

Which States Have Immunity Laws For CPS Techs?

Introduction.

If car seats are among the most important products a parent will ever buy, then the men and women who are trained to help parents install them correctly are very important people in communities. Because of their importance and because they often perform those services as a volunteer, states have passed laws which provide specific immunity for child passenger safety technicians. The basic elements of these laws include, but there are differences in many of them.

1. They provide immunity from liability;
2. The technicians acted in good faith;
3. The technicians were not paid.

States have passed a variety of laws which preclude litigation against volunteers, well intentioned actors and “good Samaritans.” The states with laws specific to CPS technicians are Pennsylvania, Maryland, Oklahoma, Washington State, Georgia, North Carolina, Virginia and Wisconsin.

Legislation has been considered in Hawaii and New Jersey, but it has not passed. States have passed a variety of laws which preclude litigation against volunteers, well intentioned actors and “good Samaritans.” In Colorado, volunteers of hospitals are given immunity under certain conditions.

We are providing you with a model law for states considering a similar statute to provide immunity to CPS inspectors. It was drafted by the National Committee on Uniform Traffic Laws and Ordinances. We also provide some background on the Volunteers Protection Act, a federal law intended to prevent volunteers of non-profits and government from being held liable for damages.

We are not urging that this be a policy priority for our coalitions, but coalitions have asked for it.

Model Law

§4 Civil Damages Immunity for Child Passenger Safety Technicians (Note that this model bill does not include language depriving a tech who is compensated.)

A person who is currently certified as a child passenger safety technician and who in good faith provides inspection, adjustment, or an educational service regarding child passenger restraint systems is not liable for civil damages resulting from any act or omission in providing the services, other than acts or omissions constituting gross negligence or willful or wanton misconduct.

(Optional Section) Fines collected from violation of the (state) Child Restraint Act shall be used to fund public education covering the importance of properly restraining child passengers and to educate the public on the specific requirements of the (state) Child Restraint Act and/or for the purchase of child restraint systems to be distributed to people making less than \$ X.

Does Not Make One Immune From a Lawsuit

It is important to keep in mind that such laws do not prevent an individual from being sued, but rather the laws say they are cannot be held liable.

Not Legal Advice

This memo is based on limited research and is not intended as legal advice.

The following are brief descriptions of the law, and the text is below.

Georgia. A certified child passenger safety technician or sponsoring organization are not be liable for any act or omission that occurs solely in the inspection, installation or adjustment of a child safety seat, or in providing education. It is similar to the Maryland but defines the sponsoring organization which holds or owns the property for a child inspection event. The sponsoring agency cannot be associated with a child restraint system manufacturer and there cannot be a fee for the service. The law specifically states that the law does not bar a manufacturer from liability on a product liability claim. [Law.](#)

Maryland. A currently certified technician or tech instructor certified by NHTSA or a NHTSA designee is immune from civil liability if the tech was acting in good faith, reckless conduct was not involved, there was no fee for the inspection and it was not connected with the sale of a car seat. [Law.](#)

North Carolina. A certified child passenger safety technician who installs, inspects or adjusts a child safety seat as part of a non-profit event is immune from liability; except in cases of gross negligence and willful or wanton misconduct. This protection extends to any sponsoring organizations except for manufacturers of child safety seats and employees of those manufacturers. It does not apply when the sale of a car seat is involved or when there is a fee for the inspection. [Law.](#)

Oklahoma. A certified technician who provides inspection, adjustment, or educational services regarding child passenger restraint systems is not liable for damages resulting from any act or omission in providing such services. The law is silent on whether the immunity applies when the technician is paid, but does not apply in cases of gross negligence and wanton or willful misconduct. [Law.](#)

Pennsylvania. Child passenger safety technician will not be held liable for acts of omission in rendering advice or assistance in inspecting a car seat, and not liable for the provision or lending of a seat. The immunity is not available if there was intentional or grossly negligent conduct. [Law.](#)

