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TORTS Liability of Volunteers, Employees, or Officers of Nonprofit Association Conducting or Sponsoring Sports or Safety Program; Liability of Association: Limiting Certified Child Passenger Safety Technicians' and Sponsoring Organizations' Liability for Providing Free Education and Assistance With Child Safety Seats

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TORTS

Liability of Volunteers, Employees, or Officers of Nonprofit Association Conducting or Sponsoring Sports or Safety Program; Liability of Association: Limiting Certified Child Passenger Safety Technicians' and Sponsoring Organizations' Liability for Providing Free Education and Assistance With Child Safety Seats

CODE SECTIONS:	O.C.G.A. § 51-1-20.2 (new)
BILL NUMBER:	HB 1066
ACT NUMBER:	923
GEORGIA LAWS:	2002 Ga. Laws 1140
SUMMARY:	The Act limits the liability of certified child passenger safety technicians and sponsoring organizations that provide information and free inspection, installation, and adjustment of child safety seats. The Act applies only when the child passenger safety technician acts in good faith, within the scope of training, and when the act or omission is not willful nor the result of wanton misconduct or gross negligence.
EFFECTIVE DATE:	July 1, 2002

History

National Highway Transportation Safety Administration reports indicate that more than 85 percent of all American children ride unsafely and without proper restraint in vehicles.¹ As a result, more than 400 children under the age of four die annually in motor vehicle crashes throughout the United States.²

A number of factors combine to create the child seat safety problem-the variety of child seats available in stores, the lack of

1. Dianne Gittins, *Police Practice: AlexandriaCares and Baby-1 – Protecting the Future*, THE FBI LAW ENFORCEMENT BULLETIN, Vol. 71, Issue 3, Mar. 1, 2002, available at WL 15329848.

2. *Id.*

qualified help in choosing the proper seat for the parent's vehicle, the hard-to-read installation manuals, the mutual incompatibility of child seats with the family's different vehicles, and the constantly changing rules of best practice in the use of child safety seats.³ To address this problem, a number of local organizations, such as Children's Healthcare of Atlanta and SAFE KIDS of Georgia, provide free education and assistance to parents who need to install child safety seats in their cars.⁴ These programs typically provide four-day training and certification to child-safety passenger technicians who, in turn, help the parents.⁵

HB 1066 seeks to encourage and protect the people and organizations that provide education, installation, and inspection of child safety seats for free.⁶ Child-safety passenger technicians have been sued in other states for injuries or deaths caused by the improper use or installation of safety seats.⁷ These threats of liability have caused some sponsoring organizations to stop providing free education and assistance to the community.⁸

SAFE KIDS of Georgia, one of the organizations that lobbied for this bill, sought to achieve two goals: 1) to create an incentive for organizations to provide and participate in child safety programs; and 2) to protect the individual volunteers who help the community as certified technicians by providing instruction, help, and advice on installing and using child safety seats.⁹ HB 1066 achieves these goals by exempting from liability both the individual certified safety technicians and their sponsoring organizations.¹⁰

Notably, the bill exempts only currently certified technicians.¹¹ The certification is good for only one year and the bill seeks to protect only those who make the effort to become re-certified each

3. *Id.*

4. Audio Recording of House Proceedings, Feb. 27, 2002 (remarks by Sen. Richard O. Marable), at <http://www.state.ga.us/services/leg/audio/2002archive> [hereinafter House Audio].

5. *Id.*

6. *Id.*; Interview with Rep. Lynn Westmoreland, House District No. 1D4, (July 1, 2002) [hereinafter Westmoreland Interview].

7. Westmoreland Interview, *supra* note 6.

8. *Id.*

9. Interview with Carol O. Ball, Executive Director, SAFE KIDS of Georgia (June 28, 2002) [hereinafter Ball Interview].

10. *Id.*

11. O.C.G.A. § 51-1-20.2(a)(1) (Supp. 2002).

year.¹² This is important because designs and protective techniques change rapidly.¹³ Therefore, the best way to ensure that the technicians provide the necessary assistance was to protect only those with current valid certification.¹⁴

Finally, the bill also excludes from protection willful and wanton misconduct or gross negligence in an effort to safeguard the provision of competent child safety education and assistance free of charge in the state of Georgia.¹⁵

HB 1066

Representatives Alan Powell, Jimmy Skipper, Robert Reichert, Lynn Westmoreland, Nan Orrock, and Ben Harbin of the 23rd, 137th, 126th, 104th, 56th, and 113th Districts, respectively, sponsored HB 1066.¹⁶ Upon the introduction of HB 1066 on January 18, 2002, the House assigned the bill to its Judiciary Committee, which favorably reported the bill, as substituted, on January 30, 2002.¹⁷ The Committee substitute excluded from the definition of “child passenger safety technician” anyone who is an employee or agent of a manufacturer of child safety seats.¹⁸ The substitute amendment also excluded child safety seat manufacturers and their employees or agents from the definition of “sponsoring organization.”¹⁹ The House adopted and passed HB 1066, as substituted, by a vote of 168 to 0 on February 4, 2002.²⁰

On February 5, 2002, the bill was read in the Senate and referred to the Senate Judiciary Committee.²¹ The Committee favorably reported the bill on February 18, 2002.²² The Senate passed and

12. Ball Interview, *supra* note 9.

13. *Id.*

14. *Id.*

15. House Audio, *supra* note 4.

16. HB 1066, as introduced, 2002 Ga. Gen. Assem.

17. State of Georgia Final Composite Status Sheet, HB 1066, Apr. 12, 2002.

18. Compare HB 1066, as introduced, 2002 Ga. Gen. Assem., with HB 1066 (HCS), 2002 Ga. Gen. Assem.

19. *Id.*

20. Georgia House of Representatives Voting Record, HB 1066 (Feb. 4, 2002); State of Georgia Final Composite Status Sheet, HB 1066, Apr. 12, 2002.

21. State of Georgia Final Composite Status Sheet, HB 1066, Apr. 12, 2002.

22. *Id.*

adopted HB 1066, by a vote of 52 to 4 on February 27, 2002.²³ Governor Roy Barnes signed the bill into law on May 15, 2002.²⁴

The Act

The Act creates new Code section 51-1-20.2 which limits the liability of certified child passenger safety technicians and sponsoring organizations that provide education about and free inspection, installation, and adjustment of child safety seats.²⁵ New Code section 51-1-20.2 provides definitions for “child safety passenger technician,” “child safety seat,” and “sponsoring organization.”²⁶ The new provisions exempt from liability only safety technicians who hold a current, valid certification.²⁷ The new Code section applies only when the child passenger safety technician acts in good faith within the scope of training for which the technician is currently certified and when the act or omission is not willful and wanton misconduct or gross negligence.²⁸

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23. Georgia Senate Voting Record, HB 1066 (Feb. 27, 2002); State of Georgia Final Composite Status Sheet, HB 1066, Apr. 12, 2002.

24. State of Georgia Final Composite Status Sheet, HB 1066, Apr. 12, 2002.

25. O.C.G.A. § 51-1-20.2 (Supp. 2002).

26. O.C.G.A. § 51-1-20.2(a)(1)-(3) (Supp. 2002).

27. O.C.G.A. § 51-1-20.2(a)(1) (Supp. 2002).

28. O.C.G.A. § 51-1-20.2(b) (Supp. 2002).