HOUSE BILL No. 1095

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-19-11.

Synopsis: Passenger restraint systems for children. Makes it a Class D felony for a person to knowingly or intentionally operate a motor vehicle in which there is a child less than eight years of age who is not properly restrained and the motor vehicle is involved in an accident that causes serious bodily injury to the child. Raises the offense to a Class C felony if the accident results in the death of the child. Makes conforming amendments.

Effective: July 1, 2013.

Kersey

January 8, 2013, read first time and referred to Committee on Roads and Transportation.

C o p y

Introduced

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

C o p y

HOUSE BILL No. 1095

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, 2013]: 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 in a 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, a physician's assistant, or an advanced practice nurse certified that it would be impractical to require that the child be fastened and restrained in a child restraint system because of:

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

(2) a medical condition;

of the child.

SECTION 2. IC 9-19-11-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 5. 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) 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 3. IC 9-19-11-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: 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.

C o p y