
SENATE BILL 6563

State of Washington 59th Legislature 2006 Regular Session

By Senators Haugen, Brandland and Oke

Read first time 01/16/2006. Referred to Committee on Transportation.

1 AN ACT Relating to admissibility in a civil action of failing to
2 wear safety belt assemblies and failing to use child restraint systems;
3 amending RCW 46.61.687 and 46.61.688; reenacting and amending RCW
4 46.61.687; providing an effective date; and providing an expiration
5 date.

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

7 **Sec. 1.** RCW 46.61.687 and 2005 c 415 s 1 are each amended to read
8 as follows:

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

15 (a) If the child is less than six years old and/or sixty pounds and
16 the passenger seating position equipped with a safety belt system
17 allows sufficient space for installation, then the child will be
18 restrained in a child restraint system that complies with standards of

1 the United States department of transportation and that is secured in
2 the vehicle in accordance with instructions of the manufacturer of the
3 child restraint system;

4 (b) If the child is less than one year of age or weighs less than
5 twenty pounds, the child shall be properly restrained in a rear-facing
6 infant seat;

7 (c) If the child is more than one but less than four years of age
8 or weighs less than forty pounds but at least twenty pounds, the child
9 shall be properly restrained in a forward facing child safety seat
10 restraint system;

11 (d) If the child is less than six but at least four years of age or
12 weighs less than sixty pounds but at least forty pounds, the child
13 shall be properly restrained in a child booster seat;

14 (e) If the child is six years of age or older or weighs more than
15 sixty pounds, the child shall be properly restrained with the motor
16 vehicle's safety belt properly adjusted and fastened around the child's
17 body or an appropriately fitting booster seat; and

18 (f) Enforcement of (a) through (e) of this subsection is subject to
19 a visual inspection by law enforcement to determine if the child
20 restraint system in use is appropriate for the child's individual
21 height, weight, and age. The visual inspection for usage of a forward
22 facing child safety seat must ensure that the seat in use is equipped
23 with a four-point shoulder harness system. The visual inspection for
24 usage of a booster seat must ensure that the seat belt properly fits
25 across the child's lap and the shoulder strap crosses the center of the
26 child's chest. The visual inspection for the usage of a seat belt by
27 a child must ensure that the lap belt properly fits across the child's
28 lap and the shoulder strap crosses the center of the child's chest. In
29 determining violations, consideration to the above criteria must be
30 given in conjunction with the provisions of (a) through (e) of this
31 subsection. The driver of a vehicle transporting a child who is under
32 the age of six years old or weighs less than sixty pounds, when the
33 vehicle is equipped with a passenger side air bag supplemental
34 restraint system, and the air bag system is activated, shall transport
35 the child in the back seat positions in the vehicle where it is
36 practical to do so.

37 (2) A person violating subsection (1)(a) through (e) of this
38 section may be issued a notice of traffic infraction under chapter

1 46.63 RCW. If the person to whom the notice was issued presents proof
2 of acquisition of an approved child passenger restraint system or a
3 child booster seat, as appropriate, within seven days to the
4 jurisdiction issuing the notice and the person has not previously had
5 a violation of this section dismissed, the jurisdiction shall dismiss
6 the notice of traffic infraction.

7 (3) Failure to comply with ~~((the))~~ any requirements of this section
8 ~~((shall not constitute negligence by a parent or legal guardian; nor
9 shall failure to use a child restraint system))~~ may be admissible ~~((as
10 evidence of negligence))~~ in any civil action.

11 (4) This section does not apply to: (a) For hire vehicles, (b)
12 vehicles designed to transport sixteen or less passengers, including
13 the driver, operated by auto transportation companies, as defined in
14 RCW 81.68.010, (c) vehicles providing customer shuttle service between
15 parking, convention, and hotel facilities, and airport terminals, and
16 (d) school buses.

17 (5) As used in this section "child booster seat" means a child
18 passenger restraint system that meets the Federal Motor Vehicle Safety
19 Standards set forth in 49 C.F.R. 571.213 that is designed to elevate a
20 child to properly sit in a federally approved lap/shoulder belt system.

21 (6) The requirements of subsection (1)(a) through (e) of this
22 section do not apply in any seating position where there is only a lap
23 belt available and the child weighs more than forty pounds.

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

31 (b) The immunity provided in this subsection does not apply to a
32 certified child passenger safety technician who is employed by a
33 retailer of child passenger restraint systems and who, during his or
34 her hours of employment and while being compensated, provides
35 inspection, adjustment, or educational services regarding child
36 passenger restraint systems.

1 **Sec. 2.** RCW 46.61.687 and 2005 c 415 s 1 and 2005 c 132 s 1 are
2 each reenacted and amended to read as follows:

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

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

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

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

24 (2) Enforcement of subsection (1) of this section is subject to a
25 visual inspection by law enforcement to determine if the child
26 restraint system in use is appropriate for the child's individual
27 height, weight, and age. The visual inspection for usage of a child
28 restraint system must ensure that the child restraint system is being
29 used in accordance with the instruction of the vehicle and the child
30 restraint system manufacturers. The driver of a vehicle transporting
31 a child who is under thirteen years old shall transport the child in
32 the back seat positions in the vehicle where it is practical to do so.

33 (3) A person violating subsection (1) of this section may be issued
34 a notice of traffic infraction under chapter 46.63 RCW. If the person
35 to whom the notice was issued presents proof of acquisition of an
36 approved child passenger restraint system or a child booster seat, as
37 appropriate, within seven days to the jurisdiction issuing the notice

1 and the person has not previously had a violation of this section
2 dismissed, the jurisdiction shall dismiss the notice of traffic
3 infraction.

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

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

14 (6) As used in this section, "child restraint system" means a child
15 passenger restraint system that meets the Federal Motor Vehicle Safety
16 Standards set forth in 49 C.F.R. 571.213.

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

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

27 (b) The immunity provided in this subsection does not apply to a
28 certified child passenger safety technician who is employed by a
29 retailer of child passenger restraint systems and who, during his or
30 her hours of employment and while being compensated, provides
31 inspection, adjustment, or educational services regarding child
32 passenger restraint systems.

33 **Sec. 3.** RCW 46.61.688 and 2003 c 353 s 4 are each amended to read
34 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

9 NEW SECTION. **Sec. 4.** Section 1 of this act expires June 1, 2007.

10 NEW SECTION. **Sec. 5.** Section 2 of this act takes effect June 1,
11 2007.

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