



**KINERK
BEAL
SCHMIDT
DYER &
SETHI, P.C.**

Attorneys at Law

JULY 2005

PERSPECTIVES

Kids and car seats... it's the law!

Of all the "baby gear" you buy, your child's car safety seat may be the most important — and the most confounding. Properly installed child safety seats reduce the risk of death by 71% for infants and by 54% for toddlers. Sadly, more than



half the children under five who died in vehicle crashes were unrestrained; of those who were restrained, 20% were merely buckled into adult seat belts.

Buying the right safety seat (second-hand and hand-me-down seats may not meet federal safety standards), installing it properly, and using it even for short trips are critical.

Selecting a car seat should be determined by the weight of the child.

- From birth to weighing at least 20 pounds, a baby must sit in an infant safety seat, facing backward in the car. This protects the baby from neck injuries.
- Children who weigh at least 20 pounds and are one year old should sit in a seat facing forward until age 4 or at a weight of 40 pounds. Harness straps should be threaded through the top slots of the car seat. The straps should be straight and the fit snug. The harness chest clip must be at the child's armpit level for proper placement.
- Children heavier than 40 pounds must be secured in a booster seat that uses the adult lap and shoulder belt. The shoulder belt should fit tightly against the child's chest and rest across the collarbone. The lap belt should lie across a child's upper thigh. A high-back booster seat is recommended if a car has a low seat back.
- A child should be placed in a booster seat until they

KBSDS convinces court to reinstate largest lasik eye verdict ever



Late last fall, Kinerk Beal Schmidt Dyer & Sethi was successful in convincing an Arizona Court to reinstate a \$4 million dollar verdict against University Physicians, Inc. (UPI) arising out of UPI's failure to properly measure a United Airline pilot's eyes before performing LASIK surgery on the pilot. If the pilot's eyes had been properly measured, UPI would have known that his pupils get too large in darkness for LASIK surgery. Proper measurements would have resulted in their telling him that he was not a candidate for this procedure. Instead, the procedure was conducted and the pilot was left with permanent eye damage; at night he sees halos, ghosting, and starbursts which make it impossible for him to continue his employment as a professional pilot.

However, following the trial, the plaintiff's chief medical expert witness was bombarded by criticism from fellow physicians for his willingness to testify against another LASIK surgeon and the

1790 East River Road

Suite 300

Tucson, Arizona

85718

www.kbsds.com

continued on page 2

continued on page 3



Kids and Car Seats, continued from page 1

weigh about 60 pounds or until the child is big enough to use the vehicle's lap and shoulder belts while sitting with his back against the vehicle's seat and his knees bent over the edge of the seat, feet touching the floor. This usually happens when the child reaches a height of 4'9".

No matter how safe the car seat, it has to be installed and used properly.

- Manufacturers provide detailed instructions on installation and correct usage. Parents, learn the specifics of using shoulder straps, how to use a chest clip, and how the straps can be adjusted.
- Always try out the seat in your car to make sure it's steady before driving with your child in it.
- Many local stores, such as Babies R Us, Baby USA and Aldrich will assist you with installation. Stop by your local fire station and have the folks there help you with your car seat.
- Fill out a car seat's registration card so that if the car seat is recalled for a defect you can be contacted. You may also contact the American Academy of Pediatrics for its annual list of child safety seats.

Car seats belong in the back.

The back seat is the safest place in case of a crash. If your car is equipped with a passenger-side airbag, all children age 14 and under should remain in the back seat. A passenger-side air bag can kill or injure a child when it deploys, even in a minor accident. If your child must be in the front seat, investigate having an air bag on-off switch installed in your car.

Set a good example.

An NHTSA study found that when the driver is wearing a seat belt, children are buckled in 87% of the time, but when the driver is unbuckled, the percentage of children belted in drops to only 24%. If you happen to see someone driving around with small children who are not in a car seat, call the "Buckle-Up-Baby" hotline at 1-800-505-BABY and give them the vehicle license plate number. The owner will be sent a packet of information encouraging car seat use.

—Dev K. Sethi

Additional Resources:

American Academy of Pediatrics – www.aap.org
National Safe Kids Campaign – www.safekids.org
Consumer Product Safety Commission – www.cpsc.gov
National Highway Traffic Safety Administration – www.nhtsa.gov

Save a Life This Summer: Protect Children From Drowning

According to the National Center for Disease Control (CDC), drowning is the second leading cause of injury-related death for children between the ages of one and 14 in the United States. In ten states, including Arizona, drowning surpasses all other causes of death for children age 14 and under.

Children under age one most often drown in bathtubs, buckets, or toilets (another reason to keep the toilet lid closed!).

Children one to four, most often drown in residential swimming pools. Of these children, most were last seen in the home, had been out of sight less than five minutes, and were in the care of one or both parents at the time.

For every child who drowns, three receive emergency department care for non-fatal submersion injuries. More than 40% of these children require hospitalization. Non-fatal incidents can cause brain damage that results in long-term disabilities ranging from memory problems and learning disabilities to the permanent loss of basic functions.

When you are at the beach or lake this summer, and particularly when you are at your own pool or neighbor's pool, your first priority should be to watch your child and everyone else's children. Make sure that your pool and all pools you visit are properly fenced to prevent access by small children. Teach your child to swim as soon as possible. If the adults are going inside, make all of the kids get out of the pool and go inside too. Make sure you and your kids learn CPR. Visit the National Center for Injury Prevention and Control's web site, an arm of the CDC at www.cdc.gov/ncipc for more information on safe swimming this summer.

—Jim H. Dyer