SENATE BILL No. 424

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-19-11.

Synopsis: Passenger restraint systems for children. Makes it a: (1) Class D felony for a person to operate a motor vehicle carrying a child who is not properly restrained if the motor vehicle is involved in an accident that causes serious bodily injury to the child; and (2) Class C felony if the accident results in the death of the child. Makes conforming amendments.

Effective: July 1, 2011.

Skinner

January 12, 2011, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

C o p y

Introduced

First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

C o p y

SENATE BILL No. 424

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-19-11-2, AS AMENDED BY P.L.146-2009, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) **Except as provided in subsection (b),** a person who operates a motor vehicle in which there is a child less than eight (8) years of age who is not properly fastened and restrained according to the child restraint system manufacturer's instructions by a child restraint system commits a Class D infraction. A person may not be found to have violated this subsection if the person carries a certificate from a physician, physician's assistant, or advanced practice nurse stating that it would be impractical to require that a child be fastened and restrained by a child restraint system because of:

(1) a physical condition, including physical deformity; or

(2) a medical condition;

of the child and presents the certificate to the police officer or the court.

(b) A person who knowingly or intentionally operates a motor vehicle in which there is a child less than eight (8) years of age who is not properly fastened and restrained by a child restraint system

according to the child restraint system manufacturer's instructions commits a Class D felony if the motor vehicle is involved in an accident that results in serious bodily injury to the child. However, the offense is a Class C felony if the accident results in the death of the child.

~~(b)~~ **(c) This subsection does not apply to a person charged with a crime under subsection (b).** Notwithstanding IC 34-28-5-5(c), funds collected as judgments for violations under this section shall be deposited in the child restraint system account established by section 9 of this chapter.

(d) It is a defense to a prosecution under subsection (b) that a physician, physician's assistant, or advanced practice nurse certified that it would be impractical to require that a child be fastened and restrained by a child restraint system because of:

(1) a physical condition, including physical deformity; or

(2) a medical condition;

of the child.

SECTION 2. IC 9-19-11-3.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3.6. (a) **Except as provided in subsection (b),** a person who operates a motor vehicle in which there is a child and that is equipped with a safety belt meeting the standards stated in the Federal Motor Vehicle Safety Standard Number 208 (49 CFR 571.208) commits a Class D infraction if:

(1) the child is at least eight (8) years of age but less than sixteen (16) years of age; and

(2) the child is not properly fastened and restrained according to the child restraint system manufacturer's instructions by a:

(A) child restraint system; or

(B) safety belt.

(b) A person who knowingly or intentionally violates subsection (a) commits a Class D felony if the motor vehicle is involved in an accident that results in serious bodily injury to the child. However, the offense is a Class C felony if the accident results in the death of the child.

~~(b)~~ **(c) This subsection does not apply to a person charged with a crime under subsection (b).** Notwithstanding IC 34-28-5-5(c), funds collected as judgments for violations under this section shall be deposited in the child restraint system account established by section 9 of this chapter.

SECTION 3. IC 9-19-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. If at a **civil** proceeding to enforce section 2 of this chapter the court finds that the

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person:

(1) has violated this chapter; and

(2) possesses or has acquired a child restraint system;

the court shall enter judgment against the person. However, notwithstanding IC 34-28-5-4, the person is not liable for any costs or monetary judgment if the person has no previous judgments of violation of this chapter against the person.

SECTION 4. IC 9-19-11-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) If at a **civil** proceeding to enforce section 2 of this chapter the court finds that the person:

(1) has violated this chapter; and

(2) does not possess or has not acquired a child restraint system;

the court shall enter judgment against the person and shall order the person to provide proof of possession or acquisition within thirty (30) days.

(b) Notwithstanding IC 34-28-5-4, if the person:

(1) complies with a court order under this section; and

(2) has no previous judgments of violation of this chapter against the person;

the person is not liable for any costs or a monetary judgment.

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