

**As Passed by the House**

**127th General Assembly  
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**Am. H. B. No. 320**

**Representative Jones**

**Cosponsors: Representatives Brown, Evans, McGregor, J., Schindel,  
Stebelton, Uecker, Combs, Domenick, Newcomb, Ujvagi, Wachtmann, Boyd,  
Chandler, DeBose, DeGeeter, Dyer, Gardner, Heard, Hite, Hottinger, Koziura,  
Oelslager, Schneider, Skindell, Widener, Williams, S., Yates, Yuko**

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**A B I L L**

To amend sections 4511.093, 4511.81, and 4513.263 of 1  
the Revised Code to require certain children who 2  
are between four and eight years of age to be 3  
secured in a booster seat and to require children 4  
who are between eight and eighteen years of age to 5  
be restrained in a child restraint system or an 6  
occupant restraining device if not otherwise 7  
required to be in a child restraint system or 8  
booster seat. 9

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

**Section 1.** That sections 4511.093, 4511.81, and 4513.263 of 10  
the Revised Code be amended to read as follows: 11

**Sec. 4511.093.** (A)(1) No law enforcement officer who stops 12  
the operator of a motor vehicle in the course of an authorized 13  
sobriety or other motor vehicle checkpoint operation or a motor 14  
vehicle safety inspection shall issue a ticket, citation, or 15  
summons for a secondary traffic offense unless in the course of 16

the checkpoint operation or safety inspection the officer first 17  
determines that an offense other than a secondary traffic offense 18  
has occurred and either places the operator or a vehicle occupant 19  
under arrest or issues a ticket, citation, or summons to the 20  
operator or a vehicle occupant for an offense other than a 21  
secondary offense. 22

(2) A law enforcement agency that operates a motor vehicle 23  
checkpoint for an express purpose related to a secondary traffic 24  
offense shall not issue a ticket, citation, or summons for any 25  
secondary traffic offense at such a checkpoint, but may use such a 26  
checkpoint operation to conduct a public awareness campaign and 27  
distribute information. 28

(B) As used in this section, "secondary traffic offense" 29  
means a violation of division (A) or (F)(2) of section 4507.05, 30  
division (B)(1)(a) or (b) or (E) of section 4507.071, division 31  
~~(C)~~(D) of section 4511.81, or division (B) of section 4513.263 of 32  
the Revised Code. 33

**Sec. 4511.81.** (A) When any child who is in either or both of 34  
the following categories is being transported in a motor vehicle, 35  
other than a taxicab or public safety vehicle as defined in 36  
section 4511.01 of the Revised Code, that is required by the 37  
United States department of transportation to be equipped with 38  
seat belts at the time of manufacture or assembly, the operator of 39  
the motor vehicle shall have the child properly secured in 40  
accordance with the manufacturer's instructions in a child 41  
restraint system that meets federal motor vehicle safety 42  
standards: 43

(1) A child who is less than four years of age; 44

(2) A child who weighs less than forty pounds. 45

(B) When any child who is in either or both of the following 46

categories is being transported in a motor vehicle, other than a 47  
taxicab, that is owned, leased, or otherwise under the control of 48  
a nursery school, kindergarten, or day-care center, the operator 49  
of the motor vehicle shall have the child properly secured in 50  
accordance with the manufacturer's instructions in a child 51  
restraint system that meets federal motor vehicle safety 52  
standards: 53

(1) A child who is less than four years of age; 54

(2) A child who weighs less than forty pounds. 55

(C) When any child who is less than eight years of age and 56  
less than four feet nine inches in height, who is not required by 57  
division (A) or (B) of this section to be secured in a child 58  
restraint system, is being transported in a motor vehicle, other 59  
than a taxicab or public safety vehicle as defined in section 60  
4511.01 of the Revised Code, that is required by the United States 61  
department of transportation to be equipped with seat belts at the 62  
time of manufacture or assembly, the operator of the motor vehicle 63  
shall have the child properly secured in accordance with the 64  
manufacturer's instructions on a booster seat that meets federal 65  
motor vehicle safety standards. 66

