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**126th General Assembly
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Sub. H. B. No. 343

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Chandler, Collier, Combs, DeBose, DeWine, Domenick, Evans, C., Gilb,
Harwood, Koziura, Oelslager, Patton, T., Setzer, Ujvagi, Wagoner, Webster,
Williams**

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A B I L L

To amend sections 4507.05, 4507.071, and 4511.81 of 1
the Revised Code to place certain restrictions on 2
the operation of motor vehicles by probationary 3
license holders and temporary instruction permit 4
holders who are less than 18 years of age, to 5
require children who are between four and fifteen 6
years of age to be restrained in either a child 7
restraint system or an occupant restraining device 8
when being transported in a motor vehicle, and to 9
eliminate the nonresident exemption from the motor 10
vehicle child restraint law. 11

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

Section 1. That sections 4507.05, 4507.071, and 4511.81 of 12
the Revised Code be amended to read as follows: 13

Sec. 4507.05. (A) The registrar of motor vehicles, or a 14
deputy registrar, upon receiving an application for a temporary 15
instruction permit and a temporary instruction permit 16
identification card for a driver's license from any person who is 17

at least fifteen years ~~and~~ six months of age, may issue such a 18
permit and identification card entitling the applicant to drive a 19
motor vehicle, other than a commercial motor vehicle, upon the 20
highways under the following conditions: 21

(1) If the permit is issued to a person who is at least 22
fifteen years ~~and~~ six months of age, but less than sixteen years 23
of age: 24

(a) The permit and identification card are in the holder's 25
immediate possession; 26

(b) The holder is accompanied by an eligible adult who 27
actually occupies the seat beside the permit holder and does not 28
have a prohibited concentration of alcohol in the whole blood, 29
blood serum or plasma, breath, or urine as provided in division 30
(A) of section 4511.19 of the Revised Code; 31

(c) The total number of occupants of the vehicle does not 32
exceed the total number of occupant restraining devices originally 33
installed in the motor vehicle by its manufacturer, and each 34
occupant of the vehicle is wearing all of the available elements 35
of a properly adjusted occupant restraining device. 36

(2) If the permit is issued to a person who is at least 37
sixteen years of age: 38

(a) The permit and identification card are in the holder's 39
immediate possession; 40

(b) The holder is accompanied by a licensed operator who is 41
at least twenty-one years of age, is actually occupying a seat 42
beside the driver, and does not have a prohibited concentration of 43
alcohol in the whole blood, blood serum or plasma, breath, or 44
urine as provided in division (A) of section 4511.19 of the 45
Revised Code; 46

(c) The total number of occupants of the vehicle does not 47

exceed the total number of occupant restraining devices originally
installed in the motor vehicle by its manufacturer, and each
occupant of the vehicle is wearing all of the available elements
of a properly adjusted occupant restraining device.

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(B) The registrar or a deputy registrar, upon receiving from
any person an application for a temporary instruction permit and
temporary instruction permit identification card to operate a
motorcycle or motorized bicycle, may issue such a permit and
identification card entitling the applicant, while having the
permit and identification card in the applicant's immediate
possession, to drive a motorcycle or motorized bicycle under
restrictions determined by the registrar. A temporary instruction
permit and temporary instruction permit identification card to
operate a motorized bicycle may be issued to a person fourteen or
fifteen years old.

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(C) Any permit and identification card issued under this
section shall be issued in the same manner as a driver's license,
upon a form to be furnished by the registrar. A temporary
instruction permit to drive a motor vehicle other than a
commercial motor vehicle shall be valid for a period of one year.

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(D) Any person having in the person's possession a valid and
current driver's license or motorcycle operator's license or
endorsement issued to the person by another jurisdiction
recognized by this state is exempt from obtaining a temporary
instruction permit for a driver's license, but shall submit to the
regular examination in obtaining a driver's license or motorcycle
operator's endorsement in this state.

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(E) The registrar may adopt rules governing the use of
temporary instruction permits and temporary instruction permit
identification cards.

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(F)(1) No holder of a permit issued under division (A) of

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this section shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in violation of the conditions established under division (A) of this section.

(2) Except as provided in division (F)(2) of this section, no holder of a permit that is issued under division (A) of this section and that is issued on or after July 1, 1998, and who has not attained the age of ~~seventeen~~ eighteen years, shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking between the hours of ~~one a.m.~~ midnight and ~~five~~ six a.m.

