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ENGROSSED SUBSTITUTE HOUSE BILL 1438

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State of Washington

58th Legislature

2003 Regular Session

By House Committee on Transportation (originally sponsored by Representatives Sullivan, Jarrett, Upthegrove, Nixon, Schoesler, Crouse, Wood, Gombosky, Ruderman, Cooper, Linville, Rockefeller, Hudgins, McDermott and Wallace)

READ FIRST TIME 03/04/03.

1 AN ACT Relating to providing incentives to reduce air pollution  
2 through the licensing and use of neighborhood electric vehicles;  
3 amending RCW 46.04.320, 46.37.010, 46.61.688, and 46.61.687; adding a  
4 new section to chapter 46.04 RCW; adding a new section to chapter 46.61  
5 RCW; prescribing penalties; and providing an effective date.

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

7 **Sec. 1.** RCW 46.04.320 and 2002 c 247 s 2 are each amended to read  
8 as follows:

9 "Motor vehicle" ((shall)) means every vehicle which is self-  
10 propelled and every vehicle which is propelled by electric power  
11 obtained from overhead trolley wires, but not operated upon rails.  
12 "Motor vehicle" includes a neighborhood electric vehicle as defined in  
13 section 2 of this act. An electric personal assistive mobility device  
14 is not considered a motor vehicle.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 46.04 RCW  
16 to read as follows:

1 "Neighborhood electric vehicle" means a self-propelled,  
2 electrically powered four-wheeled motor vehicle whose speed attainable  
3 in one mile is more than twenty miles per hour and not more than  
4 twenty-five miles per hour and conforms to federal regulations under  
5 Title 49 C.F.R. Part 571.500.

6 **Sec. 3.** RCW 46.37.010 and 1997 c 241 s 14 are each amended to read  
7 as follows:

8 (1) It is a traffic infraction for any person to drive or move or  
9 for the owner to cause or knowingly permit to be driven or moved on any  
10 highway any vehicle or combination of vehicles which is in such unsafe  
11 condition as to endanger any person, or which does not contain those  
12 parts or is not at all times equipped with such lamps and other  
13 equipment in proper condition and adjustment as required in this  
14 chapter or in regulations issued by the chief of the Washington state  
15 patrol, or which is equipped in any manner in violation of this chapter  
16 or the state patrol's regulations, or for any person to do any act  
17 forbidden or fail to perform any act required under this chapter or the  
18 state patrol's regulations.

19 (2) Nothing contained in this chapter or the state patrol's  
20 regulations shall be construed to prohibit the use of additional parts  
21 and accessories on any vehicle not inconsistent with the provisions of  
22 this chapter or the state patrol's regulations.

23 (3) The provisions of the chapter and the state patrol's  
24 regulations with respect to equipment on vehicles shall not apply to  
25 implements of husbandry, road machinery, road rollers, or farm tractors  
26 except as herein made applicable.

27 (4) No owner or operator of a farm tractor, self-propelled unit of  
28 farm equipment, or implement of husbandry shall be guilty of a crime or  
29 subject to penalty for violation of RCW 46.37.160 as now or hereafter  
30 amended unless such violation occurs on a public highway.

31 (5) It is a traffic infraction for any person to sell or offer for  
32 sale vehicle equipment which is required to be approved by the state  
33 patrol as prescribed in RCW 46.37.005 unless it has been approved by  
34 the state patrol.

35 (6) The provisions of this chapter with respect to equipment  
36 required on vehicles shall not apply to neighborhood electric vehicles,  
37 motorcycles, or motor-driven cycles except as herein made applicable.

1 (7) This chapter does not apply to vehicles used by the state parks  
2 and recreation commission exclusively for park maintenance and  
3 operations upon public highways within state parks.

4 (8) Notices of traffic infraction issued to commercial drivers  
5 under the provisions of this chapter with respect to equipment required  
6 on commercial motor vehicles shall not be considered for driver  
7 improvement purposes under chapter 46.20 RCW.

8 (9) Whenever a traffic infraction is chargeable to the owner or  
9 lessee of a vehicle under subsection (1) of this section, the driver  
10 shall not be arrested or issued a notice of traffic infraction unless  
11 the vehicle is registered in a jurisdiction other than Washington  
12 state, or unless the infraction is for an offense that is clearly  
13 within the responsibility of the driver.

14 (10) Whenever the owner or lessee is issued a notice of traffic  
15 infraction under this section the court may, on the request of the  
16 owner or lessee, take appropriate steps to make the driver of the  
17 vehicle, or any other person who directs the loading, maintenance, or  
18 operation of the vehicle, a codefendant. If the codefendant is held  
19 solely responsible and is found to have committed the traffic  
20 infraction, the court may dismiss the notice against the owner or  
21 lessee.

