



## 2005 ASSEMBLY BILL 376

April 27, 2005 – Introduced by Representatives LAMB, KREIBICH, GARD, KERKMAN, JENSEN, SHERIDAN, FREESE, WARD, VOS, AINSWORTH, MUSSEY, LOTHIAN, BIES, KRAWCZYK, VAN ROY, HINES, VRAKAS, MURSAU, OTT, TOWNSEND and PETROWSKI, cosponsored by Senators STEPP, LASSA, ROESSLER, GROTHMAN, REYNOLDS, LEIBHAM and COWLES. Referred to Committee on Judiciary.

1     **AN ACT to create** 895.497 of the statutes; **relating to:** immunity from civil  
2           liability for providing safety services related to the inspection and installation  
3           of child safety restraint systems in motor vehicles.

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### *Analysis by the Legislative Reference Bureau*

Current law provides certain persons with immunity from civil liability under specified circumstances. For example, ski patrol members, and health care professionals who render emergency care without compensation, are immune from civil liability for their acts or omissions under certain circumstances. Organizations that donate food and some goods may also be immune from civil liability arising from the donated food or goods under limited circumstances.

This bill provides immunity from civil liability to a child passenger safety technician who, in good faith, inspects, installs, fits, or adjusts any child safety restraint system, or who provides education or other assistance or advice relating to the safe installation, fitting, or adjustment of child safety restraint systems. However, no immunity applies if the person receives compensation for providing the services or provides the services in a reckless, wanton, or intentionally wrongful manner. The bill also provides immunity to certain organizations with respect to their participation in safety programs that provide assistance, inspections,

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education, or advice to the public in the fitting, installation, or adjustment of child safety restraint systems.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 895.497 of the statutes is created to read:

2           **895.497 Liability exemption: furnishing safety services relating to**  
3 **child safety restraint systems. (1)** In this section:

4           (a) “Child passenger safety technician” means a person who holds a valid  
5 certification as a child passenger safety technician or technician instructor issued by  
6 the National Highway Traffic Safety Administration or any entity authorized by the  
7 National Highway Traffic Safety Administration to issue such certifications.

8           (b) “Safety program” means any program utilizing the services of child  
9 passenger safety technicians and not conducted for pecuniary profit that provides  
10 assistance, inspections, education, or advice to the public in the fitting, installation,  
11 or adjustment of child safety restraint systems.

12           (c) “Sponsoring organization” means any person or organization that does any  
13 of the following:

- 14           1. Employs a child passenger safety technician.
- 15           2. Sponsors, offers, or organizes any safety program.
- 16           3. Owns property on which a safety program is conducted.

17           **(2)** (a) A child passenger safety technician who inspects, installs, fits, or adjusts  
18 any child safety restraint system specified under s. 347.48 (4), or who provides  
19 education or other assistance or advice relating to the safe installation, fitting, or  
20 adjustment of child safety restraint systems, is immune from civil liability for his or  
21 her acts or omissions in rendering in good faith such services.

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1 (b) The immunity under par. (a) does not extend to any of the following:

2 1. A person who receives compensation for providing the services specified in  
3 par. (a), other than reimbursement for expenses.

4 2. A person whose acts or omissions in providing the services specified in par.  
5 (a) involve reckless, wanton, or intentional misconduct.

6 (c) The good faith of a person in providing the services specified in par. (a) is  
7 presumed in any civil action if the services provided are within the scope of the  
8 person's training for which the person has been certified. Any person who asserts  
9 that the acts or omissions under par. (a) were not made in good faith has the burden  
10 of proving that assertion by clear and convincing evidence.

11 **(3)** A sponsoring organization is immune from civil liability arising from any  
12 acts or omissions of a child passenger safety technician in providing services  
13 specified in sub. (2) (a) or arising in connection with a safety program if the  
14 sponsoring organization receives no compensation for the services provided by the  
15 child passenger safety technician or for participating in the safety program.

16 **SECTION 2. Initial applicability.**

17 (1) This act first applies to services provided on the effective date of this  
18 subsection.

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(END)