



Wendy H. Gridley

Bill Analysis
Legislative Service Commission

Sub. H.B. 343*

126th General Assembly

(As Reported by S. State and Local Government and Veterans Affairs)

Reps. Raga, Bubp, D. Evans, Key, Law, Widowfield, Barrett, Chandler, Collier, Combs, DeBose, DeWine, Domenick, C. Evans, Gilb, Harwood, Koziura, Oelslager, T. Patton, Setzer, Ujvagi, Wagoner, Webster, Williams

BILL SUMMARY

- Generally prohibits the holder of a temporary instruction permit who has not attained the age of 18 years from operating a motor vehicle between midnight and 6 a.m.
- Prohibits the holder of a probationary driver's license who is between 16 and 17 years of age from operating a motor vehicle between midnight and 6 a.m. unless the holder is accompanied by a parent or guardian.
- Prohibits the holder of a probationary driver's license who is between 17 and 18 years of age from operating a motor vehicle between 1 a.m. and 5 a.m. unless the holder is accompanied by a parent or guardian.
- Prohibits the holder of a probationary driver's license who is less than 17 years of age from operating a motor vehicle with more than one person who is not a family member occupying the vehicle unless the probationary license holder is accompanied by the license holder's parent, guardian, or custodian.
- Provides that, if a person who is issued a probationary driver's license before reaching 17 years of age commits a moving violation during the six-month period commencing on the date of issuance, the person must be accompanied by the probationary license holder's parent or guardian

** This analysis was prepared before the report of the Senate State and Local Government and Veterans Affairs Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

whenever the holder is operating a motor vehicle during the six-month period commencing on the date on which the person pleads guilty to the moving violation or until the person attains the age of 17 years.

- Requires a child who is between 4 and 15 years of age to be restrained either in an approved child restraint system or in a seat belt when being transported in a motor vehicle.
- Eliminates the nonresident exemption in the Child Restraint Law.
- Establishes a mandatory fine of at least \$25 for a first violation of any of the Child Restraint Law prohibitions.

CONTENT AND OPERATION

Restriction on the operation of a motor vehicle by the holder of a temporary instruction permit

Current law provides that holders of temporary instruction permits who are less than 17 years of age generally are prohibited from operating a motor vehicle upon the public highways or upon public or private property open to public vehicular travel or parking between the hours of 1 a.m. and 5 a.m. That operation is permitted only if the permit holder is accompanied by the holder's parent, guardian, or custodian, and the parent, guardian, or custodian holds a current valid Ohio driver's or commercial driver's license, is actually occupying a seat beside the permit holder, and does not have a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine as specified in the state OVI law. (R.C. 4507.05(F)(2).)

The bill retains this provision, except that it increases the prescribed age threshold from 17 years of age to 18 years of age and changes the restricted time period to midnight until 6 a.m. (R.C. 4507.05(F)(2)).

Restriction on the operation of a motor vehicle by the holder of a probationary driver's license

Prohibitions and affirmative defense: hours

Under current law, the holder of a probationary driver's license who has not attained the age of 17 years is prohibited from operating a motor vehicle upon the public highways or upon public or private property open to public vehicular travel or parking between the hours of 1 a.m. and 5 a.m. unless the holder is accompanied by the holder's parent or guardian. The bill retains this prohibition

but changes the restricted time period to midnight until 6 a.m. (R.C. 4507.071(B)(1)(a).)

The bill further provides that the holder of a probationary driver's license who is between 17 and 18 years of age is prohibited from operating a motor vehicle upon a highway or upon public or private property used by the public for vehicular travel or parking between the hours of 1 a.m. and 5 a.m. unless the holder is accompanied by the holder's parent or guardian (R.C. 4507.071(B)(1)(b)).

Unless required to be accompanied by a parent or guardian while driving because of a moving violation, these two prohibitions do not apply to a probationary license holder who is *traveling to or from work* during the applicable restricted hours and has in the holder's immediate possession written documentation from the holder's employer (R.C. 4507.071(B)(2)(a) and (b)). An employer is not liable in damages in a civil action for any injury, death, or loss to person or property that allegedly arises from, or is related to, the fact that the employer provided an employee who is a probationary license holder with the written documentation. The Registrar of Motor Vehicles must make available at no cost a form to serve as the written documentation, and employers and probationary license holders may use the form or any other written documentation to meet the requirements. (R.C. 4507.071(B)(3).)

The bill further provides that it is an *affirmative defense* to a violation of either of the two prohibitions if, at the time of the violation, the probationary driver's license holder was traveling to or from an official function sponsored by the school the holder attends, or an emergency existed that required the holder to operate a motor vehicle in violation of either of the two prohibitions, or the holder was an emancipated minor (R.C. 4507.071(C)).

The bill prohibits a law enforcement officer from causing a motor vehicle operator who is on a street or highway to stop the operator's vehicle for the sole purpose of determining whether a violation of either of the two prohibitions has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for such a violation or for causing the arrest of or commencing a prosecution of a person for such a violation (R.C. 4507.071(H)).

