



## *Final Analysis*

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Legislative Service Commission

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123rd General Assembly

(As Passed by the General Assembly)

**Reps.** Clancy, Krupinski, Bender, O'Brien, Perry, Wilson, Metelsky, Hartnett, Kilbane, Roman, Distel, Boyd, Evans, Vesper, Gooding, Pringle, James, Ogg, Callender, Winkler, Cates, Ferderber, Stevens

**Sens.** Oelslager, Drake, Latell, Schafrath

**Effective date:** Emergency, June 1, 2000; certain provisions effective September 1, 2000

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### **ACT SUMMARY**

- In the case of most *individual* requests for the release of personal information about a person that the Bureau of Motor Vehicles (BMV) obtained in connection with a motor vehicle record or a request for such information that will be used in bulk distribution for surveys, marketing, or solicitations, prohibits the disclosure of that information unless the person has given express written consent to such disclosure.
- Establishes criteria governing the disclosure of *sensitive* personal information about an individual that the BMV obtained in connection with a motor vehicle record.
- Generally prohibits the disclosure by the BMV of the residence address of certain specified peace officers and allows those officers to have their business addresses on their drivers' licenses and certificates of registration.
- Makes changes in several provisions of the commercial driver's license (CDL) law, including the definition of "tank vehicle" and the use of the *actual* gross weight of a vehicle or combination of vehicles in lieu of a gross vehicle *weight rating*.
- Permits arrangements between this state and another country for reciprocal

recognition of driver's licenses issued by this state and that country.

- Requires the State Highway Patrol to conduct safety inspections of certain buses and, effective July 1, 2001, prohibits buses from operating without a valid, current safety inspection decal issued by the State Highway Patrol.
- Makes operating a bus (or owning or supervising a bus that operates) without a safety inspection decal a first-degree misdemeanor and directs the Registrar of Motor Vehicles not to accept an application to register a bus that does not have a valid safety inspection report.
- Requires the Department of Public Safety to adopt and enforce rules, with the advice of the Public Utilities Commission, relating to the inspection of buses.
- Appropriates \$800,000 from the General Revenue Fund to the Department of Public Safety for the bus safety inspection program in FY 2001.
- Establishes the authority of the State Highway Patrol to enter certain bus companies' property to conduct inspections.
- Eliminates the authority of the Public Utilities Commission (PUCO) to impose economic regulations (rates and routes) on charter bus companies.
- Revises the jurisdictional authority of the PUCO over certain types of companies engaged in the transportation of persons within municipal corporations.
- Establishes a study committee to explore the feasibility of requiring insurance companies to report certain policy information regarding the automobile liability insurance policies of their customers to the Registrar of Motor Vehicles.
- Makes changes in certain provisions relating to the issuance of driver's licenses and certain motor vehicle equipment provisions.
- Increases the towing and storage fees that must be paid when a motor vehicle is removed from a private tow-away zone and certain other locations.
- Makes changes in the definition of "recreational vehicle" and revises the



width and length restrictions for recreational vehicles.

- Provides that the maximum allowable width of 102 inches for most motor vehicles operated on the public highways, streets, bridges, and culverts does not include automatic covering devices used by a vehicle hauling solid waste.
- Declares an emergency.

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## CONTENT AND OPERATION

### *Disclosure of personal information of the Bureau of Motor Vehicles*

#### *Prior law*

Effective September 13, 1997, except under certain specified conditions, the law governing the Bureau of Motor Vehicles (BMV) prohibited the Registrar or any Bureau contractor or employee from knowingly disclosing or making available any personal information about an individual obtained in connection with a motor vehicle record. This law generally complied with federal requirements as they existed at that time. One exception to the general prohibition against disclosure *required* the disclosure of such information for use in matters pertaining to federal automobile-related laws, involving the following matters: (1) motor vehicle or driver safety and theft, (2) motor vehicle emissions, (3) motor vehicle product alterations, recalls, or advisories, (4) performance monitoring of motor vehicles and dealers by motor vehicle manufacturers, and (5) the removal of non-owner records from the original owner records of motor vehicle manufacturers (R.C. 4501.27(B)(1)).

Additional exceptions *permitted* the disclosure of personal information in connection with other specified governmental, legal, insurance, and certain business purposes (R.C. 4501.27(B)(2)(a) through (k) and (o)). For example, personal information could be disclosed for use in connection with matters regarding motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts, and dealers; motor vehicle market research activities, including survey research; and removal of non-owner records from the original owner records of motor vehicle manufacturers (R.C. 4501.27(B)(2)(b)).

