Phil Mullin *Legislative Service Commission*

H.B. 334

124th General Assembly
(As Introduced)

Reps. DeWine, Peterson, Flowers, R. Miller, Sullivan, White, Lendrum, Allen, Williams, S. Smith, Jerse, Jones, Schaffer, Webster, Rhine

BILL SUMMARY

- Generally requires that children who are between four and eight years of age, or who weigh between 40 and 80 pounds, or who satisfy both conditions, be secured on booster seats when being transported in a motor vehicle.
- Generally requires that children who are not required to be secured in child restraint systems or on booster seats be secured in occupant restraining devices when being so transported.

CONTENT AND OPERATION

Current law

Current law requires that when any child *who is less than four years of age or weighs less than 40 pounds* is being transported in a motor vehicle, other than a taxicab or public safety vehicle, that is registered in Ohio and required by the United States Department of Transportation (U.S. DOT) to be equipped with seat belts at the time of manufacture or assembly, the motor vehicle's operator must have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards (sec. 4511.81(A)). Current law further requires that when any such child is being transported in a motor vehicle, other than a taxicab, that is registered in Ohio and is owned, leased, or otherwise under the control of a nursery school, kindergarten, or day-care center, the motor vehicle's operator must have the child similarly properly secured in such a child restraint system (sec. 4511.81(B)).

Changes proposed by the bill

Removal of one element of the requirements for child restraint system use

The bill removes the element found in the two provisions described under "***Current law***," above, that the motor vehicle in which a child is being transported be registered in Ohio (sec. 4511.81(A) and (B)). This element also is not included in the two new requirements (described below) that the bill enacts (sec. 4511.81(C) and (D)). The removal of the Ohio registration element means that the operator of a motor vehicle, other than a taxicab or public safety vehicle, must comply with the child restraint system provisions whether the motor vehicle is registered in Ohio or another state.

Booster seat and occupant restraining device use requirements for certain children

The bill generally requires that when any child *who is at least four years of age but not older than eight years of age, who weighs at least 40 pounds but not more than 80 pounds*, or who is in both of these categories, is being transported in a motor vehicle, other than a taxicab or public safety vehicle, that is required by the U.S. DOT to be equipped with seat belts at the time of manufacture or assembly, the motor vehicle's operator must have the child properly secured in accordance with the manufacturer's instructions *on a booster seat* that meets federal motor vehicle safety standards (sec. 4511.81(C)). This requirement does not apply when a child is being transported in a motor vehicle that was manufactured prior to the 1990 model year (sec. 4511.81(G)).

The bill further requires that when any child *who is under 18 years of age* and who is not required to be secured in either a child restraint system or on a booster seat is being transported in such a motor vehicle, the motor vehicle's operator must have the child properly secured in an occupant restraining device (such as a seat belt, shoulder belt, or harness) as defined in the Occupant Restraining Device Law (sec. 4511.81(D); sec. 4513.263(A)(2), not in the bill).

Tort immunity and liability provisions

The bill provides that a child passenger safety technician, instructor, or coordinator, or a State Highway Patrol employee, who renders child restraint system inspection, installation, adjustment, or educational services is not liable in damages in a civil action for injury, death, or loss to person or property resulting from the individual's services unless the services are rendered in a manner that constitutes willful or wanton misconduct (sec. 4511.81(K)).

It also specifies that the failure of a motor vehicle operator to secure a child "on a booster seat" is not negligence imputable to the child, is not admissible as evidence in certain tort actions, and cannot be the basis for or be admitted as evidence in certain criminal actions. A failure of a motor vehicle operator to secure a child in a "child restraint system" has similar consequences under current law. The bill does not attach similar consequences, however, to a motor vehicle operator's failure to secure a child under 18 years of age in an "occupant restraining device" in accordance with the bill's new related requirement. (Sec. 4511.81(F).)

Criminal penalties

A resident of Ohio who violates the current requirements governing the use of child restraint systems is guilty of a minor misdemeanor on a first offense and a misdemeanor of the fourth degree on a subsequent offense. The bill applies these requirements (as noted above) and the criminal penalties for their violation to all persons, *whether or not* they are Ohio residents. It also (1) applies these criminal penalties to the new booster seat and occupant restraining device requirements for certain children and (2) requires that a violator of the revised child restraint system requirements or the new booster seat and occupant restraining device requirements *be fined not less than $25* (sec. 4511.99(H)(1)).

The bill correspondingly eliminates separate criminal penalty provisions in existing law that apply to nonresidents of Ohio. These provisions require a nonresident, in order to escape criminal liability with respect to the child restraint system requirements, to prove by a preponderance of the evidence that the use or nonuse of a child restraint system was in accordance with the law of the nonresident's state. (Existing secs. 4511.81(F) and 4511.99(H)(2).)

Finally, all fines for violations of the revised child restraint system requirements and for violations of the new booster seat and occupant restraining device requirements must be forwarded by court clerks to the Treasurer of State for deposit in the Child Highway Safety Fund. A similar fine distribution rule applies currently for fines for violations of the child restraint system requirements. (Secs. 4511.81(I) and 4511.99(H)(2).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	07-31-01	p. 808

H0334-I.124/jc