

As Introduced

**125th General Assembly
Regular Session
2003-2004**

H. B. No. 499

Representatives Chandler, Miller, Widowfield, Skindell

A B I L L

To amend section 4513.263 of the Revised Code to make 1
a seat belt violation a primary offense that is 2
enforceable in the same manner as any other 3
traffic offense. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 4513.263 of the Revised Code be 5
amended to read as follows: 6

Sec. 4513.263. (A) As used in this section and in section 7
4513.99 of the Revised Code: 8

(1) "Automobile" means any commercial tractor, passenger car, 9
commercial car, or truck that is required to be factory-equipped 10
with an occupant restraining device for the operator or any 11
passenger by regulations adopted by the United States secretary of 12
transportation pursuant to the "National Traffic and Motor Vehicle 13
Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392. 14

(2) "Occupant restraining device" means a seat safety belt, 15
shoulder belt, harness, or other safety device for restraining a 16
person who is an operator of or passenger in an automobile and 17
that satisfies the minimum federal vehicle safety standards 18
established by the United States department of transportation. 19

(3) "Passenger" means any person in an automobile, other than its operator, who is occupying a seating position for which an occupant restraining device is provided.

(4) "Commercial tractor," "passenger car," and "commercial car" have the same meanings as in section 4501.01 of the Revised Code.

(5) "Vehicle" and "motor vehicle," as used in the definitions of the terms set forth in division (A)(4) of this section, have the same meanings as in section 4511.01 of the Revised Code.

(B) No person shall do any of the following:

(1) Operate an automobile on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device, or operate a school bus that has an occupant restraining device installed for use in its operator's seat unless that person is wearing all of the available elements of the device, as properly adjusted;

(2) Operate an automobile on any street or highway unless each passenger in the automobile who is subject to the requirement set forth in division (B)(3) of this section is wearing all of the available elements of a properly adjusted occupant restraining device;

(3) Occupy, as a passenger, a seating position on the front seat of an automobile being operated on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device;

(4) Operate a taxicab on any street or highway unless all factory-equipped occupant restraining devices in the taxicab are maintained in usable form.

(C) Division (B)(3) of this section does not apply to a person who is required by section 4511.81 of the Revised Code to

be secured in a child restraint device. Division (B)(1) of this 50
section does not apply to a person who is an employee of the 51
United States postal service or of a newspaper home delivery 52
service, during any period in which the person is engaged in the 53
operation of an automobile to deliver mail or newspapers to 54
addressees. Divisions (B)(1) and (3) of this section do not apply 55
to a person who has an affidavit signed by a physician licensed to 56
practice in this state under Chapter 4731. of the Revised Code or 57
a chiropractor licensed to practice in this state under Chapter 58
4734. of the Revised Code that states that the person has a 59
physical impairment that makes use of an occupant restraining 60
device impossible or impractical. 61

(D) ~~Notwithstanding any provision of law to the contrary, no~~ 62
~~A~~ law enforcement officer ~~shall~~ may cause ~~an~~ the operator of an 63
automobile being operated on any street or highway to stop the 64
automobile ~~for solely because the sole purpose of determining~~ 65
~~whether~~ officer observes that a violation of division (B) of this 66
section has been or is being committed ~~or for the sole purpose of~~ 67
~~issuing a ticket, citation, or summons for a violation of that~~ 68
~~nature or causing the arrest of or commencing a prosecution of a~~ 69
~~person for a violation of that nature, and no law enforcement~~ 70
~~officer shall view the interior or visually inspect any automobile~~ 71
~~being operated on any street or highway for the sole purpose of~~ 72
~~determining whether a~~ in the same manner as any other motor 73
vehicle traffic violation ~~of that nature has been or is being~~ 74
~~committed.~~ 75

(E) All fines collected for violations of division (B) of 76
this section, or for violations of any ordinance or resolution of 77
a political subdivision that is substantively comparable to that 78
division, shall be forwarded to the treasurer of state for deposit 79
as follows: 80

(1) Eight per cent shall be deposited into the seat belt 81

education fund, which is hereby created in the state treasury, and 82
shall be used by the department of public safety to establish a 83
seat belt education program. 84

(2) Eight per cent shall be deposited into the elementary 85
school program fund, which is hereby created in the state 86
treasury, and shall be used by the department of public safety to 87
establish and administer elementary school programs that encourage 88
seat safety belt use. 89

