



Ohio Legislative Service Commission

Bill Analysis

Dennis M. Papp

S.B. 44

131st General Assembly
(As Introduced)

Sens. Schiavoni, Manning, Jones, Brown, Yuko, Tavares, Gentile

BILL SUMMARY

- Removes the "secondary offense" classification of the failure to properly secure a child in a motor vehicle in certain circumstances so that every form of failure to properly secure a child in a motor vehicle is a primary offense.
- Specifies that the prohibition against a law enforcement officer stopping a motor vehicle solely because of a seat belt violation or to determine whether such a violation has occurred does not apply to an officer who is enforcing the Child Restraining Device Law.
- Eliminates a provision of current law that specifies that the failure to comply with the Child Restraining Device Law is inadmissible in any criminal action other than prosecution for a violation of that 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 in certain circumstances from the list of secondary traffic offenses.¹ Provisions that pertain to the failure to properly secure a child in a motor vehicle in other circumstances are not secondary traffic offenses, and are not affected by the bill.² 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

¹ R.C. 4511.093(B) and 4511.81(E).

² R.C. 4511.81(A) and (B).

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, unchanged by the bill, failure to secure a child who is under four years old or who weighs less than 40 pounds, or both, is not a secondary offense. Failure to properly secure a child in a motor vehicle in any of the following circumstances is a secondary offense:

- 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, a public safety vehicle, or a vehicle regulated under Child Day-Care Law) that is required by federal law to be equipped with seat belts but the child is not properly secured in a booster seat;³ 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 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 a child restraint system or an occupant restraining device.⁴

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, an 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.⁵

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 or to determine whether such a violation has occurred and from viewing the interior of or visually inspecting an automobile solely to determine whether such a violation has occurred. Under the bill, this provision does not apply to an officer who is enforcing the Child Restraining Device Law.⁶

³ R.C. 4511.81(C).

⁴ R.C. 4511.81(D).

⁵ R.C. 4511.81(E).

⁶ R.C. 4513.263(D).



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

The bill eliminates a provision of current law that specifies that the failure to comply with the Child Restraining Device Law is inadmissible in any criminal action other than a prosecution for a violation of that 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 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 is not admissible as evidence of any criminal action involving the operator of the motor vehicle other than a prosecution for a violation of that Law.⁷ The bill does not change a related provision of current law regarding the use of such a failure in a civil action.

HISTORY

ACTION	DATE
Introduced	02-11-15

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⁷ R.C. 4511.81(G).