Virginia. A person acting in good faith who has received training established by the National Highway Traffic Safety Administration is immune from liability unless there was compensation or gross negligence and willful misconduct. [Law.](#)

Washington State. A currently certified technician acting in good faith is not liable for civil damages, unless there was willful or wanton misconduct. The immunity does not apply to a technician who is employed by the retailer of child restraint systems and is being paid while conducting an inspection. [Law.](#)

Wisconsin. A technician who inspects, installs, fits, or adjusts any child safety restraint system will be immune from liability. It is also provides immunity to a “sponsoring organization.” But the immunity is not available if there was reckless, wanton, or intentional misconduct. The immunity is enjoyed by “sponsoring organizations,” entities which employ a technician, organizes an inspection or owns property on which it is held. Law.

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Volunteers Protection Act.

Congress passed the [Volunteers Protection Act in 1997](#). The law is designed to mean that no volunteer of a nonprofit organization or government entity could be held liable for an act or omission which caused harm as long as 1) the volunteer was acting within the scope of his volunteer mission; 2) the volunteer was properly licensed or certified if appropriate; and 3) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct or similar conduct. The immunity does not pass when a motor vehicle, aircraft or similar transportation mode is involved. The law does not affect the liability of a nonprofit organization.

It does not preclude a lawsuit being instituted against a nonprofit. In fact, the principle author of the bill [explained](#), “The idea here is that if litigation must arise from volunteer activity, the nonprofit organization itself should be named, not individual volunteers.”

Statutory Language

Pennsylvania – [Link](#)

(a) Technician immunity.--A child passenger safety technician or sponsoring organization shall not be civilly liable for an act or omission that occurs solely in the inspection, installation or adjustment of a child passenger restraint system or child booster seat in a motor vehicle or in the giving of advice or assistance regarding the installation or adjustment of a child passenger restraint system or child booster seat in a motor vehicle if:

- (1) the child passenger safety technician acts in good faith and within the scope of the training for which the technician is currently certified;
- (2) the act or omission does not constitute gross negligence or willful or wanton misconduct;
- (3) the inspection, installation or adjustment of the child passenger restraint system or child booster seat or the advice or assistance is provided without fee or charge to the owner or operator of the motor vehicle; and
- (4) the inspection, installation or adjustment of the child passenger restraint system or child booster seat is not provided in conjunction with the for-profit sale of the child passenger restraint system or child booster seat.

(b) Lender immunity.--No person or organization who or which lends to another person or organization a child passenger restraint system or appropriately fitting child booster seats, as described in section 4581 (relating to restraint systems), shall be liable for any civil damages resulting from any acts or

omission, except any act or omission intentionally designed to harm, or any grossly negligent act or omission resulting in harm to another.

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Child passenger safety technician." 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 United States Department of Transportation, the American Automobile Association or other entity designated by the National Highway Traffic Safety Administration.

Wisconsin – [Link](#)

(1) In this section:

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

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

(c) "Sponsoring organization" means any person or organization that does any of the following:

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

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

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

1. A person who receives compensation for providing the services specified in par. (a), other than reimbursement for expenses.
2. A person whose acts or omissions in providing the services specified in par. (a) involve reckless, wanton, or intentional misconduct.

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

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

North Carolina – [Link](#)

(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:

a. Offers or arranges for the public a nonprofit child safety seat educational program, checkup event, or checking station program utilizing certified child passenger safety technicians; or

b. Owns property upon which a nonprofit child safety seat educational program, checkup event, or checking station program for the public occurs utilizing certified child passenger safety technicians.

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

(1) The service is provided without fee or charge other than reimbursement for expenses, and

(2) The child passenger safety technician or sponsoring organization acts in good faith and within the scope of training for which the technician is currently certified.

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

(1) The act or omission of the certified child passenger safety technician or sponsoring organization constitutes willful or wanton misconduct or gross negligence.

(2) The inspection, installation, or adjustment of a child safety seat or education provided regarding the installation or adjustment of a child safety seat is in conjunction with the for-profit sale of a child safety seat. (2008-178, s. 1.)

