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# Seat belts in school buses

*Shoulder-lap belts are required in newer California school buses. Shouldn't all children be protected?*

BY LARRY BOOTH

California is the only state which requires school buses to have shoulder-lap seat belts. Five other states require only lap belts. In California the law only applies to buses built after July 1, 2005 (Veh. Code, § 27316). Since buses cost over \$200,000 each and most school districts are pinching pennies all the time, it is very common for school buses to have no seat-belt protection at all. There is nothing in the statute which prohibits liability based on negligence principles for failing to have belts to protect students.

The National Highway Transportation Administration (NHTSA) determined that there is insufficient reason for a federal mandate for seat belts on large school

buses. Their reasoning is school buses are much safer than other vehicles for a variety of reasons so it is not necessary. This is like saying that safety locks on guns are not necessary because of the availability of gun safety courses. The real issue is not are school buses safer than other vehicles, but within the state of the art, can they be made safer and prevent the injury or death that may have occurred in specific litigation?

The arguments which have been advanced against seat belts of any kind are:

1. Students might use the belts as weapons injuring other students. But there is no evidence that such events occur in other vehicles.
2. Because of the number of students, it is impossible for the driver to police seat-belt compliance. This is wrong-headed too because nearly every student

automatically buckles up in their parents' cars, so why not in a school bus?

3. Students might be trapped in an accident. Again there is no evidence that this occurs in other vehicles and buses are much less likely to roll over because of their size and stability.

## Compartmentalization

The theory of compartmentalization is that the back of each seat is padded and a specific distance from the seat behind it. If the bus comes to a sudden stop, the padded seat back supposedly absorbs the forward energy of the child seated behind it. Ironically, if the child is not belted, his body is supposed to slide forward like throwing a fish in a frying pan as it impacts the seat ahead. If he is belted only at the waist, many argue that



he will pivot on the belt focusing the force of the blow on the head and neck. Of course, if the bus has a shoulder-lap seat belt like all cars, this pivoting problem does not exist.

Proponents of no-seat-belt buses say that this compartmentalization allows the bus to function like a carton of eggs, with each seating area a separate compartment. However, modern cars are designed to absorb the blows and collapse, preserving only the vital seating area much like a race car and they all have three-point belts.

#### **Cost of retrofitting**

Nothing prevents a school district from adding seat belts to a bus made before 2005, but it can run between \$5,000 and \$20,000 per bus. The belt assembly has to be anchored to the floor. If the floor is worn out or rusted, it first needs

to be replaced. Nonetheless, would you want your child in a bus which has a rusted out floor?

#### **Seat belts not required. So what?**

There is dramatic footage available, taken inside real school buses during an accident, which shows children flying all over the place inside the vehicle, only to slam into some part of the bus or even outside. It may be an open question as to whether the defendant school district can get a jury instruction that the defendant was not required to equip the bus with belts because of the age of the bus. But even if such an instruction were allowed, the judge should instruct the jury that this does not prohibit liability for failure to guard against a known hazard. The defense will claim under governmental liability principles that it is relevant to consider if the district

could afford it. But these arguments can always be countered, as in many road-design cases. It is simply a question of allocating resources from one thing to another. What could be more important than the safety of the children to and from school?



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