Information also could be disclosed for the bulk distribution of surveys, marketing, or solicitation if the Bureau took steps to ensure the following:

--that individuals had the opportunity to "opt out" by prohibiting disclosure of information about themselves for uses of this nature (and were told by the Bureau of the potential for disclosure so they could opt out whenever they conducted business in person regarding motor vehicle titling or registration or drivers' licenses);

--that the surveys, marketing, or solicitations would not be directed at an individual who had requested in a timely fashion not to receive them (R.C. 4501.27(B)(2)(m)).

Finally, the law permitted disclosure of personal information under two other situations involving consent of the individuals involved. First, the Bureau could disclose personal information about individuals to anyone for any purpose if the Bureau provided clear notice (on the forms used in licensing drivers, motor vehicle titling, and registration of vehicles) that personal information collected by the Bureau on those forms might be disclosed to any person and also provided an opportunity for any individual who completed any forms to "opt out" by prohibiting disclosure of their personal information (R.C. 4501.27(B)(2)(l)). Second, the Bureau could disclose personal information about any individual to anyone who demonstrates that he or she had obtained the written consent of the individual to whom the information pertains (R.C. 4501.27(B)(2)(n)).

#### **Mandated release--limit on sensitive personal information**

The act limits the information *required* to be released in connection with the federal automobile-related acts to information *other* than "sensitive personal information." The act also generally limits the *permissive* disclosure provisions of BMV law (R.C. 4501.27(B)(2)) to information *other* than sensitive personal information. Sensitive personal information is defined as an individual's photograph or digital image, social security number, or medical or disability information.

#### **Optional release of sensitive personal information**

The act expressly permits the release of sensitive personal information where the individual whose sensitive information is requested completes a form giving express consent to the disclosure. It also expressly allows (but does not require) release of sensitive personal information without the consent of the individual in situations involving any of the following:

- (1) State, local, and federal government agencies (including courts, law

enforcement agencies, and private persons acting on behalf of government agencies) carrying out their functions;

(2) Civil, criminal, administrative, or arbitral proceedings in any state, local, or federal court or agency;

(3) Insurers, insurance support organizations, and self-insured entities while investigating claims, preventing fraud, or engaging in rating and underwriting activities;

(4) Employers and their agents and insurers in verifying information relating to the holder of a commercial driver's license or permit (R.C. 4501.27(B)(3)).

**Special limits on release of social security numbers and digitalized photos**

The act specifies that statutes unaffected by the act that absolutely prohibit the release of social security numbers to anyone other than a government agency (R.C. 4501.15, not in the act) and that prohibit the release of digitalized photos except to state, federal, and local law enforcement agencies (R.C. 4507.53, not in the act) take precedence over the act's provision regarding release of sensitive personal information, meaning that a person cannot consent to the release of his social security number or digital photo simply by filling out a form agreeing to the disclosure and that this information may not be released to any insurer or employer needing to check the validity of a commercial driver's license.

**"Opt in" as opposed to "opt out"**

The act also prohibits the Bureau from releasing any personal information (whether or not it is "sensitive") for bulk distribution for surveys, marketing, or solicitations or *for any other purpose* (not otherwise specified in the act) unless the individual whose personal information is requested completes a form giving express consent to disclosure (as opposed to completing a form prohibiting the disclosure) (R.C. 4501.27(B)(2)(m) and (o)).

**Peace officers**

(R.C. 4501.271)

Under the act, certain specified peace officers (see below) may file a written request with the BMV to do either or both of the following:

(1) Prohibit disclosure of the peace officer's residence address as contained in the motor vehicle records of the Bureau;

(2) Provide a business address to be displayed on the officer's driver's license or certificate of registration, or both.

Those officers who are included in the definition of "peace officer" and may file such a request for confidentiality include:

(1) A deputy sheriff, marshal, deputy marshal, member of the organized police department of a township or municipal corporation, member of a township police district or joint township police district police force, member of a police force employed by a metropolitan housing authority, or certain commissioned township constables;

(2) A police officer who is employed by a railroad company and appointed and commissioned by the Governor;

(3) An undercover drug agent;

(4) Designated enforcement agents of the Department of Public Safety;

(5) An employee of the Department of Natural Resources who is a natural resources law enforcement staff officer, a designated park officer, a designated forest officer, a designated preserve officer, a designated wildlife officer, or a designated state watercraft officer;

(6) Certain police officers employed by a hospital;

(7) Designated police officers of the Ohio Veterans' Home;

(8) Certain state university law enforcement officers;

(9) A special police officer employed by the Department of Mental Health.

