengers	\$800	4
with four or more unrestrained passengers	\$900	4
Restrained Driver		
with one unrestrained passenger	\$500	4
with two unrestrained passengers	\$600	4
with three unrestrained passengers	\$700	4
with four or more unrestrained passengers	\$800	4

* Demerit points are doubled on long weekends and other prescribed holiday periods.

The penalties for not wearing an appropriate restraint in Western Australia reflect the known increase in injury severity that can occur if there is a collision and the continued level of road trauma seen among non-restraint wearing drivers and passengers.

17. Can I use my existing child restraint? What if it is 10 years old?

Under current road law, you can continue to use your existing restraint provided it complies with AS/NZ 1754: 1991 or newer and is in proper working order.

You will need to continually assess your existing restraint to determine if it is still suitable for the age, size and weight of your child as he/she grows.

The Australian New Zealand Standard for child restraints has been continually improved since 1991 and it is likely that older style restraints do not meet the new requirements. It is therefore not recommended that any child restraint be used after ten years of age because restraints older

than ten years cannot be guaranteed to perform as they were originally intended.

18. I am thinking of buying a second hand restraint. Is this permitted?

There is nothing in the rules that prevents anyone from using a second-hand child restraint, provided it carries the AS/NS 1754 mark. Restraints that do not carry this mark do not comply with Australian Standards and are illegal to use as they may compromise the child's safety in the event of a crash.

It is very important to check the history and condition of any second hand restraint before purchase. Obvious signs of wear include harnesses that are frayed or faded and plastic shells or buckles that are cracked, broken or showing signs of distress. Before agreeing to the purchase, the buckles and adjusters should also be tested to ensure they are in working order.

If you are buying a second-hand restraint, it is a good idea to get the instruction manual, either from the seller or the manufacturer.

Never use a restraint which has been involved in a crash.

If you are uncertain about the safety history of a second-hand restraint, it is recommended that you look for other alternatives where the safety history is known.

GENERAL INFORMATION ABOUT CHILD RESTRAINTS

19. What is an 'Approved Child Restraint'?

At all times an approved child restraint must be correctly anchored, fitted and properly adjusted for the child who is using the restraint.

For a restraint to be approved for the purposes of the law, they must comply with Australian and New Zealand Standard (AS/NZ) 1754:1991 or any subsequent version of that Standard.

All child restraints complying with AS/NZ 1754 that are sold in Australia are designed to meet strict requirements covering the materials, design, construction, performance, testing and labelling of child restraints.

Restraints brought in from other countries do not meet the Australian Standard. It is illegal to use them in Western Australia.

20. What types of child restraints are available?

Standards-approved, size-appropriate restraints already exist in Australia. As children grow, they require different sorts of approved child restraints:

Infant restraint - is a rearward facing restraint for infants up to 9kg (birth to approx six months old). It has its own inbuilt harness system. These restraints are also known as *rearward facing child restraints*. They all use a top tether.

Child seat - is a forward facing seat for children between 8-18kg (approximately six months to four years old). It has its own inbuilt harness system. These restraints are also known as *forward facing child restraints*. They all use a top tether.

Booster seat / cushion- is a device that increases the child's seated height when using a seatbelt. The Standard defines booster seats as being suitable for children between 14-26kg (approximately four up to seven years old). A booster seat is restrained by a properly adjusted seatbelt or child safety harness. Some boosters use a top tether. Booster cushions are devices that are similar to booster seats but do not have backs or sides. Booster seats (with backs and sides) offer better protection than booster cushions, particularly for sleeping children.

Child Safety Harness- is a device that can be used on its own or in conjunction with a booster seat up to the weight of 26kg. Once the child has grown too tall or is too heavy for the booster seat, a child safety harness can be used up to 32 kg without a booster if the child is unable to wear the seatbelt correctly.

Convertible child restraint - is one that can be used in more than one mode. For example a restraint combining a rear facing infant restraint and child seat, or combining a child seat and booster seat are commonly referred to as convertibles.

A good reference for the fitting of child restraints in Australia, including pictures of the various types and the recommended age, weight and height limits, can be found at the Federal Department for Infrastructure, Transport, Regional Development and Local Government website – Simple Guide to Child Restraints

http://www.infrastructure.gov.au/roads/safety/publications/2007/Child_restraints.aspx

21. Can I hire a child restraint?

It is worth considering hiring a restraint for short term use - it's economical and you won't have the problem of finding storage space once you no longer need it. It also allows you to get the most appropriate restraint for your child's age.

A number of organisations and businesses provide this service in WA.

22. Where can I go for information on child restraints in WA?

Local information on what types of child restraints are available and how they should be fitted for children of varying sizes and weights can be obtained from the following organisations:

RoadWise

Child Restraint Information Line - 1300 780 713
Child Car Restraint Coordinator – phone 9213 2089
Email - childcarrestraints@walga.asn
www.childcarrestraints.com.au

Kidsafe WA

Godfrey House, Princess Margaret Hospital,
Thomas Street (near Roberts Rd corner)
Subiaco WA 6008
Phone:(08) 9340 8509
Country Callers:1800 802 244
Email:kidsafe@kidsafewa.com.au
<http://www.kidsafewa.com.au/childcarrestraints.html>

School Drug Education and Road Aware program

151 Royal Street
EAST PERTH WA 6004
Phone : (08) 9264 4743
Email : sdera.co@det.wa.edu.au
<http://www.det.wa.edu.au/sdera/detcms/navigation/road-safety/?oid=MultiPartArticle-id-1827482>

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