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**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, 46.61.688, and 46.61.687; adding a new section  
4 to chapter 46.04 RCW; adding a new section to chapter 46.61 RCW;  
5 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:

17 "Neighborhood electric vehicle" means a self-propelled,  
18 electrically powered four-wheeled motor vehicle whose speed attainable

1 in one mile is more than twenty miles per hour and not more than  
2 twenty-five miles per hour and conforms to federal regulations under  
3 Title 49 C.F.R. Part 571.500.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 46.61 RCW  
5 to read as follows:

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

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

12 (b) The person does not operate a neighborhood electric vehicle  
13 upon a highway of this state without first having obtained and having  
14 in full force and effect a current and proper vehicle license and  
15 display vehicle license number plates in compliance with chapter 46.16  
16 RCW;

17 (c) The person does not operate a neighborhood electric vehicle  
18 upon a highway of this state without first obtaining a valid driver's  
19 license issued to Washington residents in compliance with chapter 46.20  
20 RCW;

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

25 (e) The person operating a neighborhood electric vehicle does not  
26 cross a roadway with a speed limit in excess of thirty-five miles per  
27 hour, unless the crossing begins and ends on a roadway with a speed  
28 limit of thirty-five miles per hour or less and occurs at an  
29 intersection of approximately ninety degrees, except that the operator  
30 of a neighborhood electric vehicle must not cross an uncontrolled  
31 intersection of streets and highways that are part of the state highway  
32 system subject to Title 47 RCW unless that intersection has been  
33 authorized by local authorities provided elsewhere in this section.

34 (2) Any person who violates this section commits a traffic  
35 infraction.

36 (3) This section does not prevent local authorities, with respect  
37 to streets and highways under their jurisdiction and within the

1 reasonable exercise of their police power, from regulating the  
2 operation of neighborhood electric vehicles on streets and highways  
3 under their jurisdiction, including the prohibition of neighborhood  
4 electric vehicles on certain streets and highways, by resolution or  
5 ordinance of the governing body, if the regulation is consistent with  
6 the provisions of this title, except that:

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

10 (b) Local authorities are prohibited from establishing any  
11 requirements for the registration and licensing of neighborhood  
12 electric vehicles.

13 **Sec. 4.** RCW 46.61.688 and 2002 c 328 s 2 are each amended to read  
14 as follows:

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

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

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

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

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

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

33 (2) This section only applies to motor vehicles that meet the  
34 manual seat belt safety standards as set forth in federal motor vehicle  
35 safety standard 208 and to neighborhood electric vehicles. This  
36 section does not apply to a vehicle occupant for whom no safety belt is

1 available when all designated seating positions as required by federal  
2 motor vehicle safety standard 208 are occupied.

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

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

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

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

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

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

26 **Sec. 5.** RCW 46.61.687 and 2000 c 190 s 2 are each amended to read  
27 as follows:

28 (1) Whenever a child who is less than sixteen years of age is being  
29 transported in a motor vehicle that is in operation and that is  
30 required by RCW 46.37.510 to be equipped with a safety belt system in  
31 a passenger seating position, or is being transported in a neighborhood  
32 electric vehicle that is in operation, the driver of the vehicle shall  
33 keep the child properly restrained as follows:

34 (a) If the child is less than six years old and/or sixty pounds and  
35 the passenger seating position equipped with a safety belt system  
36 allows sufficient space for installation, then the child will be  
37 restrained in a child restraint system that complies with standards of

1 the United States department of transportation and that is secured in  
2 the vehicle in accordance with instructions of the manufacturer of the  
3 child restraint system;

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

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

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

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

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

37 (2) A person violating subsection (1)(a) through (e) of this  
38 section may be issued a notice of traffic infraction under chapter

1 46.63 RCW. If the person to whom the notice was issued presents proof  
2 of acquisition of an approved child passenger restraint system or a  
3 child booster seat, as appropriate, within seven days to the  
4 jurisdiction issuing the notice and the person has not previously had  
5 a violation of this section dismissed, the jurisdiction shall dismiss  
6 the notice of traffic infraction.

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

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

17 (5) As used in this section "child booster seat" means a child  
18 passenger restraint system that meets the Federal Motor Vehicle Safety  
19 Standards set forth in 49 C.F.R. 571.213 that is designed to elevate a  
20 child to properly sit in a federally approved lap/shoulder belt system.

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

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

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