The holder of a permit issued under division (A) of this section on or after July 1, 1998, who has not attained the age of ~~seventeen~~ eighteen years, may operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking between the hours of ~~one a.m.~~ midnight and ~~five~~ six a.m. if, at the time of such operation, the holder is accompanied by the holder's parent, guardian, or custodian, and the parent, guardian, or custodian holds a current valid driver's or commercial driver's license issued by this state, is actually occupying a seat beside the permit holder, and does not have a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine as provided in division (A) of section 4511.19 of the Revised Code.

(G)(1) Notwithstanding any other provision of law to the contrary, no law enforcement officer shall cause the operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether each occupant of the motor vehicle is wearing all of the available elements of a properly adjusted occupant restraining device as required by division (A) of this section, or for the sole purpose of issuing a ticket, citation, or summons if the requirement in

that division has been or is being violated, or for causing the
arrest of or commencing a prosecution of a person for a violation
of that requirement.

(2) Notwithstanding any other provision of law to the
contrary, no law enforcement officer shall cause the operator of a
motor vehicle being operated on any street or highway to stop the
motor vehicle for the sole purpose of determining whether a
violation of division (F)(2) of this section has been or is being
committed or for the sole purpose of issuing a ticket, citation,
or summons for such a violation or for causing the arrest of or
commencing a prosecution of a person for such violation.

(H) As used in this section:

(1) "Eligible adult" means any of the following:

(a) An instructor of a driver training course approved by the
department of public safety;

(b) Any of the following persons who holds a current valid
driver's or commercial driver's license issued by this state:

(i) A parent, guardian, or custodian of the permit holder;

(ii) A person twenty-one years of age or older who acts in
loco parentis of the permit holder.

(2) "Occupant restraining device" has the same meaning as in
section 4513.263 of the Revised Code.

(I) Whoever violates division (F)(1) or (2) of this section
is guilty of a minor misdemeanor.

Sec. 4507.071. (A) No driver's license shall be issued to any
person under eighteen years of age, except that a probationary
license may be issued to a person who is at least sixteen years of
age and has held a temporary instruction permit for a period of at
least six months.

(B)(1)(a) ~~No holder of a probationary driver's license issued~~ 140
~~on or after the effective date of this section~~ who has not 141
attained the age of seventeen years shall operate a motor vehicle 142
upon a highway or any public or private property used by the 143
public for purposes of vehicular travel or parking between the 144
hours of ~~one a.m.~~ midnight and ~~five~~ six a.m. unless the holder is 145
accompanied by the holder's parent or guardian. 146

(b) No holder of a probationary driver's license who has 147
attained the age of seventeen years but has not attained the age 148
of eighteen years shall operate a motor vehicle upon a highway or 149
any public or private property used by the public for purposes of 150
vehicular travel or parking between the hours of one a.m. and five 151
a.m. unless the holder is accompanied by the holder's parent or 152
guardian. 153

(2)(a) Subject to division (D)(1)(a) of this section, 154
division (B)(1)(a) of this section does not apply to the holder of 155
a probationary driver's license who is traveling to or from work 156
between the hours of midnight and six a.m. and has in the holder's 157
immediate possession written documentation from the holder's 158
employer. 159

(b) Division (B)(1)(b) of this section does not apply to the 160
holder of a probationary driver's license who is traveling to or 161
from work between the hours of one a.m. and five a.m. and has in 162
the holder's immediate possession written documentation from the 163
holder's employer. 164

(3) An employer is not liable in damages in a civil action 165
for any injury, death, or loss to person or property that 166
allegedly arises from, or is related to, the fact that the 167
employer provided an employee who is the holder of a probationary 168
driver's license with the written documentation described in 169
division (B)(2) of this section. 170

The registrar of motor vehicles shall make available at no cost a form to serve as the written documentation described in division (B)(2) of this section, and employers and holders of probationary driver's licenses may utilize such form or may choose to utilize any other written documentation to meet the requirements of that division.

(4) No holder of a probationary driver's license who has not attained the age of seventeen years shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking with more than one person who is not a family member occupying the vehicle unless the family member occupying the vehicle is the probationary license holder's parent, guardian, or custodian.

(C) It is an affirmative defense to a violation of division (B)(1)(a) or (b) of this section if, at the time of the violation, the holder of the probationary driver's license was traveling to or from ~~the holder's place of employment or~~ an official function sponsored by the school the holder attends, or an emergency existed that required the holder to operate a motor vehicle in violation of division (B)(1)(a) or (b) of this section, or the holder was an emancipated minor.