The act further specifies that "peace officer" includes State Highway Patrol troopers, but does not include the sheriff of a county or person standing in for a sheriff.

The peace officer must file the request on a form provided by the Registrar and must provide any documentary evidence verifying the person's status as a peace officer and business address that the Registrar may require by rule.

The Registrar must adopt rules governing a request for confidentiality of a peace officer's residence address or use of a business address. The rules must include: (1) the documentary evidence required to verify the person's status as a peace officer, (2) the length of time that the request will be valid, (3) procedures for ensuring that the BMV receives notice of any change in a person's status as a

peace officer, and (4) any other procedure the Registrar considers necessary. Whenever an officer no longer is associated with a given business address, the rules may require the officer to surrender any certificate of registration and any driver's license bearing the former business address of the officer; upon payment of any applicable fees, the officer surrendering the documents will receive a certificate of registration and license bearing the officer's residence address.

If a peace officer has filed a request to have the officer's residence address be confidential or a request to use a business address, the act generally prohibits the Registrar and employees or contractors of the BMV from knowingly disclosing the residence address of the peace officer that the Bureau obtained in connection with a motor vehicle record. There are two circumstances under which the residence address of a peace officer who has requested confidentiality may be disclosed: (1) if federal law requires the disclosure of such information for use in matters pertaining to federal automobile-related laws, or (2) pursuant to a court order.

In accordance with a public records request, the Registrar or an employee or contractor of the Bureau may make available for inspection or copying a motor vehicle record of a peace officer who filed a request for confidentiality if the requested record is a public record under existing Public Records Law, but the Registrar or employee or contractor must obliterate the residence address of the peace officer from the record before making the record available for inspection or copying. The act also notes that the *business address* of a peace officer may be made available in response to a valid public records request.

Under the act, if a peace officer has filed a request that the officer's business address be displayed on a driver's license and certificate of registration, the officer still must provide a residence address in any application for a driver's license or license renewal and in any application for a motor vehicle registration or registration renewal. In accordance with continuing law requirements, the officer must notify the Registrar of any change in residence within ten days after the change occurs. If a peace officer files a request to use a business address, then a certificate of registration issued to the officer must display the business address of the officer and, notwithstanding a provision of continuing law requiring a driver's license to display a person's residence address, the officer's driver's license must display the business address of the officer.

In carrying out BMV functions, the act authorizes the Registrar to utilize the residence address of a peace officer who files a request for displaying his business address. Such functions include determining the district of registration for any applicable local motor vehicle tax, determining whether tailpipe emissions inspections are required, and for financial responsibility verification.

### **Church buses**

A church bus that is used exclusively to transport members of a congregation to church functions or to transport children and supervisors to camping functions sponsored by a nonprofit, tax-exempt, charitable or philanthropic organization may be registered for a fee of \$10. The act partially amends a requirement that a registration application for such a bus be accompanied by both of the following:

(1) An affidavit prescribed by the Registrar, signed by either the senior religious leader of the church or by the head of the church's governing body, stating that the bus is to be used exclusively for the permitted purposes (R.C. 4503.07(A)).

(2) A certificate from the Highway Patrol stating that the bus involved is safe for operation in accordance with applicable standards prescribed by the Patrol (R.C. 4503.07(B)).

The act requires a church bus to obtain the certificate from the Highway Patrol *only* if the bus meets either of the following criteria:

(1) It originally was designed by the manufacturer to transport 16 or more passengers, including the driver (R.C. 4503.07(B)(1));

(2) It has a gross vehicle weight rating of 10,001 pounds or more (R.C. 4503.07(B)(2)).

The necessity for an affidavit by a church leader is not affected by the act.

