

Division 39, MVAR — Road Safety

Effective May 14, 2007

Definition

39.001 In this Division, “**designated seating position**” means a seating position for which a seat belt assembly is provided or is required to be provided under the Act.

Passenger seating requirement

39.01 A person who is 16 years of age or more and in a vehicle being driven or operated on a highway must

- (a) remain seated in a designated seating position, and
- (b) be the only occupant of that designated seating position.

Driver responsibilities

39.02 A person must not drive or operate a vehicle on a highway if

- (a) there is a person riding on the vehicle,
- (b) there is more than one person occupying a designated seating position in the vehicle,
- (c) there is a person in the vehicle who is not seated in a designated seating position,
- (d) there are more designated seating positions than were provided by the manufacturer of the vehicle when the vehicle was originally manufactured, or
- (e) there are more persons in the vehicle than there are designated seating positions.

Responsibilities of carrier, employer and owner

39.021 In respect of a vehicle operated on a highway, a carrier, as defined in section 37.01, an employer of the driver of a vehicle or of a passenger in the vehicle or the owner of the vehicle must not request, require or allow a person to drive or operate a vehicle

- (a) that has more people in the vehicle than there are designated seating positions,
- (b) in which for an available seating position a seat belt assembly required under the *Motor Vehicle Safety Act* (Canada) at the time the vehicle was manufactured, assembled or imported into Canada has been removed, is partly or wholly inoperative or modified so as to reduce its effectiveness, or
- (c) that has more designated seating positions than were provided by the manufacturer of the vehicle when the vehicle was originally manufactured.

Exceptions

39.03 (1) Despite sections 39.01, 39.02 and 39.021, a person may stand while a vehicle is being operated and a driver may operate a vehicle in which a person is standing if

the vehicle is being operated in accordance with section 9 of the Passenger Transportation Regulation.

- (2) Sections 39.01, 39.02 (b), (c) and (e) and 39.021 (a) do not apply with respect to each of the vehicles set out in subsection (3) if
 - (a) the vehicle was originally manufactured without seat belt assemblies for each seating position and the vehicle was not modified so that there is a seat belt assembly for each seating position, and
 - (b) every person in the vehicle is seated in a seating position provided by the original vehicle manufacturer.
- (3) The following vehicles are set out for the purposes of subsection (2):
 - (a) a motor vehicle, other than a bus or a motor home, with a registered model year of 1973 or earlier;
 - (b) a bus, other than a bus with
 - (i) a registered model year of 1994 or later, and
 - (ii) a manufacturer's gross vehicle weight rating of less than 4536 kg;
 - (c) a motor home with a registered model year of 1998 or earlier;
 - (d) a vehicle that was not required to have a seat belt assembly under the *Motor Vehicle Safety Act* (Canada) at the time the vehicle was manufactured or imported into Canada.
- (4) Sections 39.01, 39.02 and 39.021
 - (a) do not restrict a co-driver in a team of drivers from accumulating off-duty time in a sleeper berth in accordance with section 37.16, and
 - (b) do not apply to a person or vehicle that is exempt by section 32.04 or 32.05 of this regulation from the application of section 220 (3) or (4) of the Act,
 - (c) do not restrict the authority under section 25.22 to issue an inspection certificate with respect to a vehicle that has been altered so that its seating capacity has been increased, and if an inspection certificate is issued under that section with respect to such a vehicle, the vehicle is deemed, for the purposes of subsection (2) (b) of this section and sections 39.02 (d) and 39.021 (c) of this regulation, to have been manufactured with the increased number of seats.

Seating for a child

- 39.04** A child to whom Division 36 applies who is restrained in the manner required by that Division is deemed to be seated in the manner required by sections 39.01 and 39.02.
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