



Am. H.B. 320
127th General Assembly
(As Passed by the House)

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

BILL SUMMARY

- Requires any child who is less than eight years old and less than four feet, nine inches tall to be secured in a booster seat when traveling in a motor vehicle if the child is not otherwise required to be secured in a child restraint system.
- Requires any child who is at least eight years of age but less than 18 years of age to be restrained in a child restraint system or in an occupant restraining device if not otherwise required to be secured in a booster seat or a child restraint system.
- Provides that the child restraint provisions do not apply to a person operating a motor vehicle who has an affidavit signed by a licensed physician or chiropractor that states that the child who otherwise would be required to be restrained has a physical impairment that makes use of a child restraint system, booster seat, or occupant restraining device impossible or impractical.

CONTENT AND OPERATION

Under current law, a child who is less than four years old or who weighs less than 40 pounds, or both, must be secured in a federally approved child restraint system when being transported in a motor vehicle (other than a taxi or public safety vehicle) (R.C. 4511.81(A) and (B)). Current law also provides that when any child who is at least 4 years of age but not older than 15 years of age is being transported in a motor vehicle (other than a taxicab or a public safety vehicle) that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the vehicle

operator must have the child properly restrained either in accordance with the manufacturer's instructions in a child restraint system (which may be a booster seat; see **COMMENT**) that meets federal motor vehicle safety standards or in an occupant restraining device (seat belt) (R.C. 4511.81(C)).

Violation of this requirement is a minor misdemeanor on a first offense and the offender is subject to a mandatory fine of at least \$25. Subsequent offenses are a fourth degree misdemeanor. Current law also establishes that the failure to use a child restraint system when required may not be used in a related civil or other criminal action. (R.C. 4511.81(G) and (K).)

Current law further provides that, relative to the provision regarding the transportation of children who are at least 4 years of age but not older than 15 years of age (R.C. 4511.81(C)), enforcement of that provision by law enforcement officers is "secondary" and not primary. That is, a law enforcement officer cannot 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 that provision (regarding the transportation of children between the ages of 4 and 15) 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. In addition, a law enforcement officer cannot 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. (R.C. 4511.89(D).)

Under the bill, a child who is less than eight years old and less than four feet nine inches in height, must be secured in a booster seat when being transported in a motor vehicle (other than a taxi or public safety vehicle), if that child is not otherwise required to be transported in a child restraint system. Booster seats required under the bill must meet federal motor vehicle safety standards. (R.C. 4511.81(C).)

The bill modifies the provision of current law that requires any child who is at least 4 years of age but not older than 15 years of age to be properly restrained either in a child restraint system or in an occupant restraining device so that this requirement applies if the child is between 8 and 18 years of age and is not otherwise required to be in a child restraint system or a booster seat. For example, a child who is 7 years old and over four feet nine inches in height would not specifically be required to be in a booster seat, but would continue to be required by current law to be in a child restraint system or occupant restraining system. A child who is 7 years old and less than four feet nine inches in height specifically would be required to be in a booster seat. (R.C. 4511.81(D).)

The bill specifies that the "secondary enforcement" provision of current law applies only to the restraint provision governing children between 8 and 18 years of age (R.C. 4511.89(D)) and not to the new booster seat provision, which affects children who are less than 8 years of age and less than four feet nine inches in height (R.C. 4511.89(C)). In addition, the bill further modifies the secondary enforcement provision by providing that, absent another violation of law, a law enforcement officer's view of the interior or visual inspection of a motor vehicle being operated on any street or highway cannot be used for the purpose of determining whether a violation of the restraint provision governing children between 8 and 18 years of age has been or is being committed. (R.C. 4511.89(E).)

Current law provides that the child restraint provisions do not apply when an emergency exists that threatens the life of any person operating a motor vehicle and to whom the child restraint provisions would apply or the life of any child who otherwise would be required to be restrained. The bill provides that the child restraint provisions do not apply to a person operating a motor vehicle who has an affidavit signed by a licensed physician or chiropractor that states that the child who otherwise would be required to be restrained has a physical impairment that makes use of a child restraint system, booster seat, or occupant restraining device impossible or impractical. This exception applies only if the vehicle operator has safely and appropriately restrained the child in accordance with any recommendations of the physician or chiropractor as noted on the affidavit. (R.C. 4511.81(H).)

Current law also creates the Child Highway Safety Fund, which consists of fines from child restraint violations and is used by the Department of Health, in part, to administer a child highway safety program to educate the public about child restraint systems generally and the importance of their proper use. The program also includes a process for providing child restraint systems to persons who meet the eligibility criteria established by the Department, and a toll-free telephone number the public may utilize to obtain information about child restraint systems and their proper use. The bill specifies that the Fund and program also apply to booster seats. (R.C. 4511.81(I).)

The penalty for a violation of the booster seat requirement is the same as described above. Current law provisions governing the effect of failure to secure a child in a child restraint system in a civil or other criminal action also apply to the failure to use a booster seat.

One provision of the general occupant restraining device statute (R.C. 4513.263) prohibits any person from occupying, as a passenger, a seating position on the front seat of an automobile being operated on any street or highway unless the person is wearing all of the available elements of a properly adjusted occupant restraining device (R.C. 4513.263(B)(3)). This prohibition does not apply to a

person who is required by the child restraint law to be secured in a child restraint device (R.C. 4513.263(C)). The bill provides that this prohibition also does not apply to a person who is required to be secured in a booster seat.

COMMENT

Many types of child restraint systems are approved under federal law, including built-in and portable systems. Most systems are height and weight specific. Under 49 C.F.R. § 571.213, a booster seat is a type of child restraint system that is "either a backless child restraint system or a belt-positioning seat." A belt-positioning seat means a child restraint system that positions a child on a vehicle seat to improve the fit of a vehicle belt system on the child and that lacks any component, such as a belt system, designed to restrain the child's forward movement.

HISTORY

| ACTION | DATE |
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| Introduced | 09-20-07 |
| Reported, H. Infrastructure, Homeland Security and Veterans Affairs | 04-24-08 |
| Passed House (85-10) | 04-30-08 |

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