(D)(1)(a) If a person is issued a probationary driver's license prior to attaining the age of seventeen years and the person pleads guilty to, is convicted of, or is adjudicated in juvenile court of having committed a moving violation during the six-month period commencing on the date on which the person is issued the probationary driver's license, the holder must be accompanied by the holder's parent or guardian whenever the holder is operating a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular parking during whichever of the following time periods applies:

(i) If, on the date the holder of the probationary driver's license pleads guilty to, is convicted of, or is adjudicated in juvenile court of having committed the moving violation the holder has not attained the age of sixteen years six months, during the six-month period commencing on that date; 202
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(ii) If, on the date the holder pleads guilty to, is convicted of, or is adjudicated in juvenile court of having committed the moving violation the holder has attained the age of sixteen years six months but not seventeen years, until the person attains the age of seventeen years. 207
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(b) If the holder of a probationary driver's license commits a moving violation during the six-month period after the person is issued the probationary driver's license and before the person attains the age of seventeen years and on the date the person pleads guilty to, is convicted of, or is adjudicated in juvenile court of having committed the moving violation the person has attained the age of seventeen years, or if the person commits the moving violation during the six-month period after the person is issued the probationary driver's license and after the person attains the age of seventeen years, the holder is not subject to the restriction described in divisions (D)(1)(a)(i) and (ii) of this section unless the court or juvenile court imposes such a restriction upon the holder. 212
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(2) No person shall violate division (D)(1)(a) of this section. 225
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(E) No holder of a probationary license shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking unless the total number of occupants of the vehicle does not exceed the total number of occupant restraining devices originally installed in the motor vehicle by its manufacturer, and each occupant of the 227
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vehicle is wearing all of the available elements of a properly 233
adjusted occupant restraining device. 234

~~(E)~~(F) A restricted license may be issued to a person who is 235
fourteen or fifteen years of age upon proof of hardship 236
satisfactory to the registrar of motor vehicles. 237

~~(F)~~(G) Notwithstanding any other provision of law to the 238
contrary, no law enforcement officer shall cause the operator of a 239
motor vehicle being operated on any street or highway to stop the 240
motor vehicle for the sole purpose of determining whether each 241
occupant of the motor vehicle is wearing all of the available 242
elements of a properly adjusted occupant restraining device as 243
required by division ~~(D)~~(E) of this section, or for the sole 244
purpose of issuing a ticket, citation, or summons if the 245
requirement in that division has been or is being violated, or for 246
causing the arrest of or commencing a prosecution of a person for 247
a violation of that requirement. 248

~~(G)~~(H) Notwithstanding any other provision of law to the 249
contrary, no law enforcement officer shall cause the operator of a 250
motor vehicle being operated on any street or highway to stop the 251
motor vehicle for the sole purpose of determining whether a 252
violation of division (B)(1)(a) or (b) of this section has been or 253
is being committed or for the sole purpose of issuing a ticket, 254
citation, or summons for such a violation or for causing the 255
arrest of or commencing a prosecution of a person for such 256
violation. 257

~~(H)~~(I) As used in this section, ~~"occupant:~~ 258

(1) "Occupant restraining device" has the same meaning as in 259
section 4513.263 of the Revised Code. 260

(2) "Family member" of a probationary license holder includes 261
any of the following: 262

(a) A spouse; 263

<u>(b) A child or stepchild;</u>	264
<u>(c) A parent, stepparent, grandparent, or parent-in-law;</u>	265
<u>(d) An aunt or uncle;</u>	266
<u>(e) A sibling, whether of the whole or half blood, or by adoption, a brother-in-law, or sister-in-law;</u>	267 268
<u>(f) A son or daughter of the probationary license holder's stepparent if the stepparent has not adopted the probationary license holder;</u>	269 270 271
<u>(g) An eligible adult, as defined in section 4507.05 of the Revised Code.</u>	272 273
<u>(3) "Moving violation" means any violation of any statute or ordinance that regulates the operation of vehicles, streetcars, or trackless trolleys on the highways or streets. "Moving violation" does not include a violation of section 4513.263 of the Revised Code or a substantially equivalent municipal ordinance, or a violation of any statute or ordinance regulating pedestrians or the parking of vehicles, vehicle size or load limitations, vehicle fitness requirements, or vehicle registration.</u>	274 275 276 277 278 279 280 281
<u>(I) Whoever violates division (B)(1) or (4) or, (D)(2), or (E) of this section is guilty of a minor misdemeanor.</u>	282 283
Sec. 4511.81. (A) When any child who is in either or both of the following categories is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in section 4511.01 of the Revised Code, that is registered in this state and is required by the United States department of transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards:	284 285 286 287 288 289 290 291 292 293

