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THE LEGALPAD

News You Can Use
August 14, 2001

Editor's Note: I am pleased to publish the next issue of "The Legal Pad," a quarterly newsletter for clients, associates, and friends of THE LAW OFFICE OF WESLEY SCOTT JONES, P.C.

This newsletter is intended to address basic aspects of the ever-changing and often complex topics of law that affect our everyday lives. I hope that you will enjoy this newsletter, and hopefully it will be "news you can use."

This quarter's legal focus is on CHILD PASSENGER SAFETY LAWS.

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Introduction.

North Carolina currently has three occupant restraint laws. The basic requirements of these laws are as follows: 1) All drivers and front seat passengers, regardless of age, must be properly buckled up; 2) All children less than sixteen years old must be buckled up in either the front or back seat; 3) Children younger than age five and who weigh less than 40 pounds must be properly secured in a child passenger restraint device (CRD); 4) The CRD must be installed in the rear seat in vehicles with active passenger-side air bags; 5) When a child reaches age five (regardless of weight) or 40 pounds (regardless of age), a seat belt may be used instead of a CRD to restrain the child; and 6) Children less than age 12 are prohibited from riding in the open bed of a pickup truck or other cargo area. A summary of these laws is included on page 3 of this newsletter.

This newsletter will focus on the North Carolina's Child Passenger Safety Law.

The Text of the New Law on Child Restraint Systems.

North Carolina General Statute §20-137.1 provides:

(a) Every driver who is transporting one or more passengers of less than 16 years of age shall

have all such passengers properly secured in a child passenger restraint system or seat belt which meets federal standards applicable at the time of its manufacture.

(a1) A child less than five years of age and less than 40 pounds in weight shall be properly secured in a weight-appropriate child passenger restraint system. In vehicles equipped with an active passenger-side front air bag, if the vehicle has a rear seat, a child less than five years of age and less than 40 pounds in weight shall be properly secured in a rear seat, unless the child restraint system is designed for use with air bags.

(b) The provisions of this section shall not apply: (i) to ambulances or other emergency vehicles; (ii) when the child's personal needs are being attended to; (iii) if all seating positions equipped with child passenger restraint systems or seat belts are occupied; or (iv) to vehicles which are not required by federal law or regulation to be equipped with seat belts.

(c) Any driver found responsible for a violation of this section may be punished by a penalty not to exceed twenty-five dollars (\$25.00), even when more than one child less than 16 years of age was not properly secured in a restraint system. No driver charged under this section for failure to have a child under five years of age properly secured in a restraint system shall be convicted if he produces at the time

of his trial proof satisfactory to the court that he has subsequently acquired an approved child passenger restraint system.

(d) A violation of this section shall have all of the following consequences: (1) Two drivers license points shall be assessed pursuant to G.S. 20-16; (2) No insurance points shall be assessed; (3) The violation shall not constitute negligence per se or contributory negligence per se; (4) The violation shall not be evidence of negligence or contributory negligence.

The Basics.

Any type of child restraint system (CRS), including car booster seats and harnesses, is legal to use in North Carolina as long as it is certified to Meet Federal Motor Vehicle Safety Standards (FMVSS 213) and the child is within the weight range specified for the seat. However, the CRS must be used correctly and be used according to the manufacturer's instructions. These instructions can be found on the label of the seat itself.

Therefore, protecting children in crashes requires three important steps:

- 1) The restraint used must be the right type for the size and age of the child;
- 2) The child must be buckled correctly into the restraint according to the manufacturer's instructions; and
- 3) The restraint must be correctly installed in the car according to the instructions.

Notes on Restraint Selection for Small Children.

