

As Reported by the Senate Criminal Justice Committee

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Sub. S. B. No. 44

Senator Schiavoni

Cosponsors: Senators Manning, Jones, Brown, Yuko, Tavares, Gentile

A BILL

To amend sections 4511.043 and 4511.81 of the
Revised Code to allow the enforcement of child
booster seat requirements as a primary offense
and to repeal a provision of law that declares
that the failure of an operator of a motor
vehicle to secure a child in a car seat, in a
booster seat, or with a seat belt is
inadmissible in certain criminal proceedings.

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

Section 1. That sections 4511.043 and 4511.81 of the
Revised Code be amended to read as follows:

Sec. 4511.043. (A) (1) No law enforcement officer who stops
the operator of a motor vehicle in the course of an authorized
sobriety or other motor vehicle checkpoint operation or a motor
vehicle safety inspection shall issue a ticket, citation, or
summons for a secondary traffic offense unless in the course of
the checkpoint operation or safety inspection the officer first
determines that an offense other than a secondary traffic
offense has occurred and either places the operator or a vehicle

occupant under arrest or issues a ticket, citation, or summons 19
to the operator or a vehicle occupant for an offense other than 20
a secondary offense. 21

(2) A law enforcement agency that operates a motor vehicle 22
checkpoint for an express purpose related to a secondary traffic 23
offense shall not issue a ticket, citation, or summons for any 24
secondary traffic offense at such a checkpoint, but may use such 25
a checkpoint operation to conduct a public awareness campaign 26
and distribute information. 27

(B) As used in this section, "secondary traffic offense" 28
means a violation of division (A) or (F) (2) of section 4507.05, 29
division (B) (1) (a) or (b) or (E) of section 4507.071, division 30
(A) of section 4511.204, division ~~(C) or~~ (D) of section 4511.81, 31
division (A) (3) of section 4513.03, or division (B) of section 32
4513.263 of the Revised Code. 33

Sec. 4511.81. (A) When any child who is in either or both 34
of the following categories is being transported in a motor 35
vehicle, other than a taxicab or public safety vehicle as 36
defined in section 4511.01 of the Revised Code, that is required 37
by the United States department of transportation to be equipped 38
with seat belts at the time of manufacture or assembly, the 39
operator of the motor vehicle shall have the child properly 40
secured in accordance with the manufacturer's instructions in a 41
child restraint system that meets federal motor vehicle safety 42
standards: 43

(1) A child who is less than four years of age; 44

(2) A child who weighs less than forty pounds. 45

(B) When any child who is in either or both of the 46
following categories is being transported in a motor vehicle, 47

other than a taxicab, that is owned, leased, or otherwise under 48
the control of a nursery school or day-care center, the operator 49
of the motor vehicle shall have the child properly secured in 50
accordance with the manufacturer's instructions in a child 51
restraint system that meets federal motor vehicle safety 52
standards: 53

(1) A child who is less than four years of age; 54

(2) A child who weighs less than forty pounds. 55

(C) When any child who is less than eight years of age and 56
less than four feet nine inches in height, who is not required 57
by division (A) or (B) of this section to be secured in a child 58
restraint system, is being transported in a motor vehicle, other 59
than a taxicab or public safety vehicle as defined in section 60
4511.01 of the Revised Code or a vehicle that is regulated under 61
section 5104.015 of the Revised Code, that is required by the 62
United States department of transportation to be equipped with 63
seat belts at the time of manufacture or assembly, the operator 64
of the motor vehicle shall have the child properly secured in 65
accordance with the manufacturer's instructions on a booster 66
seat that meets federal motor vehicle safety standards. 67

(D) When any child who is at least eight years of age but 68
not older than fifteen years of age, and who is not otherwise 69
required by division (A), (B), or (C) of this section to be 70
secured in a child restraint system or booster seat, is being 71
transported in a motor vehicle, other than a taxicab or public 72
safety vehicle as defined in section 4511.01 of the Revised 73
Code, that is required by the United States department of 74
transportation to be equipped with seat belts at the time of 75
manufacture or assembly, the operator of the motor vehicle shall 76
have the child properly restrained either in accordance with the 77

manufacturer's instructions in a child restraint system that 78
meets federal motor vehicle safety standards or in an occupant 79
restraining device as defined in section 4513.263 of the Revised 80
Code. 81