Prohibition: other occupants of motor vehicle

The bill also contains a new prohibition that applies to probationary driver's license holders under 17 years of age. It prohibits these holders from operating a motor vehicle upon a highway or upon public or private property used by the public for vehicular travel or parking with more than one person who is not a family member occupying the vehicle unless the probationary license holder is

accompanied by the license holder's parent, guardian, or custodian (R.C. 4507.071(B)(4)).

Penalties

Violation of any of the three prohibitions discussed above is a minor misdemeanor (R.C. 4507.071(J)).

Definitions

"Family member" of a probationary license holder is defined for purposes of the "other occupants" prohibition to include any of the following (R.C. 4507.071(I)(2)):

- (1) A spouse;
- (2) A child or stepchild;
- (3) A parent, stepparent, grandparent, or parent-in-law;
- (4) An aunt or uncle;
- (5) A sibling, whether of the whole or half-blood or by adoption, a brother-in-law, or a sister-in-law;
- (6) A son or daughter of the probationary license holder's stepparent if the stepparent has not adopted the probationary license holder;
- (7) An eligible adult, as defined in current law.

Restriction on the operation of a motor vehicle by a probationary driver's license holder due to a moving violation

The bill provides that if a person is issued a probationary driver's license before reaching 17 years of age and the person pleads guilty to, is convicted of, or is adjudicated in juvenile court of having committed a moving violation during the six-month period commencing on the date on which the person is issued the probationary driver's license, the holder must be accompanied by the holder's parent or guardian whenever the holder is operating a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular parking during whichever of the following time periods applies (R.C. 4507.071(D)(1)(a)):

- (1) If, on the date the holder of the probationary driver's license pleads guilty to, is convicted of, or is adjudicated in juvenile court of having committed

the moving violation, the holder has not reached 16 years 6 months of age, during the six-month period commencing on that date;

(2) If, on the date the holder pleads guilty to, is convicted of, or is adjudicated in juvenile court of having committed the moving violation, the holder has reached 16 years 6 months of age but not 17 years of age, until the person reaches 17 years of age.

Violation of either restriction is a minor misdemeanor (R.C. 4507.071(D)(2) and (J)).

If a probationary driver's license holder commits a moving violation during the six-month period after the person is issued the probationary driver's license and before the person reaches 17 years of age and *on the date* the person pleads guilty to, is *convicted* of, or is adjudicated in juvenile court of having committed the moving violation the person *has reached 17 years of age*, or if the person *commits* the moving violation during the six-month period after the person is issued the probationary driver's license and *after the person reaches 17 years of age*, the holder does not have to be accompanied by the holder's parent or guardian unless the court or juvenile court imposes such a restriction upon the holder (R.C. 4507.071(D)(1)(b)).

Changes to the Motor Vehicle Child Restraint Law

Restraint of children older than 4 but less than 15 years of age

Current law (not changed by the bill) generally requires a child who is less than four years of age or weighs less than 40 pounds, or both, to be properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards when being transported in a motor vehicle that is registered in this state (R.C. 4511.81(A) and (B)).

The bill provides that when any child who is at least 4 years of age but not older than 15 years of age is being transported in a motor vehicle (other than a taxicab or public safety vehicle) that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the vehicle operator must have the child properly restrained either in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards or in an occupant restraining device (seat belt) (R.C. 4511.81(C)). A violation of this prohibition is, on a first offense, a minor misdemeanor and the offender *must be fined at least \$25*, and is, on each

subsequent offense, a misdemeanor of the fourth degree (R.C. 4511.81(J)(1)(a) and (b)).¹

The bill prohibits a law enforcement officer from causing a motor vehicle operator who is on a street or highway to stop the operator's vehicle for the sole purpose of determining whether a violation of this prohibition has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for such a violation or causing the arrest of or commencing a prosecution of a person for such a violation. In addition, no law enforcement officer may view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether such a violation has been or is being committed (R.C. 4511.81(D)).

Elimination of the nonresident exemption

Under current law, a person who is not an Ohio resident and is charged with a violation of the state Child Restraint Law must prove to the court, by a preponderance of the evidence, that the person's use or nonuse of a child restraint system was in accordance with the laws of the person's state of residence, in order to avoid being fined for a violation of the Law (R.C. 4511.81(F)). If the person fails to meet this burden, the person is guilty of a minor misdemeanor on a first offense and a misdemeanor of the fourth degree on each subsequent offense. (Existing R.C. 4511.81(F) and (H)(2).)

The bill eliminates this nonresident exemption (R.C. 4511.81(A), (B), and (J)(1) and existing (F) and (H)(2)).

Minimum fine for a first offense

Current law provides that a first violation of any of the state Child Restraint Law provisions is a minor misdemeanor. The bill retains this provision but establishes a mandatory fine of at least \$25 in such cases. (R.C. 4511.81(J)(1)(a).)

¹ A minor misdemeanor generally is punishable by a fine of up to \$150, and a misdemeanor of the fourth degree is punishable by a fine of not more than \$250, a jail term of not more than 30 days, or both.

HISTORY

| ACTION | DATE |
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| Introduced | 09-15-05 |
| Reported, H. Transportation, Public Safety, & Homeland Security | 05-18-06 |
| Passed House (90-3) | 05-24-06 |
| Reported, S. State & Local Gov't & Veterans Affairs | --- |

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