### **Changes relating to the commercial driver's license (CDL) law**

#### **"Convictions" requiring the disqualification of a person from operating a commercial motor vehicle**

The Registrar of Motor Vehicles must disqualify any person from operating a commercial motor vehicle if the person is convicted of any of a number of offenses. For example, if a CDL holder is convicted of committing a second serious traffic violation involving the operation of a commercial motor vehicle arising from separate incidents in a three-year period, the person is disqualified from operating a commercial motor vehicle for 60 days (R.C. 4506.16(B)(5)).<sup>1</sup>

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<sup>1</sup> A commercial vehicle is one that meets one of a number of qualifications for weight or number of passengers specified in law. A separate CDL is required for operating these vehicles.

Evidence of "convictions" may include a computer record obtained through a state agency of a state "other than Ohio" having statutory jurisdiction over commercial drivers or their records. The act adds *Ohio* state agencies to those that may generate a computer record as evidence of conviction.

#### **Use of actual gross weight in lieu of gross vehicle weight rating**

Law amended by the act partially distinguishes commercial vehicles by their "gross vehicle weight rating." For example, a commercial vehicle includes any single vehicle with a combined gross vehicle weight rating of 26,001 pounds or more. Under the CDL law, the gross vehicle weight rating is essentially defined as the weight specified by the manufacturer as the "maximum loaded" weight of a single or combination vehicle. The act permits the *actual gross weight* of a vehicle or combination of vehicles (that is, the actual weight loaded at the time) to be used when no gross vehicle weight rating has been specified by the manufacturer, or if the gross vehicle weight rating specified by the manufacturer is not determinable. (R.C. 4506.011.)

#### **Persons authorized to conduct testing and to issue forms related to CDL examinations**

Prior law required only the Highway Patrol to "supervise and conduct the testing" of CDL applicants, although the law also provided for required "skills" tests (involving actual operation of the applicable type of commercial vehicle) to be conducted by other parties under rules of the Director of Public Safety (R.C. 4506.09). Applicants were required to schedule appointments with the Highway Patrol to take examinations. Prior law also permitted only the Registrar to authorize the Highway Patrol to issue a form indicating which examinations an applicant had taken and passed for a CDL (R.C. 4506.13). The act permits the Registrar to authorize "any other employee of the Department of Public Safety" to supervise and conduct the testing of CDL applicants and also to issue these forms. Also, in the provisions for applicants to make appointments for the tests, the act eliminates specific references to the appointments being made with the Highway Patrol.

#### **Financial Responsibility Law**

##### **Background**

Ohio's Financial Responsibility Law (Chapter 4509.) prohibits any person from driving a motor vehicle in Ohio without proof of financial responsibility, commonly known as liability insurance. Intended to reduce the likelihood that victims of motor vehicle accidents are not adequately compensated for their injuries and other damages, the law requires every applicant for a driver's license

or motor vehicle registration to sign a statement affirming that the person has proof of financial responsibility and that the person will not operate a motor vehicle without such proof (R.C. 4503.20(B) and (J), not in the act).

Under continuing law, the Registrar of Motor Vehicles randomly selects drivers and vehicle owners and notifies them in writing to submit proof of financial responsibility. If the registrant fails to respond to the initial request or follow-up requests for verification, the Registrar must initiate license suspension proceedings against that person. Failure to provide proof of financial responsibility results in several civil penalties, including the suspension of the owner's or operator's driver's license, and the imposition of a fee for the reinstatement of financial responsibility (R.C. 4509.101(A), not in the act).

### **Establishment of study committee**

(Section 3)

The act creates a study committee to explore the feasibility of requiring insurance companies to release certain information about the automobile liability insurance carried by their customers to the Registrar of Motor Vehicles. Under the act, the committee must consider all of the following:

(1) Whether insurance companies should be required to report information on the renewal, cancellation, or lapse of a customer's liability insurance to the Registrar and, if so, within what length of time;

(2) Whether insurance companies should be required to report the issuance of new liability policies to the Registrar and, if so, within what length of time;

(3) The financial costs of any such reporting on the insurance industry and the potential for higher insurance premiums to cover those costs;

(4) The form and content of any reports;

(5) Whether the Director of Public Safety, the Superintendent of Insurance, or the Registrar should be required or authorized to adopt rules for the implementation of reporting requirements;

(6) Penalties for the failure of an insurance company to file a required report in a timely manner;

(7) What uses should be made of the reported information, including whether the information should be considered a public record;

(8) Whether the person whose insurance has lapsed or been canceled

should be notified of the filing of a report;

(9) Whether the insurance company should have immunity from civil liability for the failure to make a required report;

(10) Any other issues deemed relevant by the Registrar or committee members.