(E) Notwithstanding any provision of law to the contrary, 82
no law enforcement officer shall cause an operator of a motor 83
vehicle being operated on any street or highway to stop the 84
motor vehicle for the sole purpose of determining whether a 85
violation of division ~~(C) or~~ (D) of this section has been or is 86
being committed or for the sole purpose of issuing a ticket, 87
citation, or summons for a violation of division ~~(C) or~~ (D) of 88
this section or causing the arrest of or commencing a 89
prosecution of a person for a violation of division ~~(C) or~~ (D) 90
of this section, and absent another violation of law, a law 91
enforcement officer's view of the interior or visual inspection 92
of a motor vehicle being operated on any street or highway may 93
not be used for the purpose of determining whether a violation 94
of division ~~(C) or~~ (D) of this section has been or is being 95
committed. 96

(F) The director of public safety shall adopt such rules 97
as are necessary to carry out this section. 98

(G) The failure of an operator of a motor vehicle to 99
secure a child in a child restraint system, a booster seat, or 100
an occupant restraining device as required by this section is 101
not negligence imputable to the child, and is not admissible as 102
evidence in any civil action involving the rights of the child 103
against any other person allegedly liable for injuries to the 104
child, ~~is not to be used as a basis for a criminal prosecution~~ 105
~~of the operator of the motor vehicle other than a prosecution~~ 106
~~for a violation of this section, and is not admissible as~~ 107

~~evidence in any criminal action involving the operator of the~~ 108
~~motor vehicle other than a prosecution for a violation of this~~ 109
~~section.~~ 110

(H) This section does not apply when an emergency exists 111
that threatens the life of any person operating or occupying a 112
motor vehicle that is being used to transport a child who 113
otherwise would be required to be restrained under this section. 114
This section does not apply to a person operating a motor 115
vehicle who has an affidavit signed by a physician licensed to 116
practice in this state under Chapter 4731. of the Revised Code 117
or a chiropractor licensed to practice in this state under 118
Chapter 4734. of the Revised Code that states that the child who 119
otherwise would be required to be restrained under this section 120
has a physical impairment that makes use of a child restraint 121
system, booster seat, or an occupant restraining device 122
impossible or impractical, provided that the person operating 123
the vehicle has safely and appropriately restrained the child in 124
accordance with any recommendations of the physician or 125
chiropractor as noted on the affidavit. 126

(I) There is hereby created in the state treasury the 127
child highway safety fund, consisting of fines imposed pursuant 128
to division ~~(K)~~(L) (1) of this section for violations of 129
divisions (A), (B), (C), and (D) of this section. The money in 130
the fund shall be used by the department of health only to 131
defray the cost of designating hospitals as pediatric trauma 132
centers under section 3727.081 of the Revised Code and to 133
establish and administer a child highway safety program. The 134
purpose of the program shall be to educate the public about 135
child restraint systems and booster seats and the importance of 136
their proper use. The program also shall include a process for 137
providing child restraint systems and booster seats to persons 138

who meet the eligibility criteria established by the department, 139
and a toll-free telephone number the public may utilize to 140
obtain information about child restraint systems and booster 141
seats, and their proper use. 142

(J) The director of health, in accordance with Chapter 143
119. of the Revised Code, shall adopt any rules necessary to 144
carry out this section, including rules establishing the 145
criteria a person must meet in order to receive a child 146
restraint system or booster seat under the department's child 147
highway safety program; provided that rules relating to the 148
verification of pediatric trauma centers shall not be adopted 149
under this section. 150

(K) Nothing in this section shall be construed to require 151
any person to carry with the person the birth certificate of a 152
child to prove the age of the child, but the production of a 153
valid birth certificate for a child showing that the child was 154
not of an age to which this section applies is a defense against 155
any ticket, citation, or summons issued for violating this 156
section. 157

(L) (1) Whoever violates division (A), (B), (C), or (D) of 158
this section shall be punished as follows, provided that the 159
failure of an operator of a motor vehicle to secure more than 160
one child in a child restraint system, booster seat, or occupant 161
restraining device as required by this section that occurred at 162
the same time, on the same day, and at the same location is 163
deemed to be a single violation of this section: 164

(a) Except as otherwise provided in division (L) (1) (b) of 165
this section, the offender is guilty of a minor misdemeanor and 166
shall be fined not less than twenty-five dollars nor more than 167
seventy-five dollars. 168

(b) If the offender previously has been convicted of or 169
pleaded guilty to a violation of division (A), (B), (C), or (D) 170
of this section or of a municipal ordinance that is 171
substantially similar to any of those divisions, the offender is 172
guilty of a misdemeanor of the fourth degree. 173

(2) All fines imposed pursuant to division (L)(1) of this 174
section shall be forwarded to the treasurer of state for deposit 175
in the child highway safety fund created by division (I) of this 176
section. 177

Section 2. That existing sections 4511.043 and 4511.81 of 178
the Revised Code are hereby repealed. 179