SENATE BILL REPORT
SB 5574

As of February 19, 2013

Title: An act relating to admissibility in a civil action of failing to wear safety belt assemblies and failing to use child restraint systems.

Brief Description: Revising the admissibility in a civil action of failing to wear safety belt assemblies and failing to use child restraint systems.

Sponsors: Senators King and Shin.

Brief History:
Committee Activity: Law & Justice: 2/18/13.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Jessica Stevenson (786-7465)

Background: Failure to wear a safety belt or use a child restraint system is a primary offense in Washington. Washington law requires persons 16 years or older operating or riding in a motor vehicle to wear a safety belt. A person may not operate a vehicle unless all child passengers under age 16 are wearing a safety belt or securely fastened in an approved child restraint device.

When a child under the age of 16 is a passenger in a vehicle that is required to have safety belts, the driver of the vehicle must comply with specific requirements. A child restraint system must be used until a child is eight years old or at least four feet and nine inches tall, if the passenger seating position equipped with a safety belt system allows sufficient space for installation. A child who is at least eight years of age or at least four feet and nine inches tall must be properly restrained with the vehicle's safety belt or a child restraint system. The driver of a vehicle transporting a child who is under 13 years old must transport the child in the back seat of the vehicle.

Currently, failure to comply with the requirements for safety belt use as the driver or as a passenger of a vehicle does not constitute negligence and the failure to wear a safety belt may not be admissible as evidence of negligence in any civil action. Additionally, failure to comply with the requirements for the use of a safety belt for a child or a child restraint system does not constitute negligence by a parent or a legal guardian. Failure to use a child restraint system must not be admissible as evidence of negligence in any civil action.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill: The statements that failure to comply with the requirements for the use of a seat belt or a child restraint system does not constitute negligence are removed. Failure to comply with any requirements for the use of a safety belt or a child restraint system may be admissible in any civil action.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Judges and juries should not overlook the consequences that result from someone breaking the mandatory seatbelt law. It is negligent for a parent to not use a seatbelt or car seat for their child since they are breaking the law. Comparative negligence, which is the current law in Washington, allows the fault of each party to be considered, but failure to wear a seatbelt cannot be considered in the fault allocation. It would be better if the judge and jury could consider all aspects of fault. Generally, evidence of cell phone use while driving is admissible. The state is held liable under joint and several liability for many injuries. Local governments will save a significant amount of money if failing to wear a seatbelt is admissible. Evidence shows that seatbelts reduce injuries. All facts should be known in a case so the totality of the circumstances are considered. Washington taxpayers pay unnecessary costs when the cities and counties must pay in cases where seat belt evidence is not admissible.

CON: The bill would alter longstanding and basic tort law. Evidence of failure to wear a seatbelt would allow the wrongdoer to benefit by blaming the plaintiff. Allowing failure to wear a seatbelt would open the door to intra-family lawsuits since children could sue parents for failing to properly secure them in a vehicle. Determining whether a person was wearing a seatbelt will increase the cost and complexity of litigation. Information about insurance is not admissible. If the jury knew that a plaintiff was not wearing a seatbelt, the jury would only focus on this fact and the plaintiff would not be fairly compensated. The law prevents medical malpractice claims by prohibiting claims that injuries would have been less severe if doctor had not aggravated the current injury or caused new injuries.

Persons Testifying: PRO: Senator King, prime sponsor; Mel Sorensen, WA Defense Trial Lawyers; Mike Tardif, WA Defense Trial Lawyers; Brian Enslow, WA State Assn. of Counties; Candice Bock, Assn. of WA Cities; Steve Reinmuth, WA State Dept. of Transportation.

CON: Larry Shannon, WA State Assn. for Justice; Brad Fulton, Carter and Fulton; Darrell Cochran, Pfau, Cochran, Vertetis, Amala.