

SENATE BILL REPORT

SB 5856

As Reported By Senate Committee On:
Transportation, March 3, 2005

Title: An act relating to the failure to wear safety belt assembly.

Brief Description: Revising negligence standards regarding the failure to wear safety belts.
[Revised for 1st Substitute: Revising admissibility in a civil action of failing to wear safety belt assemblies and failing to use child restraint systems.]

Sponsors: Senators Brandland and Haugen.

Brief History:

Committee Activity: Transportation: 3/1/05, 3/3/05 [DPS].

SENATE COMMITTEE ON TRANSPORTATION

Majority Report: That Substitute Senate Bill No. 5856 be substituted therefor, and the substitute bill do pass.

Signed by Senators Haugen, Chair; Jacobsen, Vice Chair; Poulsen, Vice Chair; Swecker, Ranking Minority Member; Benson, Esser, Mulliken and Oke.

Staff: Kelly Simpson (786-7403)

Background: Under current law and with few exceptions, every person 16 years and older operating or riding in a motor vehicle must wear the safety belt assembly in a properly adjusted and securely fastened manner. Additionally, no person may operate a motor vehicle unless all child passengers under the age of 16 are either wearing a safety belt assembly or are securely fastened into an approved child restraint device.

Failure to comply with the safety belt assembly and child restraint device requirements does not constitute negligence, nor may failure to wear a safety belt assembly be admissible as evidence of negligence in any civil action.

Summary of Substitute Bill: Failure to comply with the safety belt assembly and child restraint system requirements may be admissible in any civil action.

Substitute Bill Compared to Original Bill: A section was added to clarify that a failure to use a child restraint system may be admissible in a civil action. Language was deleted that suggests the admissibility must be to show negligence; the substitute states that the failure to wear a safety belt assembly, or to use a child restraint system, may be admitted into any civil action, without specifying the purpose for which it has to be offered.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Current law does not make sense, is contrary to public policy, and misleads juries. Not allowing into evidence failure to wear a seat belt may have been appropriate when Washington adopted the contributory negligence rule, but makes no sense under the current comparative fault rule. It was perhaps a good compromise at the time. The statute also conflicts with general negligence theory, and this bill corrects an anomaly in the law. People should be held accountable for not wearing a seat belt.

Testimony Against: None.

Who Testified: PRO: Senator Brandland, prime sponsor; Ron Zirkle, Yakima County Prosecuting Attorney; Tammy Fellin, Association of WA Cities; Jeff DeVere, WA State Patrol; Mac McDowell, Island County Commissioner; Rene Tomisser, Office of the Attorney General; Billie Kadrinias, Skagit County Risk Manager; Mel Sorensen, WA Defense Trial Lawyers; Bill Hanselman, WA State Department of Transportation.