(D) When any child who is at least ~~four~~ eight years of age 67  
but not older than ~~fifteen~~ eighteen years of age, and who is not 68  
otherwise required by division (A), (B), or (C) of this section to 69  
be secured in a child restraint system or booster seat, is being 70  
transported in a motor vehicle, other than a taxicab or public 71  
safety vehicle as defined in section 4511.01 of the Revised Code, 72  
that is required by the United States department of transportation 73  
to be equipped with seat belts at the time of manufacture or 74  
assembly, the operator of the motor vehicle shall have the child 75  
properly restrained either in accordance with the manufacturer's 76  
instructions in a child restraint system that meets federal motor 77  
vehicle safety standards or in an occupant restraining device as 78

defined in section 4513.263 of the Revised Code. 79

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~~(D)~~(E) Notwithstanding any provision of law to the contrary, 81  
no law enforcement officer shall cause an operator of a motor 82  
vehicle being operated on any street or highway to stop the motor 83  
vehicle for the sole purpose of determining whether a violation of 84  
division ~~(C)~~(D) of this section has been or is being committed or 85  
for the sole purpose of issuing a ticket, citation, or summons for 86  
a violation of ~~that nature~~ division (D) of this section or causing 87  
the arrest of or commencing a prosecution of a person for a 88  
violation of ~~that nature~~ division (D) of this section, and ~~no~~ 89  
absent another violation of law, a law enforcement officer shall 90  
officer's view of the interior or visually inspect any automobile 91  
visual inspection of a motor vehicle being operated on any street 92  
or highway may not be used for the ~~sole~~ purpose of determining 93  
whether a violation of ~~that nature~~ division (D) of this section 94  
has been or is being committed. 95

~~(E)~~(F) The director of public safety shall adopt such rules 96  
as are necessary to carry out this section. 97

~~(F)~~(G) The failure of an operator of a motor vehicle to 98  
secure a child in a child restraint system, a booster seat, or ~~in~~ 99  
an occupant restraining device as required by this section is not 100  
negligence imputable to the child, is not admissible as evidence 101  
in any civil action involving the rights of the child against any 102  
other person allegedly liable for injuries to the child, is not to 103  
be used as a basis for a criminal prosecution of the operator of 104  
the motor vehicle other than a prosecution for a violation of this 105  
section, and is not admissible as evidence in any criminal action 106  
involving the operator of the motor vehicle other than a 107  
prosecution for a violation of this section. 108

~~(G)~~(H) This section does not apply when an emergency exists 109  
that threatens the life of any person operating a motor vehicle 110

and to whom this section otherwise would apply or the life of any 111  
child who otherwise would be required to be restrained under this 112  
section. This section does not apply to a person operating a motor 113  
vehicle who has an affidavit signed by a physician licensed to 114  
practice in this state under Chapter 4731. of the Revised Code or 115  
a chiropractor licensed to practice in this state under Chapter 116  
4734. of the Revised Code that states that the child who otherwise 117  
would be required to be restrained under this section has a 118  
physical impairment that makes use of a child restraint system, 119  
booster seat, or an occupant restraining device impossible or 120  
impractical, provided that the person operating the vehicle has 121  
safely and appropriately restrained the child in accordance with 122  
any recommendations of the physician or chiropractor as noted on 123  
the affidavit. 124

~~(H)~~(I) There is hereby created in the state treasury the 125  
"child highway safety fund," consisting of fines imposed pursuant 126  
to division ~~(J)~~(K)(1) of this section for violations of divisions 127  
(A), (B), ~~and~~ (C), and (D) of this section. The money in the fund 128  
shall be used by the department of health only to defray the cost 129  
of designating hospitals as pediatric trauma centers under section 130  
3727.081 of the Revised Code and to establish and administer a 131  
child highway safety program. The purpose of the program shall be 132  
to educate the public about child restraint systems ~~generally and~~ 133  
booster seats and the importance of their proper use. The program 134  
also shall include a process for providing child restraint systems 135  
and booster seats to persons who meet the eligibility criteria 136  
established by the department, and a toll-free telephone number 137  
the public may utilize to obtain information about child restraint 138  
systems and booster seats, and their proper use. 139

~~(I)~~(J) The director of health, in accordance with Chapter 140  
119. of the Revised Code, shall adopt any rules necessary to carry 141  
out this section, including rules establishing the criteria a 142

person must meet in order to receive a child restraint system or 143  
booster seat under the department's child ~~restraint system~~ highway 144  
safety program; provided that rules relating to the verification 145  
of pediatric trauma centers shall not be adopted under this 146  
section. 147

~~(J)~~(K)(1) Whoever violates division (A), (B), ~~or (C)~~, or (D) 148  
of this section shall be punished as follows: 149