(1) A child who is less than four years of age;	294
(2) A child who weighs less than forty pounds.	295
(B) When any child who is in either or both of the following categories is being transported in a motor vehicle, other than a taxicab, that is registered in this state and is owned, leased, or otherwise under the control of a nursery school, kindergarten, or day-care center, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards:	296 297 298 299 300 301 302 303
(1) A child who is less than four years of age;	304
(2) A child who weighs less than forty pounds.	305
(C) <u>When any child who is at least four years of age but not older than fifteen years of age is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in section 4511.01 of the Revised Code, that is required by the United States department of transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly restrained either in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards or in an occupant restraining device as defined in section 4513.263 of the Revised Code.</u>	306 307 308 309 310 311 312 313 314 315 316
(D) <u>Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether a violation of division (C) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law</u>	317 318 319 320 321 322 323 324

enforcement officer shall view the interior or visually inspect
any automobile being operated on any street or highway for the
sole purpose of determining whether a violation of that nature has
been or is being committed.

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(E) The director of public safety shall adopt such rules as
are necessary to carry out this section.

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~~(D)~~(F) The failure of an operator of a motor vehicle to
secure a child in a child restraint system or in an occupant
restraining device as required by this section is not negligence
imputable to the child, is not admissible as evidence in any civil
action involving the rights of the child against any other person
allegedly liable for injuries to the child, is not to be used as a
basis for a criminal prosecution of the operator of the motor
vehicle other than a prosecution for a violation of this section,
and is not admissible as evidence in any criminal action involving
the operator of the motor vehicle other than a prosecution for a
violation of this section.

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~~(E)~~(G) This section does not apply when an emergency exists
that threatens the life of any person operating a motor vehicle
and to whom this section otherwise would apply or the life of any
child who otherwise would be required to be restrained under this
section.

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~~(F)~~ If a person who is not a resident of this state is
charged with a violation of division (A) or (B) of this section
and does not prove to the court, by a preponderance of the
evidence, that the person's use or nonuse of a child restraint
system was in accordance with the law of the state of which the
person is a resident, the court shall impose the fine levied by
division ~~(H)~~(2) of this section.

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~~(G)~~(H) There is hereby created in the state treasury the
"child highway safety fund," consisting of fines imposed pursuant

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to ~~divisions (H)~~ division (J)(1) ~~and (2)~~ of this section for 356
violations of divisions (A) ~~and~~, (B), and (C) of this section. The 357
money in the fund shall be used by the department of health only 358
to defray the cost of designating hospitals as pediatric trauma 359
centers under section 3727.081 of the Revised Code and to 360
establish and administer a child highway safety program. The 361
purpose of the program shall be to educate the public about child 362
restraint systems generally and the importance of their proper 363
use. The program also shall include a process for providing child 364
restraint systems to persons who meet the eligibility criteria 365
established by the department, and a toll-free telephone number 366
the public may utilize to obtain information about child restraint 367
systems and their proper use. 368

(I) The director of health, in accordance with Chapter 119. 369
of the Revised Code, shall adopt any rules necessary to carry out 370
this section, including rules establishing the criteria a person 371
must meet in order to receive a child restraint system under the 372
department's child restraint system program; provided that rules 373
relating to the verification of pediatric trauma centers shall not 374
be adopted under this section. 375

~~(H)~~(J)(1) Whoever ~~is a resident of this state and~~ violates 376
division (A) ~~or~~, (B), or (C) of this section shall be punished as 377
follows: 378

(a) Except as otherwise provided in division ~~(H)~~(J)(1)(b) of 379
this section, the offender is guilty of a minor misdemeanor and 380
shall be fined not less than twenty-five dollars. 381

(b) If the offender previously has been convicted of or 382
pleaded guilty to a violation of division (A) ~~or~~, (B), or (C) of 383
this section or of a municipal ordinance that is substantially 384
similar to ~~either~~ any of those divisions, the offender is guilty 385
of a misdemeanor of the fourth degree. 386

~~(2) Whoever is not a resident of this state, violates 387
division (A) or (B) of this section, and fails to prove by a 388
preponderance of the evidence that the offender's use or nonuse of 389
a child restraint system was in accordance with the law of the 390
state of which the offender is a resident is guilty of a minor 391
misdemeanor on a first offense; on a second or subsequent offense, 392
that person is guilty of a misdemeanor of the fourth degree. 393~~

~~(3) All fines imposed pursuant to division ~~(H)~~(J)(1) or ~~(2)~~ 394
of this section shall be forwarded to the treasurer of state for 395
deposit in the "child highway safety fund" created by division 396
~~(G)~~(H) of this section. 397~~

Section 2. That existing sections 4507.05, 4507.071, and 398
4511.81 of the Revised Code are hereby repealed. 399