To draw on the experiences of other states, the act further instructs the committee to examine how those states deal with the issue of verification of liability insurance in their laws and regulations.

The committee must prepare a report of its findings and recommendations regarding liability insurance. Copies of the report are to be provided to the Governor, the Registrar of Motor Vehicles, the Speaker of the House of Representatives, the President of the Senate, and the chairpersons of the Insurance and Transportation committees of the House of Representatives and the Senate. The committee must submit its report within one year after the effective date of the section. Upon submission of its report, the committee expires.

### **Committee membership**

(Section 3(A))

The study committee consists of the following eight members:

(1) The Director of Public Safety or the Director's designee;

(2) The Superintendent of Insurance or the Superintendent's designee;

(3) Two members appointed by the Governor, one of whom must represent an Ohio-based automobile insurance company and one of whom must be an automobile insurance agent;

(4) Two members of the House of Representatives appointed by the Speaker, one of whom must be from a different political party than the Speaker;

(5) Two members of the Senate appointed by the President, one of whom must be from a different political party than the President.

Appointments to the committee must be made no later than two weeks after the effective date of the section. The Director of Public Safety or the Director's designee and the Superintendent of Insurance or the Superintendent's designee serve as co-chairpersons of the committee.

## **Definitions**

### **"Tank vehicle"**

For purposes of the CDL law, "tank vehicle" was defined by prior law as "any commercial motor vehicle that is designed to transport any liquid or gaseous materials within a tank that is either permanently or temporarily attached to the vehicle or its chassis, but does not include any portable tank having a rated capacity of less than one thousand gallons." (R.C. 4506.01(Y).)

The act modifies this definition so that "tank vehicle" means

any commercial motor vehicle that is designed to transport any liquid and has a maximum capacity greater than one hundred nineteen gallons or is designed to transport gaseous materials and has a water capacity greater than one thousand pounds within a tank that is either permanently or temporarily attached to the vehicle or its chassis. "Tank vehicle" does not include either of the following:

- (1) Any portable tank having a rated capacity of less than one thousand gallons (R.C. 4506.01(Y)(1));
- (2) Tanks used exclusively as a fuel tank for the motor vehicle to which it is attached (R.C. 4506.01(Y)(2)).

### **New definition of "portable tank"**

For purposes of the CDL law, the act defines "portable tank" to mean "a liquid or gaseous packaging designed primarily to be loaded on or temporarily attached to a vehicle and equipped with skids, mountings, or accessories to facilitate handling of the tank by mechanical means." (R.C. 4506.01(CC).)

### **Waiver of driver's license examinations**

The Registrar of Motor Vehicles is required to examine every applicant for a temporary instruction permit, driver's license, or motorcycle operator's endorsement (R.C. 4507.10(A)). Except for the vision screening requirement, the Registrar may waive the examination of any person applying for the renewal of a driver's license or motorcycle operator's endorsement, provided that the applicant presents either an unexpired license or endorsement or a license or endorsement that has expired not more than six months prior to the date of application (R.C.

4507.10(B)).

Except for vision screening, the act also permits the Registrar to waive the examination of any person applying for a driver's license if the person presents and surrenders a valid license issued by another state and the license is unexpired or expired not more than six months. (R.C. 4507.10(B).)

**Reciprocal agreements between Ohio and other countries**

The act permits the Registrar of Motor Vehicles to enter into a reciprocal arrangement with another country for reciprocal recognition of driver's licenses if both of the following conditions are satisfied:

(1) The country grants the same or similar exemptions relating to driver's licenses to persons holding valid driver's licenses issued by this state (R.C. 4507.101(A)(1));

(2) The country charges only reasonable fees for driver's license applications, as determined by the Registrar's sole discretion, and the fees are charged impartially to all applicants (R.C. 4507.101(A)(2)).

The Registrar is prohibited from entering into a reciprocal arrangement, and must cancel any such arrangement previously entered into, if the country does not comply with the above two provisions (R.C. 4507.101(B)).

Except for the provision of continuing law requiring vision screening of driver's license applicants, the Registrar may waive the examination of any person applying for a driver's license if the person presents a valid, unexpired license issued by a country with which the Registrar has a reciprocal arrangement (R.C. 4507.101(C)).

