

As Introduced

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H. B. No. 331

Representative Phillips

**Cosponsors: Representatives Clyde, Lepore-Hagan, O'Brien, M., Sheehy, Smith,
K.**

A BILL

To amend section 4513.263 of the Revised Code to 1
require all passengers in automobiles to wear 2
safety belts. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 4513.263 of the Revised Code be 4
amended to read as follows: 5

Sec. 4513.263. (A) As used in this section and in section 6
4513.99 of the Revised Code: 7

(1) "Automobile" means any commercial tractor, passenger 8
car, commercial car, or truck that is required to be factory- 9
equipped with an occupant restraining device for the operator or 10
any passenger by regulations adopted by the United States 11
secretary of transportation pursuant to the "National Traffic 12
and Motor Vehicle Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 13
1392. 14

(2) "Occupant restraining device" means a seat safety 15
belt, shoulder belt, harness, or other safety device for 16
restraining a person who is an operator of or passenger in an 17

automobile and that satisfies the minimum federal vehicle safety standards established by the United States department of transportation.

(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.

(4) "Commercial tractor," "passenger car," and "commercial car" have the same meanings as in section 4501.01 of the Revised Code.

(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.

(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.

(B) No person shall do any of the following:

(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;

(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~~ 47
wearing all of the available elements of a properly adjusted 48
occupant restraining device; 49

(3) Occupy, as a passenger, ~~a any seating position on the~~ 50
~~front seat of in~~ an automobile being operated on any street or 51
highway unless that person is wearing all of the available 52
elements of a properly adjusted occupant restraining device; 53

(4) Operate a taxicab on any street or highway unless all 54
factory-equipped occupant restraining devices in the taxicab are 55
maintained in usable form. 56

(C) Division (B) (3) of this section does not apply to a 57
person who is required by section 4511.81 of the Revised Code to 58
be secured in a child restraint device or booster seat. Division 59
(B) (1) of this section does not apply to a person who is an 60
employee of the United States postal service or of a newspaper 61
home delivery service, during any period in which the person is 62
engaged in the operation of an automobile to deliver mail or 63
newspapers to addressees. Divisions (B) (1) and (3) of this 64
section do not apply to a person who has an affidavit signed by 65
a physician licensed to practice in this state under Chapter 66
4731. of the Revised Code or a chiropractor licensed to practice 67
in this state under Chapter 4734. of the Revised Code that 68
states that the person has a physical impairment that makes use 69
of an occupant restraining device impossible or impractical. 70

(D) Notwithstanding any provision of law to the contrary, 71
no law enforcement officer shall cause an operator of an 72
automobile being operated on any street or highway to stop the 73
automobile for the sole purpose of determining whether a 74
violation of division (B) of this section has been or is being 75
committed or for the sole purpose of issuing a ticket, citation, 76

or summons for a violation of that nature or causing the arrest 77
of or commencing a prosecution of a person for a violation of 78
that nature, and no law enforcement officer shall view the 79
interior or visually inspect any automobile being operated on 80
any street or highway for the sole purpose of determining 81
whether a violation of that nature has been or is being 82
committed. 83

(E) All fines collected for violations of division (B) of 84
this section, or for violations of any ordinance or resolution 85
of a political subdivision that is substantively comparable to 86
that division, shall be forwarded to the treasurer of state for 87
deposit into the state treasury to the credit of the trauma and 88
emergency medical services fund, which is hereby created. In 89
addition, sixty cents of each fee collected under sections 90
4501.34, 4503.26, 4505.14, 4506.08, 4509.05, and 4519.63 of the 91
Revised Code as specified in those sections, plus the portion of 92
the driver's license reinstatement fee described in division (F) 93
(2)(g) of section 4511.191 of the Revised Code, plus all fees 94
collected under section 4765.11 of the Revised Code, plus all 95
fines imposed under section 4765.55 of the Revised Code, plus 96
the fees and other moneys specified in section 4766.05 of the 97
Revised Code, and plus five per cent of fines and moneys arising 98
from bail forfeitures as directed by section 5503.04 of the 99
Revised Code, also shall be deposited into the trauma and 100
emergency medical services fund. All money deposited into the 101
trauma and emergency medical services fund shall be used by the 102
department of public safety for the administration and operation 103
of the division of emergency medical services and the state 104
board of emergency medical, fire, and transportation services, 105
and by the state board of emergency medical, fire, and 106
transportation services to make grants, in accordance with 107