The legal requirements set forth above are minimum requirements. The University of North Carolina Highway Safety Research Center recommends the following:

- 1) A child less than one year of age, OR less than 20 pounds, should ride in a rear-facing infant-only or convertible safety seat. For babies who are under one year and over 20 pounds, be sure they ride in a safety seat approved for heavier babies and continue to ride rear-facing until at least one year of age. Many convertible seats are rated to at least 30 pounds rear-facing so that almost all children can be kept facing to the rear as long as possible;
- 2) Children at least one year old AND who weigh at least 20 pounds should ride in a front-facing seat with a full harness or harness-shield until it is outgrown, usually at about 40 pounds;
- 3) Children should switch to a belt-positioning booster when the full harness seat is outgrown and continue riding in the booster seat until the seat belt fits correctly without the booster seat. Belt-positioning boosters are designed to make the lap/shoulder belt fit correctly on the child and should be used until the child is big enough for a seat belt. Add-on shoulder belt adjusters are not recommended since they are not covered by any Federal standards and may, in fact, do more harm than good;
- 4) Children should not be switched to a seat belt until the child is big enough for a correct fit of the belt and is mature enough to sit reasonably still. This may not be

until the child is 70-80 pounds and about 4 ½ feet tall. When wearing a lap and shoulder belt, it is important that both the lap and shoulder belts be worn and positioned correctly. Never tuck the shoulder belt under the arm or behind the back; and
5) At no age or size should any child or adult ride unrestrained in the vehicle or ride in a non-belted position such as the back of a station wagon, SUV cargo area, or pickup truck bed.

Final Thoughts.

The information contained in this newsletter is summarized on the following page and can be reviewed at the following web site:
www.hsrb.unc.edu/pubinfo/child_summarylaw.htm.

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- Previous topics in The Legal Pad:**
- 1) Corporations;
 - 2) Small Claims Actions;
 - 3) Social Host Liability;
 - 4) Landlord-Tenant Law, Parts I & II;
 - 5) Materialmen and Laborer's Liens, Parts I & II
 - 6) Worthless Checks
 - 7) Driving While Impaired

Note: To request free copies of previous issues, please call and leave your name and mailing address.

ANNOUNCEMENTS:

Wesley & Aimee Jones are pleased to announce the birth of their first child - Matthew Paul Jones. Matthew was born on October 18, 2000. Matthew is currently making oral arguments (in the middle of the night) and appealing our decision to feed him vegetables. We feel blessed to have a healthy, happy baby boy!!

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My greatest source of clients is from referrals by past and present clients, associates and friends such as yourself. Therefore, any referral from you would be greatly appreciated. I accept cases in the following areas:

- | | | |
|------------------------------------|--|------------------------------|
| - Construction Law | - Corporate Representation | - Collections |
| - Lien Filings and Defense | - Corporate Formation | - Overdue Accounts |
| - Collection of Overdue Accounts | - Shareholder Agreements | - Promissory Notes |
| - Building Disputes and Litigation | - Homeowner and Condominium Associations | - Homeowner Association Dues |
| - Foreclosures | | - Foreclosures |
| - Criminal Law | - Civil Litigation | - General Advice and Counsel |
| - DWI | - Business and Commercial Litigation | - Professional Service |
| - Drug Charges | - Serious Accidents or Injuries | - Reasonable Fees |
| - Traffic Violations | - District or Superior Court | - Caring Advice |
| - Speeding Tickets | - Small Claims Court | - Solutions to Problems |

DISCLAIMER

This newsletter was prepared by THE LAW OFFICE OF WESLEY SCOTT JONES, P.C. as a courtesy for my clients, associates and friends and is not intended to be a comprehensive statement of the law. North Carolina laws change frequently and such change could affect the information in this newsletter. If you have specific questions with regard to any matter contained in this newsletter, I encourage you to consult with me or another attorney. An attorney-client relationship will be created only by individualized and personalized advice from me to a current or prospective client, and only after the signing of a Contract for Legal Services by all parties affected thereby.

If you do not wish to receive this quarterly newsletter, or if you know of a friend or associate who would like to receive a copy of this newsletter, please contact my office either by phone, fax or mail. Thank you.

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