



LEGAL UPDATE

REQUESTING ID FOR SEAT BELT VIOLATION

Commonwealth v. Mitchell, (Appeals Court decision October 28, 2024).

RELEVANT FACTS

When Boston police pulled over a car on the afternoon of May 10, 2021, they discovered that none of the three occupants, including the 14-year-old defendant in the rear seat, were wearing seat belts. The officer asked all occupants for identification. After running a warrant check officers learned that the defendant had two outstanding warrants, including one for carjacking and carrying a firearm without a license. The defendant was arrested on the warrant and a loaded firearm was found in his waistband. Seat belt citations were issued for each of the occupants.

The defendant was indicted as a youthful offender for possessing the loaded firearm. He filed a motion to suppress arguing that the officer should not have requested his identification because he was too young to be cited for the seat belt violation. He argued that, because the discovery of the firearm was the fruit of the improper request for his identification, it should have been suppressed. The motion was denied. The defendant appealed.

DISCUSSION

In general, an officer has no right to demand identification from a passenger in a motor vehicle. However, an officer can demand identification if they intend to issue a citation for a seat belt violation. A violation of the seat belt law is a civil motor vehicle infraction which is enforced by citation.

For specific guidance on the application of this case or any law, please consult your supervisor or your department's legal advisor.

MGL c 90 § 13A, states, in relevant part:

Any person who operates a motor vehicle without a safety belt, and any person sixteen years of age or over who rides as a passenger in a motor vehicle without wearing a safety belt in violation of this section, shall be subject to a fine of twenty-five dollars. Any operator of a motor vehicle shall be subject to an additional fine of twenty-five dollars for each person under the age of sixteen and no younger than twelve who is a passenger in said motor vehicle and not wearing a safety belt.

Passengers who are 16 or over are cited themselves for a seat belt violation, while the driver will be cited for violations by passengers who are 12 – 16 years old. When officers discover a passenger not wearing a seat belt, they must determine the age of the passenger so that the citation can be written to the appropriate person.

“In other words, if the officer reasonable suspects that the unbelted passenger is at least sixteen, the officer may require the passenger to provide identifying information.’

Based upon the facts of this case the officer could reasonably have believed the defendant was at least 16 years old. For this reason, it was reasonable for the officer to investigate the age of the defendant. In such circumstances, an officer could ask the passenger, the driver, or both how old the defendant was, but the officer is not required to accept the answer(s) provided.

It is reasonable for officers to ask a passenger for identification because there are several forms of identification a child under 16 may possess. The registry can issue identification cards to anyone who is at least fourteen-year-olds (MGL c 90 § 8E) while learner’s permits can be issued to individuals at least 16 years old and a junior operator’s license to individuals who are 16 ½ years old.

“Thus, even for juvenile passengers, police may be able to verify through State databases the identifying information they are given. Juvenile passenger may also have school-issued identification cards that police may rely upon.”

The court has found that officers were also justified in conducting warrant checks in similar situations. In *Commonwealth v. Washington*, 459 Mass. 32 (2011) and *Commonwealth v. Lobo*, 82 Mass.AppCt. 803 (2012), the court upheld the officers’ request for identification of passengers who were not wearing their seat belts and the subsequent warrant checks that led to the discovery of arrest warrants for them.

The motion to suppress was properly denied.