The act permits the Registrar to prescribe the conditions upon which a driver's license may be issued or retained under these provisions. However, the Registrar cannot prohibit an applicant from retaining the foreign license after the Registrar or deputy registrar issuing the Ohio license views and authenticates the foreign license (R.C. 4507.101(D)).

**Persons authorized to issue examiner's driving permits**

The Registrar of Motor Vehicles is required to conduct all necessary examinations of applicants for temporary instruction permits, (noncommercial) drivers' licenses, and motorcycle operators' endorsements. The examination includes a test of the applicant's knowledge of motor vehicle laws, a test of the applicant's physical fitness to drive, and a test of the applicant's ability to understand highway traffic control devices. Except for vision screening, which is performed by deputy registrars, the Registrar must designate the Highway Patrol or any other law enforcement body to supervise and conduct examinations for temporary instruction permits, drivers' licenses, and motorcycle operators' endorsements.

In addition, the Registrar may authorize the Highway Patrol or other designated law enforcement body to issue an examiner's driving permit to an applicant who has passed the required examination, authorizing that applicant to operate a motor vehicle while the Registrar is completing an investigation relative to that applicant's qualifications to receive a temporary instruction permit, driver's license, or motorcycle operator's endorsement. (R.C. 4507.11.)

The act requires the Registrar to designate not only the Highway Patrol or any law enforcement body but also any other employee of the Department of Public Safety (DPS) to supervise and conduct examinations for temporary instruction permits, drivers' licenses, and motorcycle operators' endorsements. The act also permits the Registrar to authorize any designated DPS employee to issue an examiner's driving permit to an applicant who has passed the required examination, authorizing that applicant to operate a motor vehicle while the Registrar is completing an investigation.

## **Bus safety inspection program**

### **Decals required beginning July 1, 2001; penalty**

(R.C. 4513.51 and 4513.99(H))

Effective July 1, 2001, the act prohibits (1) any person from operating certain classes of buses unless they display valid, current safety inspection decals issued by the State Highway Patrol, and (2) any person who owns a bus or has supervisory responsibility for the operation of a bus from permitting its operation without such a decal. Violation of either of these prohibitions is a first-degree misdemeanor. In addition, the Registrar of Motor Vehicles is prohibited from accepting an application to register a bus unless the owner presents a valid safety inspection report for the applicable registration year.

The act makes an exception allowing the owner or other operator of a bus to drive it to a State Highway Patrol inspection site and back to the person's place of business without a safety decal, provided that no passengers occupy the bus at the time.

### **Buses subject to inspection**

(R.C. 4513.50)

The buses subject to the new safety inspection requirements are defined as vehicles used for the transportation of passengers that either (1) were originally designed by the manufacturer to transport more than 15 passengers, including the driver, or (2) have a gross vehicle weight rating or gross vehicle weight exceeding 10,000 pounds. The requirements do *not* apply to a church bus or school bus, as defined in motor vehicle law, *unless* it is used in the transportation of passengers for hire by (a) a motor transportation company, (b) a common carrier by motor vehicle, (c) a private motor carrier, or (d) a contract carrier by motor vehicle, any of which are subject to regulation by the Public Utilities Commission. Also exempt are vehicles owned or leased by government agencies or political subdivisions, vehicles operated exclusively on a rail or rails, and trolley buses that operate by electric power derived from a fixed overhead wire and that furnish local passenger transportation similar to street-railway service.

### **Conduct of safety inspections**

(R.C. 4513.52, 4513.53(B), 4905.06, 4919.79, and 4923.20)

The act directs the Department of Public Safety to adopt and enforce rules, with the advice of the Public Utilities Commission, relating to the inspection of

buses to determine whether the bus is safe and lawful, including whether its equipment is in proper adjustment or repair. These rules must determine the safety features, items of equipment, and other safety-related conditions that are subject to inspection. They may authorize the State Highway Patrol to conduct inspections by operating safety inspection sites, going to the property of any bus operator, or both.

The State Highway Patrol must conduct bus safety inspections on at least an annual basis. A safety inspection is valid for 12 months unless, prior to that time, the bus fails a subsequent inspection or its ownership is transferred.

