



Ohio Legislative Service Commission

Bill Analysis

Amanda M. Ferguson

S.B. 302

130th General Assembly
(As Introduced)

Sens. Schiavoni, Lehner

BILL SUMMARY

- Makes every form of failure to properly secure a child in a motor vehicle a primary offense.
- Eliminates a provision of current law that deems the failure to comply with the Child Restraining Device Law inadmissible in civil and criminal actions other than prosecution for a violation of the Child Restraining Device Law.

CONTENT AND OPERATION

Failure to secure a child in a motor vehicle as a primary offense

The bill removes the failure to properly secure a child in a motor vehicle from the list of secondary traffic offenses in certain circumstances.¹ A secondary offense is one for which a law enforcement officer may not issue a ticket unless the officer arrests or tickets the operator or a passenger for an offense that is not a secondary offense. The effect of these changes is to make every form of failure to properly secure a child in a motor vehicle a primary offense.

Under current law, failure to properly secure a child in a motor vehicle is a secondary offense in the following circumstances:

- The child is at least four but under eight years old, is less than 4' 9" tall, weighs 40 or more pounds, and is being transported in a motor vehicle (other than a taxi or public safety vehicle) that is required by federal law

¹ R.C. 4511.093(B).

to be equipped with seat belts but the child is not properly secured in a booster seat; or

- The child is at least eight but under 15 years old, weighs 40 or more pounds, is not required to be secured in a child restraint system or booster seat, and is being transported in a motor vehicle (other than a taxi or public safety vehicle) that is required by federal law to be equipped with seat belts but the child is not properly restrained in an occupant restraining device.

The bill also eliminates the statutory provision that prohibits a law enforcement officer from stopping a motor vehicle solely to determine whether one of these secondary offenses is being committed and that prohibits, in the absence of another violation of law, the officer's view of the interior or visual inspection of a motor vehicle from being used to determine whether one of those secondary offenses has been committed.²

The bill modifies the provision of law that prohibits a law enforcement officer from stopping a motor vehicle solely because of a seat belt violation and from viewing the interior of or visually inspecting an automobile solely to determine whether a seat belt violation has occurred. Under the bill, this provision does not apply to an officer who is enforcing the law that requires a child to be properly secured.³

Use of failure to secure a child in criminal and civil actions

The bill eliminates a provision of current law that deems the failure to comply with the Child Restraining Device Law inadmissible in civil and criminal actions other than prosecution for a violation of the Child Restraining Device Law. That provision of current law, which is removed by the bill, states that the failure of an operator of a motor vehicle to secure a child in a child restraint system, booster seat, or occupant restraining device:

(1) Is not negligence imputable to the child;

(2) 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;

² R.C. 4511.81(E).

³ R.C. 4511.263(D).



(3) Is not to be used as a basis for criminal prosecution of the operator of the motor vehicle other than a prosecution for a violation of the Child Restraining Device Law; and

(4) Is not admissible as evidence of any criminal action involving the operator of the motor vehicle other than a prosecution for a violation of the Child Restraining Device Law.⁴

HISTORY

ACTION	DATE
Introduced	03-27-14

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⁴ R.C. 4511.81(G).