(3) Two per cent shall be deposited into the Ohio ambulance 90
licensing trust fund created by section 4766.05 of the Revised 91
Code. 92

(4) Twenty-eight per cent shall be deposited into the trauma 93
and emergency medical services fund, which is hereby created in 94
the state treasury, and shall be used by the department of public 95
safety for the administration of the division of emergency medical 96
services and the state board of emergency medical services. 97

(5) Fifty-four per cent shall be deposited into the trauma 98
and emergency medical services grants fund, which is hereby 99
created in the state treasury, and shall be used by the state 100
board of emergency medical services to make grants, in accordance 101
with section 4765.07 of the Revised Code and rules the board 102
adopts under section 4765.11 of the Revised Code. 103

(F)(1) Subject to division (F)(2) of this section, the 104
failure of a person to wear all of the available elements of a 105
properly adjusted occupant restraining device or to ensure that 106
each passenger of an automobile being operated by the person is 107
wearing all of the available elements of such a device, in 108
violation of division (B) of this section, shall not be considered 109
or used as evidence of negligence or contributory negligence, 110
shall not diminish recovery for damages in any civil action 111
involving the person arising from the ownership, maintenance, or 112

operation of an automobile; shall not be used as a basis for a 113
criminal prosecution of the person other than a prosecution for a 114
violation of this section; and shall not be admissible as evidence 115
in any civil or criminal action involving the person other than a 116
prosecution for a violation of this section. 117

(2) If, at the time of an accident involving a passenger car 118
equipped with occupant restraining devices, any occupant of the 119
passenger car who sustained injury or death was not wearing an 120
available occupant restraining device, was not wearing all of the 121
available elements of such a device, or was not wearing such a 122
device as properly adjusted, then, consistent with the Rules of 123
Evidence, the fact that the occupant was not wearing the available 124
occupant restraining device, was not wearing all of the available 125
elements of such a device, or was not wearing such a device as 126
properly adjusted is admissible in evidence in relation to any 127
claim for relief in a tort action to the extent that the claim for 128
relief satisfies all of the following: 129

(a) It seeks to recover damages for injury or death to the 130
occupant. 131

(b) The defendant in question is the manufacturer, designer, 132
distributor, or seller of the passenger car. 133

(c) The claim for relief against the defendant in question is 134
that the injury or death sustained by the occupant was enhanced or 135
aggravated by some design defect in the passenger car or that the 136
passenger car was not crashworthy. 137

(3) As used in division (F)(2) of this section, "tort action" 138
means a civil action for damages for injury, death, or loss to 139
person or property. "Tort action" includes a product liability 140
claim that is subject to sections 2307.71 to 2307.80 of the 141
Revised Code, but does not include a civil action for damages for 142
a breach of a contract or another agreement between persons. 143

(G)(1) Whoever violates division (B)(1) of this section shall 144
be fined thirty dollars. 145

(2) Whoever violates division (B)(3) of this section shall be 146
fined twenty dollars. 147

(3) Except as otherwise provided in this division, whoever 148
violates division (B)(4) of this section is guilty of a minor 149
misdemeanor. If the offender previously has been convicted of or 150
pleaded guilty to a violation of division (B)(4) of this section, 151
whoever violates division (B)(4) of this section is guilty of a 152
misdemeanor of the third degree. 153

Section 2. That existing section 4513.263 of the Revised Code 154
is hereby repealed. 155

Section 3. Notwithstanding any provision of law to the 156
contrary, no person who at any time before the expiration of six 157
months after the effective date of this section violates any of 158
the prohibitions contained in section 4513.263 of the Revised 159
Code, as that section is amended by this act, shall be issued a 160
ticket, citation, or summons in relation to the violation or be 161
arrested for the violation. Instead, the person shall be issued a 162
written warning that states the requirements contained in section 163
4513.263 of the Revised Code, as amended by this act, concerning 164
the operation of motor vehicles and the use of occupant 165
restraining devices. In addition, the warning shall explain that 166
the person was in violation of one of those prohibitions but is 167
not being charged with any offense arising out of that violation; 168
shall explain that under this act a person now may be stopped and 169
issued a ticket, citation, or summons solely because of such a 170
violation, in contrast to prior law; and shall contain a warning 171
that on or after a date certain, which date shall be six months 172
after the effective date of this section, the law will allow a 173
person to be stopped solely for such a violation and to be charged 174

with and prosecuted for that violation.

175