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SENATE BILL 5198

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State of Washington

60th Legislature

2007 Regular Session

By Senators Brandland and Haugen

Read first time 01/12/2007. Referred to Committee on Judiciary.

1 AN ACT Relating to the admissibility of failing to properly use  
2 safety belt and child restraint systems; amending RCW 46.61.688; and  
3 reenacting and amending RCW 46.61.687.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 46.61.687 and 2005 c 415 s 1 and 2005 c 132 s 1 are  
6 each reenacted and amended to read as follows:

7 (1) Whenever a child who is less than sixteen years of age is being  
8 transported in a motor vehicle that is in operation and that is  
9 required by RCW 46.37.510 to be equipped with a safety belt system in  
10 a passenger seating position, or is being transported in a neighborhood  
11 electric vehicle that is in operation, the driver of the vehicle shall  
12 keep the child properly restrained as follows:

13 (a) A child must be restrained in a child restraint system, if the  
14 passenger seating position equipped with a safety belt system allows  
15 sufficient space for installation, until the child is eight years old,  
16 unless the child is four feet nine inches or taller. The child  
17 restraint system must comply with standards of the United States  
18 department of transportation and must be secured in the vehicle in

1 accordance with instructions of the vehicle manufacturer and the child  
2 restraint system manufacturer.

3 (b) A child who is eight years of age or older or four feet nine  
4 inches or taller shall be properly restrained with the motor vehicle's  
5 safety belt properly adjusted and fastened around the child's body or  
6 an appropriately fitting child restraint system.

7 (c) The driver of a vehicle transporting a child who is under  
8 thirteen years old shall transport the child in the back seat positions  
9 in the vehicle where it is practical to do so.

10 (2) Enforcement of subsection (1) of this section is subject to a  
11 visual inspection by law enforcement to determine if the child  
12 restraint system in use is appropriate for the child's individual  
13 height, weight, and age. The visual inspection for usage of a child  
14 restraint system must ensure that the child restraint system is being  
15 used in accordance with the instruction of the vehicle and the child  
16 restraint system manufacturers. The driver of a vehicle transporting  
17 a child who is under thirteen years old shall transport the child in  
18 the back seat positions in the vehicle where it is practical to do so.

19 (3) A person violating subsection (1) of this section may be issued  
20 a notice of traffic infraction under chapter 46.63 RCW. If the person  
21 to whom the notice was issued presents proof of acquisition of an  
22 approved child passenger restraint system or a child booster seat, as  
23 appropriate, within seven days to the jurisdiction issuing the notice  
24 and the person has not previously had a violation of this section  
25 dismissed, the jurisdiction shall dismiss the notice of traffic  
26 infraction.

27 (4) Failure to comply with the requirements of this section (~~shall~~  
28 ~~not constitute negligence by a parent or legal guardian. Failure to~~  
29 ~~use a child restraint system shall not~~) may be admissible as evidence  
30 of negligence in any civil action.

31 (5) This section does not apply to: (a) For hire vehicles, (b)  
32 vehicles designed to transport sixteen or less passengers, including  
33 the driver, operated by auto transportation companies, as defined in  
34 RCW 81.68.010, (c) vehicles providing customer shuttle service between  
35 parking, convention, and hotel facilities, and airport terminals, and  
36 (d) school buses.

37 (6) As used in this section, "child restraint system" means a child

1 passenger restraint system that meets the Federal Motor Vehicle Safety  
2 Standards set forth in 49 C.F.R. 571.213.

3 (7) The requirements of subsection (1) of this section do not apply  
4 in any seating position where there is only a lap belt available and  
5 the child weighs more than forty pounds.

6 (8)(a) Except as provided in (b) of this subsection, a person who  
7 has a current national certification as a child passenger safety  
8 technician and who in good faith provides inspection, adjustment, or  
9 educational services regarding child passenger restraint systems is not  
10 liable for civil damages resulting from any act or omission in  
11 providing the services, other than acts or omissions constituting gross  
12 negligence or willful or wanton misconduct.

13 (b) The immunity provided in this subsection does not apply to a  
14 certified child passenger safety technician who is employed by a  
15 retailer of child passenger restraint systems and who, during his or  
16 her hours of employment and while being compensated, provides  
17 inspection, adjustment, or educational services regarding child  
18 passenger restraint systems.

19 **Sec. 2.** RCW 46.61.688 and 2003 c 353 s 4 are each amended to read  
20 as follows:

21 (1) For the purposes of this section, the term "motor vehicle"  
22 includes:

23 (a) "Buses," meaning motor vehicles with motive power, except  
24 trailers, designed to carry more than ten passengers;

25 (b) "Multipurpose passenger vehicles," meaning motor vehicles with  
26 motive power, except trailers, designed to carry ten persons or less  
27 that are constructed either on a truck chassis or with special features  
28 for occasional off-road operation;

29 (c) "Neighborhood electric vehicle," meaning a self-propelled,  
30 electrically powered four-wheeled motor vehicle whose speed attainable  
31 in one mile is more than twenty miles per hour and not more than  
32 twenty-five miles per hour and conforms to federal regulations under  
33 Title 49 C.F.R. Part 571.500;

34 (d) "Passenger cars," meaning motor vehicles with motive power,  
35 except multipurpose passenger vehicles, motorcycles, or trailers,  
36 designed for carrying ten passengers or less; and

1 (e) "Trucks," meaning motor vehicles with motive power, except  
2 trailers, designed primarily for the transportation of property.

3 (2) This section only applies to motor vehicles that meet the  
4 manual seat belt safety standards as set forth in federal motor vehicle  
5 safety standard 208 and to neighborhood electric vehicles. This  
6 section does not apply to a vehicle occupant for whom no safety belt is  
7 available when all designated seating positions as required by federal  
8 motor vehicle safety standard 208 are occupied.

9 (3) Every person sixteen years of age or older operating or riding  
10 in a motor vehicle shall wear the safety belt assembly in a properly  
11 adjusted and securely fastened manner.

12 (4) No person may operate a motor vehicle unless all child  
13 passengers under the age of sixteen years are either: (a) Wearing a  
14 safety belt assembly or (b) are securely fastened into an approved  
15 child restraint device.

16 (5) A person violating this section shall be issued a notice of  
17 traffic infraction under chapter 46.63 RCW. A finding that a person  
18 has committed a traffic infraction under this section shall be  
19 contained in the driver's abstract but shall not be available to  
20 insurance companies or employers.

21 (6) Failure to comply with the requirements of this section (~~does~~  
22 ~~not constitute negligence, nor may failure to wear a safety belt~~  
23 ~~assembly~~) may be admissible as evidence of negligence in any civil  
24 action.

25 (7) This section does not apply to an operator or passenger who  
26 possesses written verification from a licensed physician that the  
27 operator or passenger is unable to wear a safety belt for physical or  
28 medical reasons.

29 (8) The state patrol may adopt rules exempting operators or  
30 occupants of farm vehicles, construction equipment, and vehicles that  
31 are required to make frequent stops from the requirement of wearing  
32 safety belts.

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