



H.B. 113
124th General Assembly
(As Introduced)

Rep. Damschroder

BILL SUMMARY

- Generally prohibits the operation of an automobile on any street or highway unless each passenger in the automobile is wearing all of the available elements of a properly adjusted seat belt.
- Eliminates the prohibition against a front seat passenger failing to wear a seat belt and the penalty for violating that prohibition, thus applying a penalty against only the operator of an automobile whose passengers fail to wear seat belts.
- Increases the fines for automobile-related seat belt violations from \$20 and \$30 to \$100.

CONTENT AND OPERATION

Operation of an automobile and the wearing of seat belts

Current prohibitions

Current law prohibits a person from doing any of the following:

(1) Operating an automobile on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device (seat belt) or operating a school bus that has a seat belt installed for use in its operator's seat unless that person is wearing all of the available elements of the seat belt, as properly adjusted (sec. 4513.263(B)(1)). Violation of this prohibition is punishable by a fine of \$30 (sec. 4513.99(F)).

(2) Operating an automobile on any street or highway unless each passenger who is occupying a seating position on the front seat of the automobile is wearing all of the available elements of a properly adjusted seat belt (sec. 4513.263(B)(2)). There is no penalty for a violation of this prohibition.

(3) Occupying, as a passenger, a seating position on the front seat of an automobile being operated on any street or highway unless that person is wearing all of the available elements of a properly adjusted seat belt (sec. 4513.263(B)(3)). Violation of this prohibition is punishable by a fine of \$20 (sec. 4513.99(G)).

(4) Operating a taxicab on any street or highway unless all factory-equipped seat belts in the taxicab are maintained in usable form (sec. 4513.263(B)(4)). Violation of this prohibition is a minor misdemeanor on a first offense (maximum \$100 fine) and, on a second or subsequent violation, is a misdemeanor of the third degree (maximum 60 days imprisonment, maximum \$500 fine, or both) (sec. 4513.99(B)).

Exceptions to the current prohibitions

Current law provides that the first prohibition above does not apply to a person who is an employee of the U.S. Postal Service or of a newspaper home delivery service during any period in which the person is engaged in the operation of an automobile to deliver mail or newspapers. The third prohibition above does not apply to a person who is required by law to be secured in a child restraint device. Finally, both the first and third prohibitions do not apply to a person who has an affidavit signed by a licensed physician or a licensed chiropractor that states that the person has a physical impairment that makes use of a seat belt impossible or impractical. (Sec. 4513.263(C).)

Changes made by the bill

New combined prohibition. The bill combines the two prohibitions discussed in items (1) and (2) above into one prohibition and eliminates the prohibition contained in item (3) above, but does not substantively affect the fourth prohibition. The resulting two prohibitions apply only to the operator of an automobile or taxicab and not to a front seat passenger or any other passenger. Thus, except as provided in the bill, no person may do either 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 seat belt, operate a school bus that has a seat belt installed for use in its operator's seat unless that person is wearing all of the available elements of the seat belt, as properly adjusted, or operate an automobile on any street or highway unless each passenger in the automobile is wearing all of the available elements of a properly adjusted seat belt (sec. 4513.263(B)(1)(a)).

(2) Operate a taxicab on any street or highway unless all factory-equipped seat belts in the taxicab are maintained in usable form (sec. 4513.263(B)(1)(b), unchanged from current law).

The bill provides that a violation of either of the above prohibitions does not occur if a person operates an automobile on any street or highway and the number of persons in the automobile exceeds the total number of seat belts originally installed in the automobile by its manufacturer so long as the number of persons in the automobile who are wearing all of the available elements of a properly adjusted seat belt is equal to the total number of seat belts originally installed in the automobile by its manufacturer (sec. 4513.263(B)(2)). This exception does not apply to the holder of a probationary driver's license who instead is subject to a provision of current law (unaffected by the bill) that governs the number of persons in an automobile that is being operated by such a license holder.¹ Finally, the bill provides that the new combined prohibition does not apply if a passenger in an automobile is any person who is described above under "**Exceptions to the current prohibitions**" (sec. 4513.263(C)).

Fine for a violation of the new combined prohibition. The bill establishes a fine of \$100 for a violation of the new combined prohibition (sec. 4513.99(F)). It retains the penalties for a violation of the prohibition against the operation of a taxicab unless all factory-equipped seat belts in the taxicab are maintained in usable form (sec. 4513.99).

Juvenile traffic offenders who violate the state seat belt law

Current law

Under Ohio law, juvenile courts have original jurisdiction over children who commit criminal offenses. Current law provides that if a juvenile court adjudicates a child a juvenile traffic offender for operating an automobile on a street or highway while not wearing all of the available elements of a properly adjusted seat belt, the court must impose the same \$30 fine that must be imposed on an adult who violates that prohibition. If a child 16 years of age or older is adjudicated a juvenile traffic offender for occupying, as a passenger, a seating position on the front seat of an automobile while not wearing all of the available elements of a properly adjusted seat belt, the court must impose the same \$20 fine that must be imposed on an adult who violates that prohibition; if such a child is less than 16 years of age, the court cannot impose a fine, but may place the child on probation. (Sec. 2151.356(C).)

¹ R.C. 4507.071(D) states, "No holder of a probationary license shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking unless the total number of occupants of the vehicle does not exceed the total number of occupant restraining devices originally installed in the motor vehicle by its manufacturer, and each occupant of the vehicle is wearing all of the available elements of a properly adjusted occupant restraining device."

Changes made by the bill

The bill provides that if a juvenile court adjudicates a child a juvenile traffic offender for violating the bill's new combined prohibition discussed above, the court must impose the same \$100 fine that must be imposed on an adult who violates that prohibition (sec. 2151.356(C) and future renumbered sec. 2152.21(C)).

Repeal and revival of the state seat belt law section necessitated by "State, ex rel. Ohio Academy of Trial Lawyers v. Sheward"

The Ohio Supreme Court declared Am. Sub. H.B. 350 of the 121st General Assembly unconstitutional in toto in *State, ex rel. Ohio Academy of Trial Lawyers v. Sheward* (1999), 86 Ohio St.3d 451. That bill had made changes to a large number of Revised Code sections, including the state seat belt law, sec. 4513.263. The bill amends the existing version of that section to remove the language that was added to it by Am. Sub. H.B. 350 and also restores language repealed by that act. In addition, sec. 4513.263 as it appears in the bill contains all of the language of acts that amended the section subsequent to the date of enactment of Am. Sub. H.B. 350.

HISTORY

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Introduced	02-20-01	pp. 165-166

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