H-4005.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SUBSTITUTE HOUSE BILL 1188**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 65th Legislature 2018 Regular Session**

**By** House Transportation (originally sponsored by Representatives Bergquist, Harmsworth, Fey, Hayes, Jinkins, and Hudgins)

AN ACT Relating to the use of child passenger restraint systems; amending RCW 46.61.687; adding a new section to chapter 43.59 RCW; and providing an effective date.

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

**Sec.**  RCW 46.61.687 and 2007 c 510 s 4 are each amended to read as follows:

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

(a) ((~~A child must be restrained in a child restraint system, if the passenger seating position equipped with a safety belt system allows sufficient space for installation, until the child is eight years old, unless the child is four feet nine inches or taller. The child restraint system must comply with standards of the United States department of transportation and must be secured in the vehicle in accordance with instructions of the vehicle manufacturer and the child restraint system manufacturer.~~

~~(b) A child who is eight years of age or older or four feet nine inches or taller shall be properly restrained with the motor vehicle's safety belt properly adjusted and fastened around the child's body or an appropriately fitting child restraint system.~~

~~(c)~~)) A child under the age of two years must be properly secured in a child restraint system that is rear-facing until the child reaches the weight or height limit of the child restraint system as set by the manufacturer. A child two years of age or older may be properly secured in a child restraint system that is rear-facing until the child reaches the weight or height limit of the child restraint system as set by the manufacturer.

(b) A child who is not properly secured in a rear-facing child restraint system in accordance with (a) of this subsection and who is under the age of four years must be properly secured in a child restraint system that is forward-facing and has a harness until the child reaches the weight or height limit of the child restraint system as set by the manufacturer. A child four years of age or older may be properly secured in a child restraint system that is forward-facing and has a harness until the child reaches the weight or height limit of the child restraint system as set by the manufacturer.

(c) A child who is not properly secured in a child restraint system in accordance with (a) or (b) of this subsection and who is either under ten years of age or under four feet nine inches tall must be properly secured in a child booster seat until the child reaches the weight or height limit of the child booster seat as set by the manufacturer. A child who is ten years of age or older may be properly secured in a child booster seat until the child reaches the weight or height limit of the child booster seat as set by the manufacturer or must be properly secured with the motor vehicle's safety belt properly adjusted and fastened around the child's body.

(d) The child restraint system used must comply with standards of the United States department of transportation and must be secured in the vehicle in accordance with instructions of the vehicle manufacturer and the child restraint system manufacturer.

(e) The child booster seat used must comply with standards of the United States department of transportation and must be secured in the vehicle in accordance with instructions of the vehicle manufacturer and the child booster seat manufacturer to elevate a child to sit properly in a federally approved safety seat belt system.

(f) The driver of a vehicle transporting a child who is under thirteen years old shall transport the child in the back seat positions in the vehicle where it is practical to do so.

(2) Enforcement of subsection (1) of this section is subject to a visual inspection by law enforcement to determine if the child restraint system in use is appropriate for the child's individual height, weight, and age. The visual inspection for usage of a child restraint system must ensure that the child restraint system is being used in accordance with the instruction of the vehicle and the child restraint system manufacturers. ((~~The driver of a vehicle transporting a child who is under thirteen years old shall transport the child in the back seat positions in the vehicle where it is practical to do so.~~))

(3) A person violating subsection (1) of this section may be issued a notice of traffic infraction under chapter 46.63 RCW. If the person to whom the notice was issued presents proof of acquisition of an approved child ((~~passenger~~)) restraint system or a child booster seat, as appropriate, within seven days to the jurisdiction issuing the notice and the person has not previously had a violation of this section dismissed, the jurisdiction shall dismiss the notice of traffic infraction.

(4) Failure to comply with the requirements of this section shall not constitute negligence by a parent or legal guardian. Failure to use a child restraint system shall not be admissible as evidence of negligence in any civil action.

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

(6) As used in this section, "child restraint system" means a child passenger restraint system that meets the federal motor vehicle safety standards set forth in 49 C.F.R. Sec. 571.213. A "child booster seat" is a type of child restraint system.

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

(8)(a) Except as provided in (b) of this subsection, a person who has a current national certification as a child passenger safety technician and who in good faith provides inspection, adjustment, or educational services regarding child ((~~passenger~~)) restraint systems is not liable for civil damages resulting from any act or omission in providing the services, other than acts or omissions constituting gross negligence or willful or wanton misconduct.

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

NEW SECTION. **Sec.**  A new section is added to chapter 43.59 RCW to read as follows:

(1) The Washington traffic safety commission shall produce and disseminate informational and educational materials explaining the proper use of child restraint systems in motor vehicles, the safety risks of not properly using child restraint systems in motor vehicles, where assistance on the proper installation and use of child restraint systems in motor vehicles can be obtained, and the legal penalties for not properly using child restraint systems in motor vehicles.

(2) As used in this section, "child restraint system" has the same meaning as defined in RCW 46.61.687(6).

NEW SECTION. **Sec.**  This act takes effect January 1, 2019.

**--- END ---**