
SUBSTITUTE SENATE BILL 5856

State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Transportation (originally sponsored by Senators Brandland and Haugen)

READ FIRST TIME 03/07/05.

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 and amending RCW 46.61.687 and 46.61.688.

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

5 **Sec. 1.** RCW 46.61.687 and 2003 c 353 s 5 are each amended to read
6 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) If the child is less than six years old and/or sixty pounds and
14 the passenger seating position equipped with a safety belt system
15 allows sufficient space for installation, then the child will be
16 restrained in a child restraint system that complies with standards of
17 the United States department of transportation and that is secured in
18 the vehicle in accordance with instructions of the manufacturer of the
19 child restraint system;

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

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

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

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

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

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

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

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

8 (4) 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 (5) As used in this section "child booster seat" 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 that is designed to elevate a
17 child to properly sit in a federally approved lap/shoulder belt system.

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

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

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

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

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

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

36 (d) "Passenger cars," meaning motor vehicles with motive power,

1 except multipurpose passenger vehicles, motorcycles, or trailers,
2 designed for carrying ten passengers or less; and

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

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

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

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

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

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

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

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

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