

Land Transport (Road User) Amendment Rule 2013

Submission to New Zealand Transport Agency

Contact

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About the New Zealand Nurses Organisation

The New Zealand Nurses Organisation is the leading professional and industrial organisation for nurses in Aotearoa New Zealand, representing over 46,000 nurses, midwives, students, kaimahi hauora and health workers on a range of employment-related and professional issues. Te Runanga o Aotearoa comprises our Māori membership and is the arm through which our Te Tiriti o Waitangi partnership is articulated.

NZNO provides leadership, research and support for professional excellence in nursing, negotiates collective employment agreements on behalf of its members and collaborates with government and other agencies throughout the health sector. Nurses are the largest group of health professionals comprising half the health workforce.

The NZNO vision is “Freed to care, Proud to nurse”. Our members enhance the health and wellbeing of all people of Aotearoa New Zealand and are united in their professional and industrial aspirations to achieve a safe, sustainable and accessible system of public health care for all New Zealanders.

EXECUTIVE SUMMARY

1. The New Zealand Nurses Organisation (NZNO) welcomes the opportunity to comment on the proposed amendment to road safety rule 2013, extending mandatory child restraint use to children under seven.
2. NZNO has consulted members of the College of Primary Health Care Nurses and Nurses for Children and Young People Aotearoa Section, and professional nursing and policy advisory staff, in the preparation of this submission.
3. We have also consulted with Plunket.
4. NZNO is a strong advocate for the safety of children and sees the amendment as a small step towards comprehensive child restraint legislation, namely, mandatory restraint until the child is of an appropriate height (148-150cm, around 11-12 years of age) as is the case in other countries.
5. Accordingly, NZNO supports the amendment, but makes a number of recommendations to ensure that it achieves the purpose of protecting *all* children from preventable injury and death in motor vehicles, not just half of them.

DISCUSSION

Child Restraints: Evidence and Action

6. NZNO notes that while this amendment is consistent with the seven years of age that Australia has set for mandatory child restraints, it is still the lowest mandatory age, well below the 10 - 12 years of age set by comparable OECD countries (Table 1), and does not incorporate a height (or weight) requirement, though body size is a critically important determinant for safe use of seat belts (Howard, 2002).

COUNTRY	HEIGHT REQUIREMENT	AGE REQUIREMENT
Switzerland	0-150 centimetres	0-12 years
Germany	0-150 centimetres	0-12 years
Spain	0-150 centimetres	0-12 years
Hungary	0-150 centimetres	0-12 years
United Kingdom	0-135 centimetres	0-12 years
Belgium	None	0-12 years
Canada	Varies- 0-145 centimetres	0-10 years
United States	Varies	Generally 0-9 years
Japan	None	0-7 years
Australia	None	0-7 years
Aotearoa	None	0-5 years

Table 1. *Safe Journeys - Child Restraints*, Office of the Associate Minister of Transport. Note: Weight is not cited in but is often included in recommended guidelines for parents.

7. Clearly, children grow - that is why we distinguish between which restraints are safe for infants, toddlers and young children. Equally clearly children do not stop growing after seven years of age, and growth patterns are not identical. Safety regulations must take into account the significant discrepancy in size between children, and between children eight years and over and adults, and mandate child restraints accordingly.
8. There is a substantial and well established body of evidence to support a suite of safety measures for appropriate types *and location* of child restraint in vehicles, based on the size of the child. Those cited in the Review referenced above include the Canadian recommendations for the use of four types of restraint based on size:
- Infants up to 10 kg should be seated in a **rear-facing infant carrier**;
 - toddlers from 10 kg to 18 or 22 kg should be seated in a **forward-facing child safety seat**, the upper weight limit depending on the seat model;

