
SENATE BILL 5349

State of Washington

61st Legislature

2009 Regular Session

By Senators Haugen and Brandland

Read first time 01/20/09. Referred to Committee on Judiciary.

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 2007 c 510 s 4 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 or medium-speed electric vehicle that is in operation,
12 the driver of the vehicle shall keep the child properly restrained as
13 follows:

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

1 department of transportation and must be secured in the vehicle in
2 accordance with instructions of the vehicle manufacturer and the child
3 restraint system manufacturer.

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

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

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

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

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

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

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

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

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

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

20 **Sec. 2.** RCW 46.61.688 and 2007 c 510 s 5 are each amended to read
21 as follows:

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

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

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

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

35 (d) "Medium-speed electric vehicle" meaning a self-propelled,
36 electrically powered four-wheeled motor vehicle, equipped with a roll
37 cage or crush-proof body design, whose speed attainable in one mile is

1 more than thirty miles per hour but not more than thirty-five miles per
2 hour and otherwise meets or exceeds the federal regulations set forth
3 in 49 C.F.R. Sec. 571.500;

4 (e) "Passenger cars," meaning motor vehicles with motive power,
5 except multipurpose passenger vehicles, motorcycles, or trailers,
6 designed for carrying ten passengers or less; and

7 (f) "Trucks," meaning motor vehicles with motive power, except
8 trailers, designed primarily for the transportation of property.

9 (2) This section only applies to motor vehicles that meet the
10 manual seat belt safety standards as set forth in federal motor vehicle
11 safety standard 208 and to neighborhood electric vehicles and medium-
12 speed electric vehicles. This section does not apply to a vehicle
13 occupant for whom no safety belt is available when all designated
14 seating positions as required by federal motor vehicle safety standard
15 208 are occupied.

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

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

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

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

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

36 (8) The state patrol may adopt rules exempting operators or
37 occupants of farm vehicles, construction equipment, and vehicles that

1 are required to make frequent stops from the requirement of wearing
2 safety belts.

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