

DIRECTIVE 2005/39/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 7 September 2005
amending Council Directive 74/408/EEC relating to motor vehicles with regard to the seats, their anchorages and head restraints
(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the procedure laid down in Article 251 of the Treaty ⁽²⁾,

Whereas:

- (1) Research has shown that the use of safety belts and restraint systems can substantially reduce the number of fatalities and the severity of injuries in the event of an accident, even one due to rollover. Fitting them in all categories of vehicles will certainly constitute an important step forward in bringing about an increase in road safety and a consequent saving of lives.
- (2) A substantial benefit to society can be attained if all vehicles are fitted with safety belts.
- (3) In its Resolution of 18 February 1986 on common measures to reduce road accidents, as part of the Community's programme for road safety ⁽³⁾, the European Parliament stressed the need for making the wearing of safety belts compulsory for all passengers, including children, except in public service vehicles. Therefore, a distinction has to be made between public service buses and other vehicles as regards the compulsory installation of safety belts and/or restraint systems.
- (4) Pursuant to Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers ⁽⁴⁾, the Community type-approval system has only been implemented for all new vehicles

of category M₁ since 1 January 1998. Consequently, only vehicles of category M₁ type-approved after that date have to be fitted with seats, seat anchorages and head restraints complying with the provisions of Directive 74/408/EEC ⁽⁵⁾.

- (5) Until the Community type-approval system is extended to all categories of vehicles, the installation of seats and seat anchorages compatible with the installation of seat belt anchorages should be required, in the interests of road safety, in vehicles belonging to categories other than M₁.
- (6) Directive 74/408/EEC already provides for all technical and administrative provisions allowing the type-approval of vehicles of categories other than M₁. Therefore, the Member States do not need to introduce further provisions.
- (7) Since the entry into force of Commission Directive 96/37/EC of 17 June 1996 adapting to technical progress Council Directive 74/408/EEC ⁽⁶⁾, several Member States have already made compulsory the provisions contained therein in respect of certain categories of vehicles other than M₁. Manufacturers and their suppliers have thus developed the appropriate technology.
- (8) Research has shown that it is not possible to provide side-facing seats with safety belts ensuring the same level of safety to the occupants as front-facing seats. For safety reasons, it is necessary to ban those seats in certain categories of vehicles.
- (9) The provisions allowing side-facing seats with two-point belts in certain classes of vehicle of category M₃ should be of a temporary nature, pending the entry into force of Community legislation recasting Directive 70/156/EEC and extending Community type-approval to all vehicles, including vehicles of category M₃.
- (10) Directive 74/408/EEC should be amended accordingly.

⁽¹⁾ OJ C 80, 30.3.2004, p. 6.

⁽²⁾ Opinion of the European Parliament of 17 December 2003 (OJ C 91 E, 15.4.2004, p. 487), Council Common Position of 24 January 2005 (OJ C 111 E, 11.5.2005, p. 33), Position of the European Parliament of 26 May 2005 (not yet published in the Official Journal) and Council Decision of 12 July 2005.

⁽³⁾ OJ C 68, 24.3.1986, p. 35.

⁽⁴⁾ OJ L 42, 23.2.1970, p. 1. Directive as last amended by Commission Directive 2004/104/EC (OJ L 337, 13.11.2004, p. 13).

⁽⁵⁾ OJ L 221, 12.8.1974, p. 1. Directive as last amended by the 2003 Act of Accession.

⁽⁶⁾ OJ L 186, 25.7.1996, p. 28.

- (11) Since the objective of this Directive, namely the improvement of road safety by making compulsory the fitting of safety belts in certain categories of vehicles, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective,

their safety belts shall comply with Council Directive 76/115/EEC (**).

This exemption shall have effect for five years from 20 October 2005. It may be extended if reliable accident statistics are available and there has been further development of restraint systems.

(*) OJ L 220, 29.8.1977, p. 95. Directive as last amended by the 2003 Act of Accession.

(**) OJ L 24, 30.1.1976, p. 6. Directive as last amended by Commission Directive 96/38/EC (OJ L 187, 26.7.1996, p. 95).'

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments to Directive 74/408/EEC

Directive 74/408/EEC is hereby amended as follows:

1. Article 1 shall be amended as follows:

- (a) the following subparagraph shall be added to paragraph 1:

'Vehicles of category M₂ and M₃ shall be subdivided into classes as defined in section 2 of Annex I to Directive 2001/85/EC of the European Parliament and of the Council of 20 November 2001 relating to special provisions for vehicles used for the carriage of passengers comprising more than eight seats in addition to the driver's seat (*).

(*) OJ L 42, 13.2.2002, p. 1.'

- (b) paragraph 2 shall be replaced by the following:

'2. This Directive shall not apply to rearward-facing seats.'

2. The following Article shall be inserted:

'Article 3a

1. The installation of side-facing seats shall be prohibited in vehicles of categories M₁, N₁, M₂ (of class III or B) and M₃ (of class III or B).

