



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2005 Wisconsin Act 322
[2005 Senate Bill 386]

Civil Liability Immunity for Child Safety Restraint System Inspection and Installation Services

Act 322 provides civil liability immunity for child passenger safety technicians and for sponsoring organizations that employ a child passenger safety technician, or sponsor, offer, or organize a child safety restraint program, or own property on which such a program is conducted.

Civil Liability Immunity for Child Passenger Safety Technicians

Under the Act, a “child passenger safety technician” is a person who holds a valid certification as a child passenger safety technician or technician instructor issued by the National Highway Traffic Administration or any entity authorized by that agency to issue such certifications. The Act provides a child passenger safety technician civil liability immunity for his or her acts or omissions in rendering in good faith the following services:

- Inspecting, installing, fitting, or adjusting any child safety restraint system (specified under s. 347.48 (4), Stats.); or
- Providing education or other assistance or advice relating to the safe installation, fitting, or adjustment of child safety restraint systems.

Under the Act, the good faith of a person in providing the services is presumed in any civil action if the services are within the scope of the training for which the person has been certified. Any person who asserts that the acts or omissions were not made in good faith has the burden of proving that assertion by clear and convincing evidence (the “middle” burden of persuasion).

The civil liability immunity for child passenger safety technicians does not extend to:

- A person who receives compensation for providing the safety restraint-related services, other than reimbursement for expenses.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.state.wi.us/>.

- A person whose acts or omissions in providing the services involved reckless, wanton, or intentional misconduct.

Civil Liability for Sponsoring Organizations

Under the Act, a “sponsoring organization” is any person or organization that employs a child passenger safety technician; sponsors, offers, or organizes any safety program; or owns property on which a safety program is conducted. A “safety program” is a program not conducted for pecuniary profit that utilizes the services of child passenger safety technicians and provides assistance, inspections, education, or advice to the public in the fitting, installation, or adjustment of child safety restraint systems.

The Act provides immunity from civil liability to a sponsoring organization for liability arising from any acts or omissions of a child passenger safety technician in providing specified services or arising in connection with a safety program if the sponsoring organization receives no compensation for the services provided by the technician or for participating in the safety program.

Effective Date: April 26, 2006. The Act first applies to services provided on the effective date.

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