

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 2341*
Committee Substitute Favorable 6/10/08
Third Edition Engrossed 6/12/08

Short Title: Child Passenger Safety Technician Liability.

(Public)

Sponsors:

Referred to:

May 21, 2008

A BILL TO BE ENTITLED

AN ACT TO LIMIT LIABILITY FOR THE ACTS OF CERTIFIED CHILD PASSENGER SAFETY TECHNICIANS AND SPONSORING ORGANIZATIONS OF CHILD SAFETY SEAT EDUCATIONAL AND CHECKING PROGRAMS WHEN TECHNICIANS AND SPONSORING ORGANIZATIONS ARE ACTING IN GOOD FAITH AND CHILD SAFETY SEAT INSPECTIONS, INSTALLATION, ADJUSTMENT, OR EDUCATION PROGRAMS ARE PROVIDED WITHOUT FEE OR CHARGE, AS RECOMMENDED BY THE CHILD FATALITY TASK FORCE.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 20 of the General Statutes is amended by adding a new section to read:

§ 20-137.5. Child passenger safety technician; limitation of liability.

(a) The following definitions apply in this section:

- (1) Certified child passenger safety technician. – A certified child passenger safety technician is an individual who has successfully completed the U.S. Department of Transportation National Highway Traffic Safety Administration's (NHTSA) National Standardized Child Passenger Safety Certification Training Program and who maintains a current child passenger safety technician or technician instructor certification through the current certifying body for the National Child Passenger Safety Training Program as designated by the National Highway Traffic Safety Administration.
- (2) Sponsoring organization. – A sponsoring organization is a person or organization other than a manufacturer of or employee or agent of a manufacturer of child safety seats that:

- 1 a. Offers or arranges for the public a nonprofit child safety seat
2 educational program, checkup event, or checking station
3 program utilizing certified child passenger safety technicians; or
4 b. Owns property upon which a nonprofit child safety seat
5 educational program, checkup event, or checking station
6 program for the public occurs utilizing certified child passenger
7 safety technicians.

8 (b) Limitation of Liability. – Except as provided in subsection (c) of this section,
9 a certified child passenger safety technician or sponsoring organization shall not be
10 liable to any person as a result of any act or omission that occurs solely in the
11 inspection, installation, or adjustment of a child safety seat or in providing education
12 regarding the installation or adjustment of a child safety seat if:

- 13 (1) The service is provided without fee or charge other than
14 reimbursement for expenses, and
15 (2) The child passenger safety technician or sponsoring organization acts
16 in good faith and within the scope of training for which the technician
17 is currently certified.

18 (c) Exceptions. – The limitation on liability shall not apply under any of the
19 following conditions:

- 20 (1) The act or omission of the certified child passenger safety technician
21 or sponsoring organization constitutes willful or wanton misconduct or
22 gross negligence.
23 (2) The inspection, installation, or adjustment of a child safety seat or
24 education provided regarding the installation or adjustment of a child
25 safety seat is in conjunction with the for-profit sale of a child safety
26 seat.
27 (3) To the extent the certified child passenger safety technician or
28 sponsoring organization is indemnified by insurance for the negligent
29 acts or omissions. An insurer shall not under a contract of insurance
30 exclude from liability coverage the negligent acts or omissions of a
31 certified child passenger safety technician or sponsoring organization
32 for which the certified child passenger safety technician or sponsoring
33 organization would only be liable to the extent indemnified by
34 insurance as provided by this subdivision."

35 **SECTION 2.** This act becomes effective October 1, 2008, and applies to any
36 cause of action arising on or after that date.