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Veterans Affairs Committee**

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Representative Jones

**Cosponsors: Representatives Brown, Evans, McGregor, J., Schindel,
Stebelton, Uecker, Combs, Domenick, Newcomb, Ujvagi, Wachtmann**

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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
safety program; provided that rules relating to the verification
of pediatric trauma centers shall not be adopted under this
section.

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

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

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

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

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

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

(2) "Occupant restraining device" means a seat safety belt,
shoulder belt, harness, or other safety device for restraining a
person who is an operator of or passenger in an automobile and
that satisfies the minimum federal vehicle safety standards

established by the United States department of transportation.	174
(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.	175 176 177
(4) "Commercial tractor," "passenger car," and "commercial car" have the same meanings as in section 4501.01 of the Revised Code.	178 179 180
(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.	181 182 183
(6) "Tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim, as defined in section 2307.71 of the Revised Code, and an asbestos claim, as defined in section 2307.91 of the Revised Code, but does not include a civil action for damages for breach of contract or another agreement between persons.	184 185 186 187 188 189 190
(B) No person shall do any of the following:	191
(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;	192 193 194 195 196 197
(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;	198 199 200 201 202
(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 298

occupant.	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
Section 2. That existing sections 4511.093, 4511.81, and 4513.263 of the Revised Code are hereby repealed.	316 317