- children from 18 or 22 kg to should be seated in a **booster seat**. (A considerably greater weight threshold of 36kg is recommended in the United States and the United Kingdom.); and
 - larger children should use a lap or shoulder **seat belt** in the **rear seat**.
9. The direction a child faces and its position in the car also impacts on safety, the rear seat being by far the safest location. For example, children were 1.7 times less likely to suffer a fatal or severe injury than front seat occupants according to one study (M Berg, 2000), while another estimated a 36% reduction in the risk of fatality for children involved in fatal crashes if they were in the back seat, regardless of whether they were restrained (ER Braver, 1998).
10. Other studies show the importance of the correct use of child safety seats, in reducing the risk of, for example, both fatality (71%) and serious injury by (67%) (Kahane, 1986), including one which indicated that large, rear-facing child restraints for children up to three years old (a design used in Scandinavian countries) reduced injuries by 96% (I Isaksson-Hellman, 1997).
11. Australian regulations, while inadequate as to upper age limit and without size restrictions, do at least offer a further degree of safety by specifying both the direction a child faces and where they may sit according to age:
- Children younger than six months must be secured in a **rearward facing** restraint;
 - Children aged six months to under four years must be secured in **either a rear or forward facing** restraint;
 - Children aged four years to under seven years must be secured in **forward facing child restraint or booster seat**;
 - Children younger than four years **cannot travel in the front seat** of a vehicle with two or more rows; and
 - Children aged four years to less than seven **years cannot travel in the front seat** of a vehicle with two or more rows, unless all other back seats are occupied by children younger than seven years in a child restraint or booster seat.
12. New Zealand legislation, however, makes it mandatory for children to travel in the back seat between the ages of five and fourteen *only* if no child restraint (up to seven years) or seat belt (up to 14 years) is available (New Zealand Transport Agency)!
13. Accordingly NZNO recommends extending the amendment to require:
- appropriate child restraints for all children up to 12 years and up to a height of 150cm;and
 - children up to the age of 12 to travel in the back seat unless all other back seats are occupied by younger children with appropriate restraints.

14. We suggest extending the age for seven years is phased in progressively over the next few years.

Role of Nurses

15. Nurses recognise New Zealand's poor road safety record and comparatively minimal safety standards in response to proven risks (~70% of countries have lower blood alcohol concentration limits for driving, for instance (International Centre for Alcohol Policies) because they deal with the consequences of preventable injury and death in emergency departments, theatres, surgical and critical care wards and rehabilitation and disability units, for example,.
16. Nurses also play an important facilitative role in educating and helping parents to access age/size appropriate child restraints. i.e. in lieu of adequate mandatory requirements, it is nurses who pick up the task of assessing children and making appropriate recommendations for child restraints based on experience and international evidence, *without* the authoritative support they should have from legislators and regulatory bodies.
17. Thus nurses frequently spend time explaining why, although it may not be the law, a very large young child is ready for a booster seat, or a tiny child still needs to use toddler restraints.
18. The ethnic and cultural diversity of our population ensure that size (height and weight) is a significant and ongoing challenge which sensible legislation could reduce, freeing nurses' time to address other essential child health care.
19. In this context, we note there is no shortage of significant and serious health challenges to children, with the extraordinary reversal of the twentieth century trend showing a rise in infectious and 'poverty' diseases not shared by other developed countries (Michael G Baker, 2012), and an equally alarming rise in chronic and lifestyle diseases, which is.

Cost implications

20. We also draw your attention to the stark contrast between the costs associated with preventable injury due to inadequate child restraints and the cost of the restraints.
21. The Transport Agency's estimation of a benefit cost ratio of 2:1 for the proposed amendment is borne out by other data (TR Miller, 1993), which is, ironically, better than the 1:1 ratio we understand is currently used for building highways.
22. However, Treasury's estimate of a cost benefit ratio of 3:2 if the amendment extended to requiring all child passengers up to 148 cm in height or aged up to 11 years to use child restraints, is also better than that.
23. Considering the uncertainty inherent in the assumptions and dollar value assigned by economists to the immeasurable value of the lives and wellbeing of children, we suggest that:

"preventing eight deaths, 48 serious injuries, and 528 other injuries over the first ten years with a net safety benefit of around \$43.8m"¹

is more than enough to justify extending the legislation to cover *all* preadolescent children, not just half of them.

