

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 5085**

59th Legislature  
2005 Regular Session

Passed by the Senate April 16, 2005  
YEAS 42 NAYS 0

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**President of the Senate**

Passed by the House April 13, 2005  
YEAS 96 NAYS 0

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**Speaker of the House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5085** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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**SUBSTITUTE SENATE BILL 5085**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2005 Regular Session

**State of Washington                      59th Legislature                      2005 Regular Session**

**By** Senate Committee on Transportation (originally sponsored by  
Senators Weinstein, Haugen, Jacobsen and Kline)

READ FIRST TIME 01/28/05.

1            AN ACT Relating to child passenger restraint systems; and amending  
2            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 sixty pounds and  
13           the passenger seating position equipped with a safety belt system  
14           allows sufficient space for installation, then the child will be  
15           restrained in a child restraint system that complies with standards of  
16           the United States department of transportation and that is secured in  
17           the vehicle in accordance with instructions of the manufacturer of the  
18           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) Except as provided in (b) of this subsection, a person who  
22 has a current national certification as a child passenger safety  
23 technician and who in good faith provides inspection, adjustment, or  
24 educational services regarding child passenger restraint systems is not  
25 liable for civil damages resulting from any act or omission in  
26 providing the services, other than acts or omissions constituting gross  
27 negligence or willful or wanton misconduct.

28 (b) The immunity provided in this subsection does not apply to a  
29 certified child passenger safety technician who is employed by a  
30 retailer of child passenger restraint systems and who, during his or  
31 her hours of employment and while being compensated, provides  
32 inspection, adjustment, or educational services regarding child  
33 passenger restraint systems.

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