CORRECTED VERSION*

Ohio Legislative Service Commission

Bill Analysis

Amanda M. Ferguson

Am. H.B. 480

130th General Assembly
(As Passed by the House)

Reps. Pelanda, Hackett, Butler, Celebrezze, Barborak, Brown, Buchy, Carney, Clyde, Perales, Phillips, Stinziano

BILL SUMMARY

- Makes failure to properly secure a child who is under eight and less than four feet nine inches tall in a motor vehicle a primary offense.
- Modifies the prohibitions against using an operator's failure to properly secure a child in a criminal proceeding as follows:

  --Specifies that it is not to be used as a basis for a criminal prosecution of the operator of the motor vehicle for negligent vehicular homicide; and

  --Specifies that it is not admissible as evidence in a criminal action involving the operator of the motor vehicle for negligent vehicular homicide.

CONTENT AND OPERATION

Failure to secure a child in a motor vehicle as a primary offense

The bill removes one type of failure to properly secure a child in a motor vehicle from the list of secondary traffic offenses.[1] A secondary offense is one for which a law enforcement officer may not issue a ticket unless the officer arrests or tickets the operator or a passenger for an offense that is not a secondary offense.

Under current law, failure to properly secure a child in a child restraint seat or with a seat belt is a secondary offense in the following circumstances:

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* Clarifies amendments made to the bill on the House floor.

[1] R.C. 4511.093(B).

- The child is four or more years old but under eight, is less than 4' 9" tall, weighs 40 or more pounds, and is being transported in a motor vehicle (other than a taxi or public safety vehicle) that is required by federal law to be equipped with seat belts;

- The child is eight or more years old but under 15, weighs 40 or more pounds, is not required to be secured in a child restraint system or booster seat, and is being transported in a motor vehicle (other than a taxi or public safety vehicle) that is required by federal law to be equipped with seat belts.

The bill removes the first type of failure to properly secure a child described above from the list of secondary offenses, thereby making it a primary offense.

The bill also eliminates the statutory provision that prohibits a law enforcement officer from stopping a motor vehicle solely to determine whether one of these secondary offenses is being committed and that prohibits, in the absence of another violation of law, the officer's view of the interior or visual inspection of a motor vehicle from being used to determine whether one of those secondary offenses has been committed.[2]

The bill modifies the provision of law that prohibits a law enforcement officer from stopping a motor vehicle solely because of a seat belt violation and from viewing the interior of or visually inspecting an automobile solely to determine whether a seat belt violation has occurred. Under the bill, this provision does not apply to an officer who is enforcing the law that requires a child to be properly secured.[3]

Use of failure to secure a child in criminal actions

Current law prohibits (1) the use of an operator's failure to secure a child in a motor vehicle as the basis for a criminal prosecution of the operator for anything other than the failure to secure the child and (2) the admission of the operator's failure to secure a child as evidence in any criminal action involving the operator other than a prosecution for failure to secure the child.

The bill modifies these prohibitions by prohibiting only the following: (1) the use of an operator's failure to properly secure a child as a basis for a criminal prosecution of the operator of the motor vehicle for negligent vehicular homicide, and (2) the use of an

[2] R.C. 4511.81(E).

[3] R.C. 4511.263(D).

operator's failure to properly secure a child as evidence in a criminal action involving the operator of the motor vehicle for negligent vehicular homicide.[4]

HISTORY

ACTION	DATE
Introduced	03-18-14
Reported, H. Judiciary	11-13-14
Passed House (69-12)	12-04-14

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[4] R.C. 4511.81(G).