Washington State – [Link](#)

(8) (a) Except as provided in (b) of this subsection, a person who has a current national certification as a child passenger safety technician and who in good faith provides inspection, adjustment, or educational services regarding child passenger restraint systems is not liable for civil damages resulting from any act

or omission in providing the services, other than acts or omissions constituting gross negligence or willful or wanton misconduct.

(b) The immunity provided in this subsection does not apply to a certified child passenger safety technician who is employed by a retailer of child passenger restraint systems and who, during his or her hours of employment and while being compensated, provides inspection, adjustment, or educational services regarding child passenger restraint systems.

Oklahoma – [Link](#)

E. A person who is certified as a Child Passenger Safety Technician and who in good faith provides inspection, adjustment, or educational services regarding child passenger restraint systems shall not be liable for civil damages resulting from any act or omission in providing such services, other than acts or omissions constituting gross negligence or willful or wanton misconduct.

Maryland – [Link](#)

(a) (1) In this section the following words have the meanings indicated.

(2) “Child passenger safety technician” means 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 United States Department of Transportation, the American Automobile Association, or other entity designated by the National Highway Traffic Safety Administration.

(3) “Child safety seat” has the meaning stated in § 22-412.2 of the Transportation Article.

(4) “Sponsoring organization” means a person that:

(i) Employs a child passenger safety technician;

(ii) Offers or arranges free child safety seat checkup events or fitting station programs for the general public; or

(iii) Owns property on which a free child safety seat checkup event or fitting station program for the general public takes place.

(b) 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:

(1) The child passenger safety technician acts in good faith and within the scope of the training for which the technician is currently certified;

(2) The act or omission does not constitute gross negligence or willful or wanton misconduct;

(3) The inspection, installation, or adjustment of the child safety seat, or the advice or assistance, is provided without fee or charge to the owner or operator of the motor vehicle; and

(4) 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.

Georgia – [Link](#)

(a) As used in this Code section, the term:

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(1) "Child passenger safety technician" means a person who holds a current certification as a child passenger safety technician or technician instructor by the National Highway Traffic Safety Administration of the United States Department of Transportation, the American Automobile Association, or other entity designated by the National Highway Traffic Safety Administration but specifically does not include any person who is an employee or agent of a manufacturer of child safety seats.

(2) "Child safety seat" means a seat as defined in paragraph (1) of subsection (b) of Code Section 40-8-76.

(3) "Sponsoring organization" means a person or organization other than a manufacturer of or an employee or agent of a manufacturer of child safety seats that:

(A) Offers or arranges for the public a nonprofit child safety seat educational program, checkup event, or fitting station program utilizing child passenger safety technicians; or

(B) Owns property upon which a nonprofit child safety seat educational program, checkup event, or fitting station program for the public occurs utilizing child passenger safety technicians.

(b) A child passenger safety technician or sponsoring organization shall not be liable to any person as a result of any act or omission that occurs solely in the inspection, installation or adjustment of a child safety seat, or in providing education regarding the installation or adjustment of a child safety seat if the child passenger safety technician or sponsoring organization provides the services without a fee and acts in good faith within the scope of training for which the technician is currently certified and unless the act or omission constitutes willful and wanton misconduct or gross negligence.

(c) Nothing in this Code section shall be construed as affecting, modifying, or eliminating the liability of a manufacturer of a child safety seat or its employees or agents under any legal claim, including but not limited to product liability claims.

(d) This Code section shall apply to any cause of action arising on or after July 1, 2002.

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Virginia - [Link](#)

§ 8.01-226.5. Immunity for installers and inspectors of child restraint devices.

Any person who has successfully met the minimum required training standards for installation of child restraint devices established by the National Highway Traffic Safety Administration of the United States Department of Transportation, who in good faith and without compensation installs, or inspects the installation of, a child restraint device shall not be liable for any damages resulting from an act or omission related to such installation or inspection, unless such act or omission was the result of the person's gross negligence or willful misconduct.