24. If adults and children up to seven are protected by mandatory requirements for car restraints, why should eight to twelve year olds be excluded?
25. In addition, and extrapolating from Treasury's estimate above, the difference between a net safety benefit of ~\$60m (up to age seven) and ~\$45m (up to age 12) i.e. \$15m, is less than compelling, particularly in view of the reduced number of lives and serious injuries sustained that are predicted (2.2 deaths, 12.8 serious injuries and 131 other injuries) .
26. In the context of family budgets, the cost of a booster seat is very modest and not ongoing, as the adjustable seat belts they are used in conjunction with allow extended use. Certainly the impact on larger families would be significant, but this could be offset by staged implementation, and financial assistance when necessary.

Culture

27. New Zealanders are risk-takers. We need only look at ACC figures to recognise that we have a poor attitude to safety and at the alarming rise in diabetes and alcohol abuse, to appreciate our disregard for health.
28. More irrationally, the shameful lack of legislation on fluoridation, folate-enrichment of flour, and advertising control on unsafe/unhealthy products, is testament to the fact that we frequently place personal choice above the health and well being of our children.
29. Even for adults, avoidable disasters such as that at Pike River are a stark reminder of the consequence of weak employment and health and safety regulation, while leaky homes were the inevitable consequence of the deregulation of building codes. In these contexts, freedom from 'nanny state' control has extracted a high price.
30. And very often the price of failed safety regulation is paid by one sector of the community while a different sector profits: inequality has grown faster in New Zealand than in any other OECD country this century, despite our egalitarian history.

¹Treasury, **Regulatory Impact Statement October 2012**. Retrieved March 13, 2013
<http://www.treasury.govt.nz/publications/informationreleases/ris/pdfs/ris-transport-cr-oct12.pdf>

31. And it is apparent that children are amongst the most unprotected and unsafe. The 10,000 submissions on the Green Paper for Vulnerable Children (in itself a response to our appalling record of child abuse) almost unanimously endorsed the need for integrated action to address systemic problems in the way we protect children, and to change our attitudes to ensure that child safety is not negotiable.
32. It is in this wider social and political context that we ask the Agency to consider what meaningful, comprehensive child restraint legislation should look like.
33. As it stands, this amendment is a continuation of the status quo: a faint-hearted measure in the face of cumulative evidence, to minimally protect about half our primary school children from preventable injury and death in motor vehicle accidents.
34. Strong safety legislation and uncompromising leadership in the protection of children would send a powerful message to the right people (parents), at the right time, (i.e. when children's attitudes towards safety are being formed).
35. It would acknowledge the evidence base supporting those charged with policing, educating and caring for children and young people, affirms the value of children above money, and help establish responsible attitudes towards safety in both parents and children.
36. Anything less confirms the entrenched attitudes which have established New Zealand's unenviably poor record of protecting children from predictable risks.
37. We therefore **support** removing the exemption for drivers of vehicles having an unladen weight exceeding 2000kg from ensuring children are not restrained, but our strong preference is for a rule that states that children should not be able to be transported in vehicles that do not have seatbelts.
38. We understand the rationale for exemptions for buses and pre 1955 registration (though children die just as easily in the latter) but we **do not support** the exemption the case of an enforcement officer transporting a child. Responsible adults such as policemen should be exemplars and model best practice at all times.

Exemptions on medical grounds

39. Finally, we note that exemptions for medical reasons are reasonably rare and that there is no rationale for age-limited exemptions on medical grounds.
40. Consequently , we support extending the current provision that allows a child not to use a child restraint, for medical reasons, to all children of any age.

CONCLUSION

41. In conclusion, NZNO **supports** most parts the amendment as a small step towards improved protection for some children.
42. However, more comprehensive legislation is needed to ensure all children are protected to the best of our knowledge and ability.

43. Accordingly, we **recommend** that you:

- **extend** the amendment to mandate child restraints for all children up to 12 years;
- **add** a maximum height and consider the need for weight limits;
- **add** a requirement for children up to the age of 12 to travel in the back seat unless all other back seats are occupied by younger children with appropriate restraints;
- **delete** the exemption if a vehicle is being used by an enforcement officers transporting a child; and
- **note** our suggestion that extending the age to 12 is phased in progressively over the next few years.

44. NZNO would be happy to discuss any of the above.

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