

Department of Legislative Services

Maryland General Assembly

2001 Session

FISCAL NOTE

Revised

Senate Bill 35 (Senator Forehand)

Judicial Proceedings

Judiciary

Child Passenger Safety Technicians and Sponsoring Organizations - Qualified Immunity from Civil Liability

This bill provides that a “child passenger safety technician” or “sponsoring organization” is not civilly liable for an act or omission that occurs solely in the inspection, installation, or adjustment of a “child safety seat” in a motor vehicle, or in giving advice or assistance regarding the installation or adjustment of a child safety seat, if:

- the child passenger safety technician acts in good faith and within the scope of the training for which the technician is currently certified;
- the act or omission is not one of gross negligence or willful or wanton misconduct;
- the inspection, installation, or adjustment of the child safety seat, or the advice or assistance, is provided without fee or charge; and
- the inspection, installation, or adjustment of the child safety seat is not provided in conjunction with the for profit sale of the child safety seat.

A “child passenger safety technician” is defined as an individual who holds a current certification as a child passenger safety technician or technician instructor by the National Highway Traffic Safety Administration of the U.S. Department of Transportation (NHTSA), the American Automobile Association, or other entity designated by the NHTSA.

A “sponsoring organization” is defined as a person that employs a child passenger safety technician, offers or arranges free child safety seat checkup events or fitting station programs for the general public, or owns property on which a free child safety seat checkup event or fitting station program for the general public takes place.

The bill may not be applied to any cause of action arising before the bill's October 1, 2001 effective date.

Fiscal Summary

State Effect: The bill would limit the State's liability for negligent acts and omissions of employees who inspect or install child safety seats.

Local Effect: The bill would limit the liability of local governments for negligent acts and omissions of local government employees who inspect or install child safety seats.

Small Business Effect: Potential meaningful.

Analysis

Current Law: An individual or the sponsoring organization of the individual who inspects, installs, or adjusts a child safety seat in a motor vehicle is not protected from civil liability for injuries caused to another individual as a result of a negligent act or omission by the installer in the inspection, installation, or adjustment of the child safety seat.

Background: The NHTSA offers a national training program for child passenger safety (CPS) professionals. The CPS Training Program was developed by NHTSA to address the need for quality control in course content and instructors and to ensure that information being taught and materials being disseminated are up-to-date, accurate, and consistent. The CPS Training Program is a four-day course involving a combination of lectures, discussion, role playing, and hands-on practice with both child safety seats and vehicle belt systems. Students take both written and practical tests, and participate in a "real world" CPS clinic or child safety seat checkpoint, in which students must demonstrate proficiency in communicating with and demonstrating proper installation to the public. In Maryland, the course is offered by organizations including Maryland Kids in Safety Seats within the Department of Health and Mental Hygiene, the Maryland Office of Highway Safety, Maryland State Police, and Prince George's County Fire and Rescue Department. There is no cost for the course. The American Automobile Association charges a \$10 per person annual fee for certification.

State Expenditures: The bill would limit the State's liability for negligent acts and omissions of State employees who inspect, install, or adjust child safety seats. The total number of State employees who perform such functions is unknown. The State Highway

Administration (SHA) advises that one SHA employee spends several hours per month inspecting child safety seats. However, this employee is already protected from tort liability by a waiver that individuals are required to sign before being provided assistance with their child safety seats. A number of State police officers perform inspections of child safety seats, but police officers are already provided with qualified immunity for doing their jobs. The number of lawsuits that have been filed against the State for negligent inspection, installation, or adjustment of child safety seats is unknown but is assumed to be minimal. Under the State Tort Claims Act, the liability of the State may not exceed \$200,000 to a single claimant for injuries arising from a single incident. Tort claim payments are administered by the State Treasurer's Office. State tort losses for fiscal 2002 are estimated at \$2.8 million.

Local Expenditures: The bill would limit the liability of local governments for negligent acts and omissions of local government employees who inspect, install, or adjust child safety seats. Montgomery County advises that a number of its employees inspect, install, and/or adjust child safety seats during monthly clinics and by appointment. It is believed that other local jurisdictions also offer this service. The number of lawsuits that have been filed against local governments for negligent inspection or installation of child safety seats is unknown, but is assumed to be minimal. Under the Local Government Tort Claims Act, the liability of a local government for damages resulting from tortious acts or omissions may not exceed \$200,000 per an individual claim, and \$500,000 per total claims that arise from the same occurrence.

Small Business Effect: The bill would limit the liability of small businesses for negligent acts and omissions of employees who inspect, install, or adjust child safety seats.

Additional Information

Prior Introductions: A similar bill was introduced during the 2000 session as SB 139. That bill was passed by the Senate but received an unfavorable report from the House Judiciary Committee.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Department of Transportation (State Highway Administration), Montgomery County, Maryland State Police, Department of Legislative Services

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