22 NEW SECTION. **Sec. 4.** A new section is added to chapter 46.61 RCW  
23 to read as follows:

24 (1) Absent prohibition by local authorities authorized under this  
25 section and except as prohibited elsewhere in this section, a person  
26 may operate a neighborhood electric vehicle upon a highway of this  
27 state having a speed limit of thirty-five miles per hour or less if:

28 (a) The person does not operate a neighborhood electric vehicle  
29 upon state highways that are listed in chapter 47.17 RCW;

30 (b) The person does not operate a neighborhood electric vehicle  
31 upon a highway of this state without first having obtained and having  
32 in full force and effect a current and proper vehicle license and  
33 display vehicle license number plates in compliance with chapter 46.16  
34 RCW;

35 (c) The person does not operate a neighborhood electric vehicle  
36 upon a highway of this state without first obtaining a valid driver's

1 license issued to Washington residents in compliance with chapter 46.20  
2 RCW;

3 (d) The person does not operate a neighborhood electric vehicle  
4 subject to registration under chapter 46.16 RCW on a highway of this  
5 state unless the person is insured under a motor vehicle liability  
6 policy in compliance with chapter 46.30 RCW; and

7 (e) The person operating a neighborhood electric vehicle does not  
8 cross a roadway with a speed limit in excess of thirty-five miles per  
9 hour, unless the crossing begins and ends on a roadway with a speed  
10 limit of thirty-five miles per hour or less and occurs at an  
11 intersection of approximately ninety degrees, except that the operator  
12 of a neighborhood electric vehicle must not cross an uncontrolled  
13 intersection of streets and highways that are part of the state highway  
14 system subject to Title 47 RCW unless that intersection has been  
15 authorized by local authorities provided elsewhere in this section.

16 (2) Any person who violates this section commits a traffic  
17 infraction.

18 (3) This section does not prevent local authorities, with respect  
19 to streets and highways under their jurisdiction and within the  
20 reasonable exercise of their police power, from regulating the  
21 operation of neighborhood electric vehicles on streets and highways  
22 under their jurisdiction, including the prohibition of neighborhood  
23 electric vehicles on certain streets and highways, by resolution or  
24 ordinance of the governing body, if the regulation is consistent with  
25 the provisions of this title, except that:

26 (a) Local authorities may not authorize the operation of  
27 neighborhood electric vehicles on streets and highways that are part of  
28 the state highway system subject to the provisions of Title 47 RCW; and

29 (b) Local authorities are prohibited from establishing any  
30 requirements for the registration and licensing of neighborhood  
31 electric vehicles.

32 **Sec. 5.** RCW 46.61.688 and 2002 c 328 s 2 are each amended to read  
33 as follows:

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

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

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

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

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

13 (~~(d)~~) (e) "Trucks," meaning motor vehicles with motive power,  
14 except trailers, designed primarily for the transportation of property.

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

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

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

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

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

36 (7) This section does not apply to an operator or passenger who  
37 possesses written verification from a licensed physician that the

1 operator or passenger is unable to wear a safety belt for physical or  
2 medical reasons.

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

7 **Sec. 6.** RCW 46.61.687 and 2000 c 190 s 2 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  
19 the United States department of transportation and that is secured in  
20 the vehicle in accordance with instructions of the manufacturer of the  
21 child restraint system;

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

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

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

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

36 (f) Enforcement of (a) through (e) of this subsection is subject to  
37 a visual inspection by law enforcement to determine if the child

1 restraint system in use is appropriate for the child's individual  
2 height, weight, and age. The visual inspection for usage of a forward  
3 facing child safety seat must ensure that the seat in use is equipped  
4 with a four-point shoulder harness system. The visual inspection for  
5 usage of a booster seat must ensure that the seat belt properly fits  
6 across the child's lap and the shoulder strap crosses the center of the  
7 child's chest. The visual inspection for the usage of a seat belt by  
8 a child must ensure that the lap belt properly fits across the child's  
9 lap and the shoulder strap crosses the center of the child's chest. In  
10 determining violations, consideration to the above criteria must be  
11 given in conjunction with the provisions of (a) through (e) of this  
12 subsection. The driver of a vehicle transporting a child who is under  
13 the age of six years old or weighs less than sixty pounds, when the  
14 vehicle is equipped with a passenger side air bag supplemental  
15 restraint system, and the air bag system is activated, shall transport  
16 the child in the back seat positions in the vehicle where it is  
17 practical to do so.

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

26 (3) Failure to comply with the requirements of this section shall  
27 not constitute negligence by a parent or legal guardian; nor shall  
28 failure to use a child restraint system be admissible as evidence of  
29 negligence in any civil action.

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

36 (5) As used in this section "child booster seat" means a child  
37 passenger restraint system that meets the Federal Motor Vehicle Safety

1 Standards set forth in 49 C.F.R. 571.213 that is designed to elevate a  
2 child to properly sit in a federally approved lap/shoulder belt system.

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

6 NEW SECTION. **Sec. 7.** This act takes effect August 1, 2003.

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