section 4765.07 of the Revised Code and rules the board adopts 108
under section 4765.11 of the Revised Code. The director of 109
budget and management may transfer excess money from the trauma 110
and emergency medical services fund to the state highway safety 111
fund if the director of public safety determines that the amount 112
of money in the trauma and emergency medical services fund 113
exceeds the amount required to cover such costs incurred by the 114
emergency medical services agency and the grants made by the 115
state board of emergency medical, fire, and transportation 116
services and requests the director of budget and management to 117
make the transfer. 118

(F) (1) Subject to division (F) (2) of this section, the 119
failure of a person to wear all of the available elements of a 120
properly adjusted occupant restraining device in violation of 121
division (B) (1) or (3) of this section or the failure of a 122
person to ensure that each minor who is a passenger of an 123
automobile being operated by that person is wearing all of the 124
available elements of a properly adjusted occupant restraining 125
device in violation of division (B) (2) of this section shall not 126
be considered or used by the trier of fact in a tort action as 127
evidence of negligence or contributory negligence. But, the 128
trier of fact may determine based on evidence admitted 129
consistent with the Ohio Rules of Evidence that the failure 130
contributed to the harm alleged in the tort action and may 131
diminish a recovery of compensatory damages that represents 132
noneconomic loss, as defined in section 2307.011 of the Revised 133
Code, in a tort action that could have been recovered but for 134
the plaintiff's failure to wear all of the available elements of 135
a properly adjusted occupant restraining device. Evidence of 136
that failure shall not be used as a basis for a criminal 137
prosecution of the person other than a prosecution for a 138

violation of this section; and shall not be admissible as 139
evidence in a criminal action involving the person other than a 140
prosecution for a violation of this section. 141

(2) If, at the time of an accident involving a passenger 142
car equipped with occupant restraining devices, any occupant of 143
the passenger car who sustained injury or death was not wearing 144
an available occupant restraining device, was not wearing all of 145
the available elements of such a device, or was not wearing such 146
a device as properly adjusted, then, consistent with the Rules 147
of Evidence, the fact that the occupant was not wearing the 148
available occupant restraining device, was not wearing all of 149
the available elements of such a device, or was not wearing such 150
a device as properly adjusted is admissible in evidence in 151
relation to any claim for relief in a tort action to the extent 152
that the claim for relief satisfies all of the following: 153

(a) It seeks to recover damages for injury or death to the 154
occupant. 155

(b) The defendant in question is the manufacturer, 156
designer, distributor, or seller of the passenger car. 157

(c) The claim for relief against the defendant in question 158
is that the injury or death sustained by the occupant was 159
enhanced or aggravated by some design defect in the passenger 160
car or that the passenger car was not crashworthy. 161

(G) (1) Whoever violates division (B) (1) of this section 162
shall be fined thirty dollars. 163

(2) Whoever violates division (B) (3) of this section shall 164
be fined twenty dollars. 165

(3) Except as otherwise provided in this division, whoever 166
violates division (B) (4) of this section is guilty of a minor 167

misdemeanor. If the offender previously has been convicted of or 168
pleaded guilty to a violation of division (B) (4) of this 169
section, whoever violates division (B) (4) of this section is 170
guilty of a misdemeanor of the third degree. 171

(4) The offenses established under this section are strict 172
liability offenses and section 2901.20 of the Revised Code does 173
not apply. The designation of these offenses as strict liability 174
offenses shall not be construed to imply that any other offense, 175
for which there is no specified degree of culpability, is not a 176
strict liability offense. 177

Section 2. That existing section 4513.263 of the Revised 178
Code is hereby repealed. 179