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HOUSE BILL 2278

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State of Washington                      64th Legislature                      2015 2nd Special Session

By Representative Klippert

Prefiled 06/27/15.

1            AN ACT Relating to permitting failure to use a safety belt  
2 assembly or approved child restraint system or device to be  
3 admissible as evidence of negligence in any civil action; amending  
4 RCW 46.61.687; and reenacting and amending RCW 46.61.688.

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

6            **Sec. 1.** RCW 46.61.687 and 2007 c 510 s 4 are each amended to  
7 read as follows:

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

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

1 vehicle in accordance with instructions of the vehicle manufacturer  
2 and the child restraint system manufacturer.

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

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

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

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

28 (4) Failure to comply with ~~((the))~~ any requirements of this  
29 section ~~((shall not constitute negligence by a parent or legal  
30 guardian. Failure to use a child restraint system shall not))~~ may be  
31 admissible 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  
36 between parking, convention, and hotel facilities, and airport  
37 terminals, and (d) school buses.

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

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

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

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

17 **Sec. 2.** RCW 46.61.688 and 2009 c 275 s 8 are each reenacted and  
18 amended to read as follows:

19 (1) For the purposes of this section, "motor vehicle" includes:

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

22 (b) "Medium-speed electric vehicle" meaning a self-propelled,  
23 electrically powered four-wheeled motor vehicle, equipped with a roll  
24 cage or crush-proof body design, whose speed attainable in one mile  
25 is more than thirty miles per hour but not more than thirty-five  
26 miles per hour and otherwise meets or exceeds the federal regulations  
27 set forth in 49 C.F.R. Sec. 571.500;

28 (c) "Motorcycle," meaning a three-wheeled motor vehicle that is  
29 designed (i) so that the driver rides on a seat in a partially or  
30 completely enclosed seating area that is equipped with safety belts  
31 and (ii) to be steered with a steering wheel;

32 (d) "Multipurpose passenger vehicles," meaning motor vehicles  
33 with motive power, except trailers, designed to carry ten persons or  
34 less that are constructed either on a truck chassis or with special  
35 features for occasional off-road operation;

36 (e) "Neighborhood electric vehicle," meaning a self-propelled,  
37 electrically powered four-wheeled motor vehicle whose speed  
38 attainable in one mile is more than twenty miles per hour and not

1 more than twenty-five miles per hour and conforms to federal  
2 regulations under 49 C.F.R. Sec. 571.500;

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

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

8 (2)(a) This section only applies to:

9 (i) Motor vehicles that meet the manual seat belt safety  
10 standards as set forth in 49 C.F.R. Sec. 571.208;

11 (ii) Motorcycles, when equipped with safety belts that meet the  
12 standards set forth in 49 C.F.R. Part 571; and

13 (iii) Neighborhood electric vehicles and medium-speed electric  
14 vehicles that meet the seat belt standards as set forth in 49 C.F.R.  
15 Sec. 571.500.

16 (b) This section does not apply to a vehicle occupant for whom no  
17 safety belt is available when all designated seating positions as  
18 required under 49 C.F.R. Part 571 are occupied.

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

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

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

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

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

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

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

3 NEW SECTION. **Sec. 3.** (1) If any provision of this act or its  
4 application to any person or circumstance is held invalid, the  
5 remainder of the act or the application of the provision to other  
6 persons or circumstances is not affected.

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