

In bill text the following has special meaning  
underline denotes added text  
~~struck out text denotes deleted text~~

**2005 OH H 343**

**AUTHOR:** Raga

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(126th General Assembly)

(Substitute House Bill Number 343)

AN ACT

To amend sections 4507.05, 4507.071, and 4511.81 of the Revised Code to place certain restrictions on the operation of motor vehicles by probationary license holders and temporary instruction permit holders who are less than 18 years of age, to require children who are between four and fifteen years of age to be restrained in either a child restraint system or an occupant restraining device when being transported in a motor vehicle, and to eliminate the nonresident exemption from the motor vehicle child restraint law.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 4507.05, 4507.071, and 4511.81 of the Revised Code be amended to read as follows:

Sec. 4507.05. (A) The registrar of motor vehicles, or a deputy registrar, upon receiving an application for a temporary instruction permit and a temporary instruction permit identification card for a driver's license from any person who is at least fifteen years ~~and~~ six months of age, may issue such a permit and identification card entitling the applicant to drive a motor vehicle, other than a commercial motor vehicle, upon the highways under the following conditions:

(1) If the permit is issued to a person who is at least fifteen years ~~and~~ six months of age, but less than sixteen years of age:

(a) The permit and identification card are in the holder's immediate possession;

(b) The holder is accompanied by an eligible adult who actually occupies the 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 provided in division (A) of section 4511.19 of the Revised Code;

(c) 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.

(2) If the permit is issued to a person who is at least sixteen years of age:

(a) The permit and identification card are in the holder's immediate possession;

(b) The holder is accompanied by a licensed operator who is at least twenty-one years of age, is actually occupying a seat beside the driver, and does not have a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine as provided in division (A) of section 4511.19 of the Revised Code;

(c) 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.

(B) The registrar or a deputy registrar, upon receiving from any person an application for a temporary instruction permit and temporary instruction permit identification card to operate a motorcycle or motorized bicycle, may issue such a permit and identification card entitling the applicant, while having the permit and identification card in the applicant's immediate possession, to drive a motorcycle or motorized bicycle under restrictions determined by the registrar. A temporary instruction permit and temporary instruction permit identification card to operate a motorized bicycle may be issued to a person fourteen or fifteen years old.

(C) Any permit and identification card issued under this section shall be issued in the same manner as a driver's license, upon a form to be furnished by the registrar. A temporary instruction permit to drive a motor vehicle other than a commercial motor vehicle shall be valid for a period of one year.

(D) Any person having in the person's possession a valid and current driver's license or motorcycle operator's license or endorsement issued to the person by another jurisdiction recognized by this state is exempt from obtaining a temporary instruction permit for a driver's license, but shall submit to the regular examination in obtaining a driver's license or motorcycle operator's endorsement in this state.

(E) The registrar may adopt rules governing the use of temporary instruction permits and temporary instruction permit identification cards.

(F)(1) No holder of a permit issued under division (A) of this section 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 in violation of the conditions established under division (A) of this section.

(2) Except as provided in division (F)(2) of this section, no holder of a permit that is issued under division (A) of this section and that is issued on or after July 1, 1998, and who has not attained the age of ~~seventeen~~eighteen years, 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 between the hours of ~~one a.m.~~midnight and ~~five~~six a.m.

The holder of a permit issued under division (A) of this section on or after July 1, 1998, who has not attained the age of ~~seventeen~~eighteen years, may operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking between the hours of ~~one a.m.~~midnight and ~~five~~six a.m. if, at the time of such operation, the holder is accompanied by the holder's parent, guardian, or custodian, and the parent, guardian, or custodian holds a current valid driver's or commercial driver's license issued by this state, 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 provided in division (A) of section 4511.19 of the Revised Code.

(G)(1) Notwithstanding any other provision of law to the contrary, no law enforcement officer shall cause the operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether each occupant of the motor vehicle is wearing all of the available elements of a properly adjusted occupant restraining device as required by division (A) of this section, or for the sole purpose of issuing a ticket, citation, or summons if the requirement in that division has been or is being violated, or for causing the arrest of or commencing a prosecution of a person for a violation of that requirement.

(2) Notwithstanding any other provision of law to the contrary, no law enforcement officer shall cause the operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether a violation of division (F)(2) of this section 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 violation.

