

---

SENATE BILL 6172

---

State of Washington                      58th Legislature                      2004 Regular Session

By Senators Haugen, Kline, McCaslin, Oke and Rasmussen

Read first time 01/14/2004. Referred to Committee on Judiciary.

1            AN ACT Relating to child passenger restraint system liability; and  
2 amending RCW 46.61.687.

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

4            **Sec. 1.** RCW 46.61.687 and 2003 c 353 s 5 are each amended to read  
5 as follows:

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

12            (a) If the child is less than six years old (~~and/or~~) or sixty  
13 pounds and the passenger seating position equipped with a safety belt  
14 system allows sufficient space for installation, then the child  
15 (~~will~~) must be restrained in a child restraint system that complies  
16 with standards of the United States department of transportation and  
17 that is secured in the vehicle in accordance with instructions of the  
18 manufacturer of the 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 requirements of this section shall  
5 not constitute negligence by a parent or legal guardian; nor shall  
6 failure to use a child restraint system be admissible as evidence of  
7 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 (7) A person who has successfully met the minimum required training  
22 standards for installation of child restraint systems established by  
23 the National Highway Traffic Safety Administration of the United States  
24 Department of Transportation, who in good faith installs, or inspects  
25 the installation of, a child restraint system or child booster seat is  
26 not liable for civil damages resulting from an act or omission related  
27 to the installation or inspection, unless the act or omission was the  
28 result of the person's gross negligence or willful misconduct.

--- END ---