HB265

6TLI331-1

By Representative Bolton

RFD: Public Safety and Homeland Security

First Read: 29-Feb-24

SYNOPSIS:

Under existing law, children are required to use child passenger restraint systems based on their age and weight. Specifically, children are required to use rear facing car seats until at least one year of age or 20 pounds; are required to use front facing convertible seats until at least five years of age or 40 pounds; and are required to use booster seats until at least six years of age.

This bill would require a child to use a rear-facing infant seat until the child is two years of age or 22 pounds.

This bill would require a child that has met the conditions to begin using a belt positioning booster seat to continue to use the booster seat until the child is six years of age and can pass a five-step test demonstrating readiness to use a seat belt.

This bill would require all other individuals in a vehicle to wear a seat belt, with limited existing exceptions.

This bill would also prohibit a child under 13 years of age from sitting in the front seat of a motor vehicle, with exceptions.

Section 111.05 of the Constitution of Alabama of 2022, prohibits a general law whose purpose or effect

would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of the section. However, the bill does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective because it comes within one of the specified exceptions contained in the section.

A BILL

TO BE ENTITLED

AN ACT

Relating to motor vehicles; to amend Section 32-5-222, Code of Alabama 1975, to further provide for the requirement to use child passenger restraint systems and seatbelts; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Section 111.05 of the Constitution of Alabama of 2022.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 32-5-222, Code of Alabama 1975, is amended to read as follows:

"§32-5-222

(a) Every person transporting a child in a motor vehicle operated on the roadways, streets, or highways of this state~~,~~ shall provide for the protection of the child by properly using an aftermarket or integrated child passenger restraint system meeting applicable federal motor vehicle safety standards and the requirements of subsection (b). This section shall not be interpreted to release in part or in whole the responsibility of an automobile manufacturer to ~~insure~~ ensure the safety of children to a level at least equivalent to existing federal safety standards for adults. In no event shall failure to wear a child passenger restraint system be considered as contributory negligence. The term "motor vehicle" as used in this section shall include a passenger car, pickup truck, van (seating capacity of 10 or less), minivan, or sports utility vehicle.

(b) The size appropriate restraint system required for a child in subsection (a) must meet the requirements of Section 32-5B-4 and shall include all of the following:

(1) Infant only seats and convertible seats ~~used~~ in the rear facing position ~~for infants~~ until the child is at least ~~one year~~two years of age or ~~20~~ 22 pounds.

(2) Convertible seats in the forward position or forward facing seats until the child is at least five years of age or 40 pounds.

(3) ~~Booster~~Belt positioning booster seats until the child is at least six years of age and can satisfy all of the following conditions:

a. The child is able to sit all the way back against the vehicle seat.

b. The child's knees bend comfortably at the edge of the seat.

c. The seatbelt crosses the child's shoulder between the neck and arm.

d. The lap belt is able to lay flat across the child's upper thighs.

e. The child is able to stay seated as described in this subdivision for the entire trip.

(4) Seat belts ~~until 15 years of age~~for every other individual, except as provided under Section 32-5B-4(b).

(c) In addition to the requirements of subsection (a) and (b), no child under 13 years of age may ride in the front seat of a motor vehicle, and shall ride in the second or third row of the motor vehicle, unless either of the following circumstances exist:

(1) The motor vehicle does not have a second row of seats.

(2) Circumstances require the child to use the front seat, including when all otherwise available second or third row seats are full or are equipped with a child passenger restraint system not applicable to the child.

~~(c)~~(d) ~~No provision of this~~This section shall not be construed ~~as creating~~to create any duty, standard of care,

right, or liability between parent and child that is not recognized under the laws of the State of Alabama ~~as they presently exist, or may, at any time in the future, be constituted by statute or decision~~.

~~(d)~~ (e) Any person violating ~~the provisions of~~ this section shall be required to attend a court hearing on the violation, which may not be waived.

(f)(1)a. On a first violation, the person may be fined twenty-five dollars ($25) ~~for each offense~~.

b. On a second violation within a five-year period, the person shall be fined fifty dollars ($50).

c. On a third violation within a five-year period, the person shall be fined one hundred dollars ($100).

d. On a four or subsequent violation within a five-year period, the person shall be fined one hundred fifty dollars ($150).

(2) The charges may be dismissed by the trial judge hearing the case and no court costs shall be assessed upon proof of acquisition of an appropriate child passenger restraint.

~~(e)~~ (g) Fifteen dollars ($15) of a fine imposed under subsection ~~(d)~~ (e) shall be used to distribute vouchers for size appropriate child passenger restraint systems to families of limited income in the state. The fifteen dollars ($15) shall be deposited in the State Treasury to be distributed by the state Comptroller to the Department of Public Health, which shall administer the program free of charge.

~~(f)~~ (h) The provisions of this section notwithstanding,

nothing contained ~~herein~~ in this section shall be deemed a violation of any law ~~which~~ that would otherwise nullify or change ~~in any way~~ the provisions or coverage of any insurance contract.

~~(g)~~ (i) For the purpose of identifying habitually negligent drivers and habitual or frequent violators, the Department of Public Safety shall assess the following points:

(1) Violation of child safety restraint requirements, first offense .....1 point.

(2) Violation of child safety restraint requirements, second or subsequent offense .....2 points.

~~(h)~~ (j) Every person transporting a child shall be responsible for ~~assuring~~ ensuring that each child is properly restrained pursuant to this section~~. The provisions shall~~; provided, this subsection does not apply to taxis ~~and all~~or motor vehicles with a seating capacity of 11 or more passengers.

~~(i)~~ (k) Each state, county, and municipal police department shall maintain statistical information on traffic stops of minorities pursuant to this section, and shall report that information monthly to the Department of Public Safety and the Office of the Attorney General."

Section 2. Although this bill would have as its purpose or effect the requirement of a new or increased expenditure of local funds, the bill is excluded from further requirements and application under Section 111.05 of the Constitution of Alabama of 2022, because the bill defines a new crime or amends the definition of an existing crime.

Section 3. This act shall become effective on October 1, 2024.