(H) As used in this section:

(1) "Eligible adult" means any of the following:

(a) An instructor of a driver training course approved by the department of public safety;

(b) Any of the following persons who holds a current valid driver's or commercial driver's license issued by this state:

(i) A parent, guardian, or custodian of the permit holder;

(ii) A person twenty-one years of age or older who acts in loco parentis of the permit

holder.

(2) "Occupant restraining device" has the same meaning as in section 4513.263 of the Revised Code.

(I) Whoever violates division (F)(1) or (2) of this section is guilty of a minor misdemeanor.

Sec. 4507.071. (A) No driver's license shall be issued to any person under eighteen years of age, except that a probationary license may be issued to a person who is at least sixteen years of age and has held a temporary instruction permit for a period of at least six months.

(B) ~~(1)(a) No holder of a probationary driver's license issued on or after the effective date of this section~~ who has not attained the age of seventeen years 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 between the hours of ~~one a.m. midnight~~ and ~~five six a.m.~~ unless the holder is accompanied by the holder's parent or guardian.

(b) No holder of a probationary driver's license who has attained the age of seventeen years but has not attained the age of eighteen years 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 between the hours of one a.m. and five a.m. unless the holder is accompanied by the holder's parent or guardian.

(2)(a) Subject to division (D)(1)(a) of this section, division (B)(1)(a) of this section does not apply to the holder of a probationary driver's license who is traveling to or from work between the hours of midnight and six a.m. and has in the holder's immediate possession written documentation from the holder's employer.

(b) Division (B)(1)(b) of this section does not apply to the holder of a probationary driver's license who is traveling to or from work between the hours of one a.m. and five a.m. and has in the holder's immediate possession written documentation from the holder's employer.

(3) 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 the holder of a probationary driver's license with the written documentation described in division (B)(2) of this section.

The registrar of motor vehicles shall make available at no cost a form to serve as the written documentation described in division (B)(2) of this section, and employers and holders of probationary driver's licenses may utilize that form or may choose to utilize any other written documentation to meet the requirements of that division.

(4) No holder of a probationary driver's license who is less than seventeen years of age

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 with more than one person who is not a family member occupying the vehicle unless the probationary license holder is accompanied by the probationary license holder's parent, guardian, or custodian.

(C) It is an affirmative defense to a violation of division (B) (1)(a) or (b) of this section if, at the time of the violation, the holder of the probationary driver's license was traveling to or from ~~the holder's place of employment~~ or 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 division (B) (1)(a) or (b) of this section, or the holder was an emancipated minor.

(D) (1)(a) If a person is issued a probationary driver's license prior to attaining the age of seventeen years 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:

(i) 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 attained the age of sixteen years six months, during the six-month period commencing on that date;

(ii) 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 attained the age of sixteen years six months but not seventeen years, until the person attains the age of seventeen years.

(b) If the holder of a probationary driver's license commits a moving violation during the six-month period after the person is issued the probationary driver's license and before the person attains the age of seventeen years 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 attained the age of seventeen years, 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 attains the age of seventeen years, the holder is not subject to the restriction described in divisions (D)(1)(a)(i) and (ii) of this section unless the court or juvenile court imposes such a restriction upon the holder.

(2) No person shall violate division (D)(1)(a) of this section.

(E) 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.

~~(E)~~(F) A restricted license may be issued to a person who is fourteen or fifteen years of age upon proof of hardship satisfactory to the registrar of motor vehicles.

~~(F)~~(G) Notwithstanding any other provision of law to the contrary, no law enforcement officer shall cause the operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether each occupant of the motor vehicle is wearing all of the available elements of a properly adjusted occupant restraining device as required by division ~~(D)~~(E) of this section, or for the sole purpose of issuing a ticket, citation, or summons if the requirement in that division has been or is being violated, or for causing the arrest of or commencing a prosecution of a person for a violation of that requirement.

~~(G)~~(H) Notwithstanding any other provision of law to the contrary, no law enforcement officer shall cause the operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether a violation of division (B) (1)(a) or (b) of this section 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 violation.

~~(H)~~(I) As used in this section, "~~occupant~~":

(1) "Occupant restraining device" has the same meaning as in section 4513.263 of the Revised Code .

(2) "Family member" of a probationary license holder includes any of the following:

(a) A spouse;

(b) A child or stepchild;

(c) A parent, stepparent, grandparent, or parent-in-law;

(d) An aunt or uncle;

(e) A sibling, whether of the whole or half blood or by adoption, a brother-in-law, or a sister-in-law;

(f) A son or daughter of the probationary license holder's stepparent if the stepparent has not adopted the probationary license holder;

(g) An eligible adult, as defined in section 4507.05 of the Revised Code .