(a) Except as otherwise provided in division ~~(J)~~(K)(1)(b) of 150  
this section, the offender is guilty of a minor misdemeanor and 151  
shall be fined not less than twenty-five dollars. 152

(b) If the offender previously has been convicted of or 153  
pleaded guilty to a violation of division (A), (B), ~~or (C)~~, or (D) 154  
of this section or of a municipal ordinance that is substantially 155  
similar to any of those divisions, the offender is guilty of a 156  
misdemeanor of the fourth degree. 157

(2) All fines imposed pursuant to division ~~(J)~~(K)(1) of this 158  
section shall be forwarded to the treasurer of state for deposit 159  
in the "child highway safety fund" created by division ~~(H)~~(I) of 160  
this section. 161

**Sec. 4513.263.** (A) As used in this section and in section 162  
4513.99 of the Revised Code: 163

(1) "Automobile" means any commercial tractor, passenger car, 164  
commercial car, or truck that is required to be factory-equipped 165  
with an occupant restraining device for the operator or any 166  
passenger by regulations adopted by the United States secretary of 167  
transportation pursuant to the "National Traffic and Motor Vehicle 168  
Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392. 169

(2) "Occupant restraining device" means a seat safety belt, 170  
shoulder belt, harness, or other safety device for restraining a 171  
person who is an operator of or passenger in an automobile and 172

that satisfies the minimum federal vehicle safety standards 173  
established by the United States department of transportation. 174

(3) "Passenger" means any person in an automobile, other than 175  
its operator, who is occupying a seating position for which an 176  
occupant restraining device is provided. 177

(4) "Commercial tractor," "passenger car," and "commercial 178  
car" have the same meanings as in section 4501.01 of the Revised 179  
Code. 180

(5) "Vehicle" and "motor vehicle," as used in the definitions 181  
of the terms set forth in division (A)(4) of this section, have 182  
the same meanings as in section 4511.01 of the Revised Code. 183

(6) "Tort action" means a civil action for damages for 184  
injury, death, or loss to person or property. "Tort action" 185  
includes a product liability claim, as defined in section 2307.71 186  
of the Revised Code, and an asbestos claim, as defined in section 187  
2307.91 of the Revised Code, but does not include a civil action 188  
for damages for breach of contract or another agreement between 189  
persons. 190

(B) No person shall do any of the following: 191

(1) Operate an automobile on any street or highway unless 192  
that person is wearing all of the available elements of a properly 193  
adjusted occupant restraining device, or operate a school bus that 194  
has an occupant restraining device installed for use in its 195  
operator's seat unless that person is wearing all of the available 196  
elements of the device, as properly adjusted; 197

(2) Operate an automobile on any street or highway unless 198  
each passenger in the automobile who is subject to the requirement 199  
set forth in division (B)(3) of this section is wearing all of the 200  
available elements of a properly adjusted occupant restraining 201  
device; 202

(3) Occupy, as a passenger, a seating position on the front 203  
seat of an automobile being operated on any street or highway 204  
unless that person is wearing all of the available elements of a 205  
properly adjusted occupant restraining device; 206

(4) Operate a taxicab on any street or highway unless all 207  
factory-equipped occupant restraining devices in the taxicab are 208  
maintained in usable form. 209

(C) Division (B)(3) of this section does not apply to a 210  
person who is required by section 4511.81 of the Revised Code to 211  
be secured in a child restraint device or booster seat. Division 212  
(B)(1) of this section does not apply to a person who is an 213  
employee of the United States postal service or of a newspaper 214  
home delivery service, during any period in which the person is 215  
engaged in the operation of an automobile to deliver mail or 216  
newspapers to addressees. Divisions (B)(1) and (3) of this section 217  
do not apply to a person who has an affidavit signed by a 218  
physician licensed to practice in this state under Chapter 4731. 219  
of the Revised Code or a chiropractor licensed to practice in this 220  
state under Chapter 4734. of the Revised Code that states that the 221  
person has a physical impairment that makes use of an occupant 222  
restraining device impossible or impractical. 223

