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ASSEMBLY BILL NO. 338—ASSEMBLYMAN WHEELER

MARCH 20, 2017

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Referred to Committee on Judiciary

SUMMARY—Revises provisions governing the admission into evidence in a civil action of certain violations of the requirement to wear a safety belt. (BDR 43-644)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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AN ACT relating to civil actions; providing that certain violations of the requirement to wear a safety belt are not admissible in evidence in any civil action; authorizing the introduction of those violations in a civil action as a mitigating factor in the assessment of damages under certain circumstances; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Under existing law, with certain exceptions, each person who is 6 years of age  
2 or older or who weighs more than 60 pounds, regardless of age, who drives or rides  
3 in certain passenger cars is required to wear a safety belt if one is available for the  
4 seating position of the person. Existing law also provides that a violation of this  
5 requirement may not be considered: (1) as negligence or as causation in any civil  
6 action or as negligent or reckless driving; or (2) as misuse or abuse of a product or  
7 as causation in any action brought to recover damages for injury to a person or  
8 property resulting from the manufacture, distribution, sale or use of a product.  
9 (NRS 484D.495) This bill removes those legal limitations and instead provides that  
10 a violation of the requirement to wear a safety belt is not admissible in evidence in  
11 any civil action, except that the violation may be introduced in a civil action as a  
12 mitigating factor in the assessment of damages if: (1) it has been determined that  
13 one party is entitled to recover damages; and (2) the opposing party asserted the  
14 violation as an affirmative defense.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     **Section 1.** NRS 484D.495 is hereby amended to read as  
2 follows:

3     484D.495 1. It is unlawful to drive a passenger car  
4 manufactured after:

5     (a) January 1, 1968, on a highway unless it is equipped with at  
6 least two lap-type safety belt assemblies for use in the front seating  
7 positions.

8     (b) January 1, 1970, on a highway unless it is equipped with a  
9 lap-type safety belt assembly for each permanent seating position  
10 for passengers. This requirement does not apply to the rear seats of  
11 vehicles operated by a police department or sheriff's office.

12     (c) January 1, 1970, unless it is equipped with at least two  
13 shoulder-harness-type safety belt assemblies for use in the front  
14 seating positions.

15     2. Any person driving, and any passenger who:

16     (a) Is 6 years of age or older; or

17     (b) Weighs more than 60 pounds, regardless of age,

18     ↳ who rides in the front or back seat of any vehicle described in  
19 subsection 1, having an unladen weight of less than 10,000 pounds,  
20 on any highway, road or street in this State shall wear a safety belt if  
21 one is available for the seating position of the person or passenger.

22     3. A citation must be issued to any driver or to any adult  
23 passenger who fails to wear a safety belt as required by subsection  
24 2. If the passenger is a child who:

25     (a) Is 6 years of age or older but less than 18 years of age,  
26 regardless of weight; or

27     (b) Is less than 6 years of age but who weighs more than 60  
28 pounds,

29     ↳ a citation must be issued to the driver for failing to require that  
30 child to wear the safety belt, but if both the driver and that child are  
31 not wearing safety belts, only one citation may be issued to the  
32 driver for both violations. A citation may be issued pursuant to this  
33 subsection only if the violation is discovered when the vehicle is  
34 halted or its driver arrested for another alleged violation or offense.  
35 Any person who violates the provisions of subsection 2 shall be  
36 punished by a fine of not more than \$25 or by a sentence to perform  
37 a certain number of hours of community service.

38     4. A violation of subsection 2:

39     (a) Is not a moving traffic violation under NRS 483.473.

40     (b) ~~May not be considered as negligence or as causation~~  
41 *Except as otherwise provided in subsection 5, is not admissible in*



1 *evidence* in any civil action . ~~for as negligent or reckless driving~~  
2 ~~under NRS 484B.653.~~

3 ~~—(c) May not be considered as misuse or abuse of a product or as~~  
4 ~~causation in any action brought to recover damages for injury to a~~  
5 ~~person or property resulting from the manufacture, distribution, sale~~  
6 ~~or use of a product.]~~

7 5. *A violation of subsection 2 may be introduced in a civil*  
8 *action as a mitigating factor in the assessment of damages if:*

9 (a) *It has been determined that one party is entitled to recover*  
10 *damages; and*

11 (b) *The opposing party asserted such a violation as an*  
12 *affirmative defense.*

13 6. The Department shall exempt those types of motor vehicles  
14 or seating positions from the requirements of subsection 1 when  
15 compliance would be impractical.

16 ~~6.]~~ 7. The provisions of subsections 2 and 3 do not apply:

17 (a) To a driver or passenger who possesses a written statement  
18 by a physician certifying that the driver or passenger is unable to  
19 wear a safety belt for medical or physical reasons;

20 (b) If the vehicle is not required by federal law to be equipped  
21 with safety belts;

22 (c) To an employee of the United States Postal Service while  
23 delivering mail in the rural areas of this State;

24 (d) If the vehicle is stopping frequently, the speed of that vehicle  
25 does not exceed 15 miles per hour between stops and the driver or  
26 passenger is frequently leaving the vehicle or delivering property  
27 from the vehicle; or

28 (e) Except as otherwise provided in NRS 484D.500, to a  
29 passenger riding in a means of public transportation, including a  
30 school bus or emergency vehicle.

31 ~~7.]~~ 8. It is unlawful for any person to distribute, have for sale,  
32 offer for sale or sell any safety belt or shoulder harness assembly for  
33 use in a motor vehicle unless it meets current minimum standards  
34 and specifications of the United States Department of  
35 Transportation.



