

---

## Judiciary Committee

---

### HB 2486

**Title:** An act relating to the failure to wear safety belt assembly.

**Brief Description:** Revising negligence standards regarding the failure to wear safety belts.

**Sponsors:** Representatives Lantz, Jarrett, Lovick, Newhouse, Flannigan, Moeller, Carrell, Rockefeller, Upthegrove, Schual-Berke and Tom.

Brief Summary of Bill
<ul style="list-style-type: none"><li>Removes the provision in statute declaring that a person's failure to use a safety belt is not negligence and may not be admitted into evidence to show negligence.</li></ul>



**Hearing Date:** 1/20/04

**Staff:** Sarah Shirey (786-5793); Trudes Hutcheson (786-7384).

**Background:**

Any person 16 or older driving or riding in a car is required to wear a seat belt. A person may not drive a car unless any child passenger under 16 is wearing a seat belt or is in an appropriate car seat. Failure to comply with the seat belt laws is a traffic infraction.

With certain exceptions, a violation of a statutory mandate is not per se negligence, but the fact of such a violation may be introduced as evidence of negligence in any civil action. However, the seat belt statute specifically declares that a person's failure to comply with the seat belt requirement does not constitute negligence and states that the failure to wear a seat belt is not admissible as evidence of negligence.

Comparative Fault

Washington recognizes the concept of "comparative fault" in negligence actions. In an action based on "fault," any fault for which the plaintiff is responsible for also known as "contributory fault" will proportionately reduce the defendant's liability for the plaintiff's injuries. "Fault" includes acts or omissions that are negligent or reckless. "Fault" also includes an unreasonable failure to avoid an injury or to mitigate damages.

Ruling on the seat belt statute, Washington courts have held that the term "negligence" incorporates the concept of "contributory fault." *Clark v. Payne*, 61 Wn. App. 189 (1991). Therefore, the statute bars admitting evidence of the plaintiff's failure to wear a seat belt to show either negligence or contributory fault.

### Joint & Several Liability

Usually a defendant is responsible for paying only for his or her own percentage of fault in causing the plaintiff's harm. In some cases with multiple defendants, joint and several liability applies when the plaintiff is not at fault for causing his or her own harm. Under joint and several liability, any one defendant can be required to pay all of the plaintiff's damages. If, on the other hand, the plaintiff is found to have some contributory fault, joint and several liability will usually not apply.

Under the seat belt statute, defendants may not bring forth evidence of the plaintiff's failure to wear a seat belt to avoid joint and several liability.

### Rules of Evidence

Statutes that are silent on the admissibility of evidence leave admission decisions to the court. Therefore, admissibility of evidence not specified in statute is contingent upon the court's rules of evidence. Generally, in a civil action, the court will admit evidence that is relevant, so long as the evidence is not overly prejudicial, meaning that its probative value is not outweighed by its prejudicial effect.

### **Summary of Bill:**

The provision declaring that non-compliance with the seat belt law is not negligence and may not be admissible to show negligence is removed.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.