

House Study Bill 127 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON BALTIMORE)

A BILL FOR

1 An Act relating to the failure to wear a motor vehicle
2 safety belt or safety harness or use a motor vehicle child
3 restraint system.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 321.445, subsection 4, paragraph b, Code
2 2015, is amended to read as follows:

3 b. In a cause of action arising on or after July 1, 1986,
4 brought to recover damages arising out of the ownership or
5 operation of a motor vehicle, the failure to wear a safety belt
6 or safety harness in violation of this section ~~shall not~~ may be
7 considered evidence of comparative fault under section 668.3,
8 subsection 1, of a person aged sixteen years or older, a person
9 issued a permit under section 321.180B, subsection 1, or a
10 person issued a license under section 321.194, provided that-
11 ~~However, except as provided in section 321.446, subsection~~
12 ~~6, the failure to wear a safety belt or safety harness in~~
13 ~~violation of this section may be admitted to mitigate damages,~~
14 ~~but only under the following circumstances:~~

15 (1) ~~Parties~~ parties seeking to introduce evidence of the
16 failure to wear a safety belt or safety harness in violation of
17 this section must first introduce substantial evidence that the
18 failure to wear a safety belt or safety harness contributed to
19 the injury or injuries claimed by the plaintiff.

20 (2) ~~If the evidence supports such a finding, the trier of~~
21 ~~fact may find that the plaintiff's failure to wear a safety~~
22 ~~belt or safety harness in violation of this section contributed~~
23 ~~to the plaintiff's claimed injury or injuries, and may reduce~~
24 ~~the amount of plaintiff's recovery by an amount not to exceed~~
25 ~~five percent of the damages awarded after any reductions for~~
26 ~~comparative fault.~~

27 Sec. 2. Section 321.446, subsection 6, Code 2015, is amended
28 to read as follows:

29 6. Failure to use a child restraint system, safety belts,
30 or safety harnesses as required by this section does not
31 constitute negligence by a person under the age of sixteen
32 unless the person has been issued a permit under section
33 321.180B, subsection 1, or a license under section 321.194, nor
34 is the failure admissible as evidence in a civil action of the
35 conduct of a person under the age of sixteen unless the person

1 has been issued a permit under section 321.180B, subsection 1,
2 or a license under section 321.194.

3 EXPLANATION

4 The inclusion of this explanation does not constitute agreement with
5 the explanation's substance by the members of the general assembly.

6 Under current law, evidence of failure to wear a motor
7 vehicle safety belt or safety harness as required by Code
8 section 321.445(2) may be used to mitigate damages in a civil
9 case upon a showing of substantial evidence that the failure
10 to wear a seat belt contributed to the injuries claimed.
11 Current law provides that the maximum amount which damages may
12 be reduced for failure to wear a motor vehicle safety belt
13 or safety harness is 5 percent of the damages awarded. This
14 bill eliminates the statutory five percent limitation on such
15 damages reduction for persons who are 16 years or older and
16 for persons who have an instruction permit under Code section
17 321.180B(1) or a special minors' license under Code section
18 321.194, and as a result a jury may decide to reduce damages
19 awarded by more than 5 percent for failure to wear a motor
20 vehicle safety belt or safety harness.

21 Current law provides that evidence of a failure to use a
22 child restraint system, safety belts, or safety harnesses
23 for persons under the age of 18, as required by Code section
24 321.446(6), does not constitute negligence nor is such evidence
25 admissible in a civil action. A child restraint system is a
26 specially designed seating system, including a belt-positioning
27 seat or a booster seat, that meets federal motor vehicle safety
28 standards. This bill eliminates the prohibition on introducing
29 such evidence for persons who are 16 years of age or older and
30 for persons who have an instruction permit under Code section
31 321.180B(1) or a special minors' license under Code section
32 321.194.