



Ohio Legislative Service Commission

Bill Analysis

Amanda M. Ferguson

Sub. S.B. 44

131st General Assembly
(As Reported by S. Criminal Justice)

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

BILL SUMMARY

- Makes the failure to comply with the child booster seat requirement a "primary offense," rather than a "secondary offense" as in current 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 a prosecution for a violation of that Law.

CONTENT AND OPERATION

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

Under current law, failure to secure a child who is under four years old or who weighs less than 40 pounds, or both, in a child restraint system is a "primary offense." Failure to properly secure a child in a motor vehicle in either of the following circumstances is a "secondary offense":

- The child is not properly secured in a booster seat, 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 that is required by federal law to be equipped with seat belts;¹ or
- The child is not properly secured in a child restraint system or an occupant restraining device, the child is at least 8 but under 15 years old, weighs 40 or more pounds, is not required to be secured in a booster seat,

¹ R.C. 4511.81(C). This provision of law does not apply to a taxi, a public safety vehicle, or a vehicle regulated under the Child Day Care Law.

and is being transported in a motor vehicle that is required by federal law to be equipped with seat belts.²

The bill removes the failure to properly secure a child in a booster seat, as required by dot point 1 above, from the list of secondary traffic offenses. A secondary traffic 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 (i.e. a "primary offense"). Accordingly, the bill eliminates the statutory provision that prohibits a law enforcement officer from stopping a motor vehicle solely to determine whether a booster seat violation 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 such a violation has been committed.³ The bill also eliminates a statutory provision that prohibits a law enforcement officer from issuing a citation for a booster seat violation at a motor vehicle checkpoint unless the officer first determines that a primary offense has occurred.⁴

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. The bill does not change a related provision of current law regarding the use of such a failure in a civil action.⁵

HISTORY

ACTION	DATE
Introduced	02-11-15
Reported, S. Criminal Justice	02-11-16

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² R.C. 4511.81(D). This provision of law does not apply to a taxi or a public safety vehicle.

³ R.C. 4511.81(E).

⁴ R.C. 4511.043.

⁵ R.C. 4511.81(G).