(3) "Moving violation" means any violation of any statute or ordinance that regulates the operation of vehicles, streetcars, or trackless trolleys on the highways or streets. "Moving violation" does not include a violation of section 4513.263 of the Revised Code or a substantially equivalent municipal ordinance, or a violation of any statute or ordinance regulating pedestrians or the parking of vehicles, vehicle size or load limitations, vehicle fitness requirements, or vehicle registration.

~~(I)-(J)~~ Whoever violates division (B) (1) or (4) ~~or (D) (2), or (E)~~ of this section is guilty of a minor misdemeanor.

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

- (1) A child who is less than four years of age;
- (2) A child who weighs less than forty pounds.

(B) When any child who is in either or both of the following categories is being transported in a motor vehicle, other than a taxicab, that is ~~registered in this state and is~~ owned, leased, or otherwise under the control of a nursery school, kindergarten, or day-care center, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards:

- (1) A child who is less than four years of age;
- (2) A child who weighs less than forty pounds.

(C) When any child who is at least four years of age but not older than fifteen years of age is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in section 4511.01 of the Revised Code, that is required by the United States department of transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall 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 as defined in section 4513.263 of the Revised Code.

(D) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether a violation of division (C) of this section has been or is being committed or for the sole purpose of issuing a ticket.

citation, or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law enforcement officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.

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

~~(D)~~(F) The failure of an operator of a motor vehicle to secure a child in a child restraint system or in an occupant restraining device as required by this section is not negligence imputable to the child, is not admissible as evidence in any civil action involving the rights of the child against any other person allegedly liable for injuries to the child, is not to be used as a basis for a criminal prosecution of the operator of the motor vehicle other than a prosecution for a violation of this section, and is not admissible as evidence in any criminal action involving the operator of the motor vehicle other than a prosecution for a violation of this section.

~~(E)~~(G) This section does not apply when an emergency exists that threatens the life of any person operating a motor vehicle and to whom this section otherwise would apply or the life of any child who otherwise would be required to be restrained under this section.

~~(F)~~ If a person who is not a resident of this state is charged with a violation of division (A) or (B) of this section and does not 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 law of the state of which the person is a resident, the court shall impose the fine levied by division ~~(H)(2)~~ of this section.

~~(G)~~(H) There is hereby created in the state treasury the "child highway safety fund," consisting of fines imposed pursuant to ~~divisions (H) division (J) (1) and (2)~~ of this section for violations of divisions (A) ~~and (B)~~, and (C) of this section. The money in the fund shall be used by the department of health only to defray the cost of designating hospitals as pediatric trauma centers under section 3727.081 of the Revised Code and to establish and administer a child highway safety program. The purpose of the program shall be to educate the public about child restraint systems generally and the importance of their proper use. The program also shall include a process for providing child restraint systems to persons who meet the eligibility criteria established by the department, and a toll-free telephone number the public may utilize to obtain information about child restraint systems and their proper use.

(I) The director of health, in accordance with Chapter 119. of the Revised Code, shall adopt any rules necessary to carry out this section, including rules establishing the criteria a person must meet in order to receive a child restraint system under the department's child restraint system program; provided that rules relating to the verification of pediatric trauma centers shall not be adopted under this section.

~~(H)-(J)~~(1) Whoever ~~is a resident of this state and~~ violates division (A) ~~or~~ (B) ~~or (C)~~ of this section shall be punished as follows:

(a) Except as otherwise provided in division ~~(H)-(J)~~(1)(b) of this section, the offender is guilty of a minor misdemeanor and shall be fined not less than twenty-five dollars.

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

~~(2) Whoever is not a resident of this state, violates division (A) or (B) of this section, and fails to prove by a preponderance of the evidence that the offender's use or nonuse of a child restraint system was in accordance with the law of the state of which the offender is a resident is guilty of a minor misdemeanor on a first offense; on a second or subsequent offense, that person is guilty of a misdemeanor of the fourth degree.~~

~~(3)~~All fines imposed pursuant to division ~~(H)-(J)~~(1) ~~or (2)~~ of this section shall be forwarded to the treasurer of state for deposit in the "child highway safety fund" created by division ~~(G)-(H)~~ of this section.

SECTION 2. That existing sections 4507.05, 4507.071, and 4511.81 of the Revised Code are hereby repealed.

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