(D) Notwithstanding any provision of law to the contrary, no 224  
law enforcement officer shall cause an operator of an automobile 225  
being operated on any street or highway to stop the automobile for 226  
the sole purpose of determining whether a violation of division 227  
(B) of this section has been or is being committed or for the sole 228  
purpose of issuing a ticket, citation, or summons for a violation 229  
of that nature or causing the arrest of or commencing a 230  
prosecution of a person for a violation of that nature, and no law 231  
enforcement officer shall view the interior or visually inspect 232  
any automobile being operated on any street or highway for the 233  
sole purpose of determining whether a violation of that nature has 234



been or is being committed. 235

(E) All fines collected for violations of division (B) of 236  
this section, or for violations of any ordinance or resolution of 237  
a political subdivision that is substantively comparable to that 238  
division, shall be forwarded to the treasurer of state for deposit 239  
as follows: 240

(1) Eight per cent shall be deposited into the seat belt 241  
education fund, which is hereby created in the state treasury, and 242  
shall be used by the department of public safety to establish a 243  
seat belt education program. 244

(2) Eight per cent shall be deposited into the elementary 245  
school program fund, which is hereby created in the state 246  
treasury, and shall be used by the department of public safety to 247  
establish and administer elementary school programs that encourage 248  
seat safety belt use. 249

(3) Two per cent shall be deposited into the occupational 250  
licensing and regulatory fund created by section 4743.05 of the 251  
Revised Code. 252

(4) Twenty-eight per cent shall be deposited into the trauma 253  
and emergency medical services fund, which is hereby created in 254  
the state treasury, and shall be used by the department of public 255  
safety for the administration of the division of emergency medical 256  
services and the state board of emergency medical services. 257

(5) Fifty-four per cent shall be deposited into the trauma 258  
and emergency medical services grants fund, which is hereby 259  
created in the state treasury, and shall be used by the state 260  
board of emergency medical services to make grants, in accordance 261  
with section 4765.07 of the Revised Code and rules the board 262  
adopts under section 4765.11 of the Revised Code. 263

(F)(1) Subject to division (F)(2) of this section, the 264  
failure of a person to wear all of the available elements of a 265

properly adjusted occupant restraining device in violation of 266  
division (B)(1) or (3) of this section or the failure of a person 267  
to ensure that each minor who is a passenger of an automobile 268  
being operated by that person is wearing all of the available 269  
elements of a properly adjusted occupant restraining device in 270  
violation of division (B)(2) of this section shall not be 271  
considered or used by the trier of fact in a tort action as 272  
evidence of negligence or contributory negligence. But, the trier 273  
of fact may determine based on evidence admitted consistent with 274  
the Ohio Rules of Evidence that the failure contributed to the 275  
harm alleged in the tort action and may diminish a recovery of 276  
compensatory damages that represents noneconomic loss, as defined 277  
in section 2307.011 of the Revised Code, in a tort action that 278  
could have been recovered but for the plaintiff's failure to wear 279  
all of the available elements of a properly adjusted occupant 280  
restraining device. Evidence of that failure shall not be used as 281  
a basis for a criminal prosecution of the person other than a 282  
prosecution for a violation of this section; and shall not be 283  
admissible as evidence in a criminal action involving the person 284  
other than a prosecution for a violation of this section. 285

(2) If, at the time of an accident involving a passenger car 286  
equipped with occupant restraining devices, any occupant of the 287  
passenger car who sustained injury or death was not wearing an 288  
available occupant restraining device, was not wearing all of the 289  
available elements of such a device, or was not wearing such a 290  
device as properly adjusted, then, consistent with the Rules of 291  
Evidence, the fact that the occupant was not wearing the available 292  
occupant restraining device, was not wearing all of the available 293  
elements of such a device, or was not wearing such a device as 294  
properly adjusted is admissible in evidence in relation to any 295  
claim for relief in a tort action to the extent that the claim for 296  
relief satisfies all of the following: 297

(a) It seeks to recover damages for injury or death to the occupant.	298 299
(b) The defendant in question is the manufacturer, designer, distributor, or seller of the passenger car.	300 301
(c) The claim for relief against the defendant in question is that the injury or death sustained by the occupant was enhanced or aggravated by some design defect in the passenger car or that the passenger car was not crashworthy.	302 303 304 305
(G)(1) Whoever violates division (B)(1) of this section shall be fined thirty dollars.	306 307
(2) Whoever violates division (B)(3) of this section shall be fined twenty dollars.	308 309
(3) Except as otherwise provided in this division, whoever violates division (B)(4) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to a violation of division (B)(4) of this section, whoever violates division (B)(4) of this section is guilty of a misdemeanor of the third degree.	310 311 312 313 314 315
<b>Section 2.</b> That existing sections 4511.093, 4511.81, and 4513.263 of the Revised Code are hereby repealed.	316 317