2. Paragraph 1 shall not apply to ambulances or to vehicles listed in the first indent of Article 8(1) of Directive 70/156/EEC.

3. Paragraph 1 shall further not apply to vehicles of category M₃ (of class III or B) of a technically permissible maximum laden mass exceeding 10 tonnes in which side-facing seats are grouped together at the rear of the vehicle to form an integrated saloon of up to 10 seats. Such side-facing seats shall be fitted with, at least, a head restraint and a two-point belt with retractor type-approved in accordance with Council Directive 77/541/EEC (*). The anchorages for

3. Annex II shall be amended as follows:

- (a) Point 1.1 shall be replaced by the following:

'1.1. The requirements of this Annex do not apply to rearward-facing seats or to any head restraint fitted to such seats.'

- (b) Point 2.3 shall be replaced by the following:

'2.3. "Seat" means a structure which may or may not be integral with the vehicle structure, complete with trim, intended to seat one adult person. The term covers both an individual seat or part of a bench seat intended to seat one person.

Depending on its orientation, a seat is defined as follows:

2.3.1. "Forward-facing seat" means a seat which can be used whilst the vehicle is in motion and which faces towards the front of the vehicle in such a manner that the vertical plane of symmetry of the seat forms an angle of less than + 10° or - 10° with the vertical plane of symmetry of the vehicle;

2.3.2. "Rearward-facing seat" means a seat which can be used whilst the vehicle is in motion and which faces towards the rear of the vehicle in such a manner that the vertical plane of symmetry of the seat forms an angle of less than + 10° or - 10° with the vertical plane of symmetry of the vehicle;

2.3.3. "Side-facing seat" means a seat which, with regard to its alignment with the vertical plane of symmetry of the vehicle, does not meet either of the definitions given in 2.3.1 or 2.3.2 above;

- (c) Point 2.9 shall be deleted;

4. In Annex III, point 2.5 shall be replaced by the following:

'2.5. "Seat" means a structure likely to be anchored to the vehicle structure, including its trim and attachment fittings, intended to be used in a vehicle and to seat one or more adult persons.

Depending on its orientation, a seat is defined as follows:

- 2.5.1. "Forward-facing seat" means a seat which can be used whilst the vehicle is in motion and which faces towards the front of the vehicle in such a manner that the vertical plane of symmetry of the seat forms an angle of less than + 10° or - 10° with the vertical plane of symmetry of the vehicle;
- 2.5.2. "Rearward-facing seat" means a seat which can be used whilst the vehicle is in motion and which faces towards the rear of the vehicle in such a manner that the vertical plane of symmetry of the seat forms an angle of less than + 10° or - 10° with the vertical plane of symmetry of the vehicle;
- 2.5.3. "Side-facing seat" means a seat which, with regard to its alignment with the vertical plane of symmetry of the vehicle, does not meet either of the definitions given in 2.5.1 or 2.5.2 above;
5. Annex IV shall be amended as follows:
- (a) Point 1.1 shall be replaced by the following:
- '1.1. The requirements set out in this Annex apply to vehicles of categories N₁, N₂ and N₃ and to those of categories M₂ and M₃ not covered by the scope of Annex III. With the exception of the provisions of point 2.5, the requirements also apply to side-facing seats of all categories of vehicles.'
- (b) Point 2.4 shall be replaced by the following:
- '2.4. All seats which can be tipped forward or have fold-on backs must lock automatically in the normal position. This requirement does not apply to seats fitted in the wheelchair spaces of vehicles of category M₂ or M₃ of class I, II or A.'

Article 2

Implementation

1. As from 20 April 2006, with respect to seats, their anchorages and head restraints which comply with the requirements set out in this Directive, Member States shall not:
- (a) refuse to grant EC type-approval or national type-approval, in respect of a type of vehicle;
- (b) prohibit the registration, sale or entry into service of new vehicles.
2. As from 20 October 2006, with respect to seats, their anchorages and head restraints which do not comply with the requirements set out in this Directive, Member States shall, in respect of a new type of vehicle:
- (a) no longer grant EC type-approval;
- (b) refuse to grant national type-approval.

3. As from 20 October 2007, with respect to seats, their anchorages and head restraints which do not comply with the requirements set out in this Directive, Member States shall:

- (a) consider certificates of conformity which accompany new vehicles as no longer valid for the purpose of Article 7(1) of Directive 70/156/EEC;
- (b) refuse the registration, sale and entry into service of new vehicles, except where the provisions of Article 8(2) of Directive 70/156/EEC are invoked.

Article 3

Transposition

1. Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive before 20 April 2006. They shall forthwith inform the Commission thereof.
2. They shall apply these measures from 21 April 2006.
3. When Member States adopt these measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.
4. Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive.

Article 4

Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article 5

Addressees

This Directive is addressed to the Member States.

Done at Strasbourg, 7 September 2005.

For the European Parliament

The President

J. BORRELL FONTELLES

For the Council

The President

C. CLARKE