

SUBJECT: Creating an offense for not securing child under two in rear-facing car seat

COMMITTEE: Transportation — favorable, without amendment

VOTE: 10 ayes — Canales, Landgraf, Bernal, Y. Davis, Goldman, Leman, Martinez, Ortega, Raney, E. Thompson

1 nay — Hefner

2 absent — Krause, Thierry

WITNESSES: For — Lindsay Pollok, Dell Children's Medical Center; Sandra McKay, Texas Pediatric Society, Texas Medical Association, Texas Public Health Coalition; (*Registered, but did not testify*: Anne O'Ryan, AAA Texas; Butch Oberhoff, Acadian Ambulance of Texas; Billy Phenix, Allstate Insurance Company; Juliana Kerker, American College of Obstetricians and Gynecologists-Texas District; Eddie Solis, City of Arlington; Rita Ostrander, Combined Law Enforcement Associations of Texas; Jack Erskine, Department of Public Safety Officers Association; Brian Yarbrough, General Motors; Ashley Morgan, Nationwide; Andrew Cates, Nursing Legislative Agenda Coalition; Tom Banning, Texas Academy of Family Physicians; Craig Holzheuser, Texas EMS Alliance; Carrie Kroll, Texas Hospital Association; Troy Alexander, Texas Medical Association; Ali Sawani, Texas Pediatric Society; Kyle Ward, Texas PTA; Glenn Deshields, Texas State Association of Fire Fighters; and 64 individuals)

Against — (*Registered, but did not testify*: Terri Hall, Texas TURF and Texans for Toll-free Highways; Anna Alkire; Kelli Cook; Sylvia Coulson; Lynette Lucas; Crystal Main)

On — (*Registered, but did not testify*: Manda Hall and Jeremy Triplett, Department of State Health Services)

BACKGROUND: Transportation Code sec. 545.412 makes it an offense for a person operating a passenger vehicle and transporting a child younger than 8 years old to not keep the child secured in a child passenger safety seat

according to manufacturer instructions. There is an exemption for children taller than 4 feet, 9 inches. An offense under this statute is a misdemeanor punishable by a fine of \$25 to \$250.

Sec. 545.4121 provides a defense to prosecution for the offense if subsequent to the offense the defendant obtained an appropriate child safety seat and at the time of the offense was not arrested or issued a citation for any other offense, did not possess a child safety seat in the vehicle, and was not involved in an accident.

DIGEST: HB 448 would make it an offense under Transportation Code sec. 545.412 for a person operating a vehicle and transporting a child younger than 2 years old to not keep the child secured in a rear-facing child passenger safety seat. There would be an exemption if the child was taller than 3 feet, 4 inches or weighed more than 40 pounds.

The defense to prosecution for defendants who obtained an appropriate child safety seat subsequent to an offense provided by Transportation Code 545.4121 would apply to an offense under this bill.

The bill would take effect September 1, 2019.

SUPPORTERS SAY: HB 448 would update state law to reflect recent American Academy of Pediatrics recommendations and clarify language regarding current car seat requirements. The bill is necessary because current law governing the use of car seats is based on car seat manufacturer guidelines, which vary depending on the make and model of the seat, making it confusing for parents and caregivers to know how to secure their children in a car. As a result, many parents and caregivers move children to front-facing seats too early.

The bill would ensure that parents used rear-facing car seats when appropriate, which is the safest practice for securing children under 2 years old. During an accident, these car seats provide the best protection by supporting the head, neck, and spine of the child during impact. This is important because very young children still have developing spines and

skulls. The change would be consistent with current law, but would update requirements for these especially vulnerable children.

HB 448 would exempt children who reached 40 pounds in weight or 3 feet, 4 inches in height from the rear-facing car seat requirement, though most children do not reach this size until they are 4 or 5 years old. The bill also maintains a strong defense to prosecution for parents who did not have a car seat at the time of offense but proved that they had subsequently obtained the correct car seat for their child.

While some have raised concerns that this bill would be difficult to enforce, it actually would improve enforcement of car seat-related law. Officers may not immediately know the proper height, weight, or age thresholds for every car seat manufactured, the standard used by current car seat requirements. HB 488 would simplify requirements by using easily recognizable standards for enforcement.

Car seat manufacturing guidelines are regulated at the federal level and are slow to adapt to updated safety guidelines. This bill is necessary to modernize current law to better match American Academy of Pediatrics recommendations and ensure children under 2 years old are properly secured.

**OPPONENTS
SAY:**

HB 448 would criminalize parents who did not place a child at precisely the right height or weight in a corresponding car seat. The law is unnecessary and unfairly expands the conditions under which a small infraction could be charged as a misdemeanor offense. Creating a new offense for children under 2 years old not placed in rear-facing seats would not fix the main issue of child safety, but instead would punish parents who did not have adequate resources to determine when children should be in car seats and what kind of car seats to use.

It would be better for the Legislature to focus on updating regulations for car seat manufacturers in the state to ensure that the most recent American Academy of Pediatrics guidelines were promoted. Car seat manufacturers' guidelines vary widely, leading to confusion among parents. If there are

still manufacturers who provide front-facing car seats in the state, the state should address those companies rather than punishing confused parents.

OTHER
OPPONENTS
SAY:

Current laws governing car seat use already are either not enforced or not well enforced, so expanding offenses for improper car seat use may not have the desired effect. It would be difficult for a peace officer, after pulling a vehicle over, to easily determine the precise height, weight, or age of a child in a car seat. Officers do not necessarily have the best available information to advise parents on issues related to car seats, and the current offense already is unlikely to be charged.