The inspecting officer must affix a safety inspection decal to the outside surface of each side of a bus, and also must issue a safety inspection report to the owner or operator that can be presented to the Registrar of Motor Vehicles with an application to register the bus, upon determining that (1) the bus is in safe operating condition, (2) its equipment is in proper adjustment and repair, and (3) it is otherwise "lawful." The Superintendent of the State Highway Patrol must adopt a distinctive annual safety inspection decal that bears the date of inspection. The State Highway Patrol may remove a decal from any bus that fails an inspection.

### **Inspection fees**

(R.C. 4513.52(B) and (D) and 4513.53(C))

The State Highway Patrol must collect a fee for each bus inspected. The amount of the fee is to be established in the rules adopted by the Department of Public Safety, but it may not exceed \$100 for each bus inspected. The fees must be deposited into the General Revenue Fund.<sup>2</sup>

### **Administration**

(R.C. 4513.53(A))

The act authorizes the Superintendent of the State Highway Patrol, subject to the approval of the Director of Public Safety, to appoint and maintain necessary staff to carry out the inspection of buses.

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<sup>2</sup> *The act includes an FY 2001 appropriation to the Department of Public Safety of \$800,000 from the General Revenue Fund to line-item 764-404, "Transportation Enforcement Operations," and authorizes this money be used for the bus inspection program. The Department must issue a report no later than April 16, 2001, detailing program costs, revenues, and number of inspections through March of 2001, and a plan to fund any shortfalls between costs and revenues for the 2001-2003 fiscal biennium. (Section 3 of the act.)*

### *Public Utilities Commission inspections*

Continuing law vests the Public Utilities Commission (PUCO) with general supervision over public utilities, including motor transportation companies and private motor carriers. In supervising public utilities, continuing law authorizes the PUCO to inspect property of the public utilities and further gives the PUCO the power to prescribe any rule that the PUCO finds necessary for protection of the public safety. The law specifies that certain authorized employees of the State Highway Patrol may enter in or upon, for inspection purposes, any motor vehicle of any motor transportation company or private motor carrier.

Under the act, these same authorized employees of the State Highway Patrol specifically may enter in or upon any property of any motor transportation company engaged in the intrastate transportation of persons (R.C. 4905.06). With specified exceptions, a "motor transportation company" generally means a business engaged in transporting persons or property for hire (R.C. 4921.02).

Similarly, the PUCO is authorized to adopt safety rules applicable to the highway transportation of persons or property in interstate commerce. The act allows authorized State Highway Patrol employees to enter in or upon the premises of any private carrier of persons in interstate commerce, "subject to the safety rules that the PUCO prescribes" (R.C. 4919.79).<sup>3</sup> The act also authorizes such State Highway Patrol employees to enter in or upon the premises of any private motor carrier engaged in the intrastate transportation of persons (R.C. 4923.20).

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<sup>3</sup> Presumably the Highway Patrol employees are not "subject" to the safety rules, but rather are to inspect the premises of the private carrier for violations of safety rules. The term "private carrier of persons" is not defined in the act or continuing law. Continuing law defines "private motor carrier" as an entity engaged in the business of private carriage of persons or property, or of providing or furnishing such transportation service, for hire, in or by motor-propelled vehicles of any kind (R.C. 4923.02).

### *Changes in PUCO jurisdiction*

Under prior law, an entity engaged in the transportation of persons or property operated exclusively within a municipal corporation was not included in the definition of a "motor transportation company" and therefore was not subject to regulation by the PUCO. Under the act, an entity engaged in the transportation of *persons* operated exclusively within a municipal corporation is within the definition of a motor transportation company and subject to PUCO regulation while an entity engaged in the transportation of *property* operated exclusively within a municipal corporation continues to be exempt from PUCO regulation. The act also specifically exempts from PUCO regulation an entity engaged in the not-for-hire transportation of persons in church buses or the transportation of property, when either transportation is performed exclusively within a municipal corporation. The act also removes from a list of exemptions from PUCO regulation, entities engaged in the transportation of persons in hotel buses operating to and from a hotel, thereby subjecting such entities to PUCO regulation. (R.C. 4921.02 and 4923.02.)

The act generally eliminates the authority of the PUCO in regard to economic regulation of buses and replaces it with a regulatory system that simply requires the *registration* of buses to transport passengers for hire. According to the PUCO, these changes comply with federal preemption of the economic regulation of buses. The PUCO is required to grant a certificate of public convenience and necessity to any person who registers, meets the applicable insurance, service, and safety rules. The PUCO specifically will have no power over rates for the transportation of passengers for hire, nor will the PUCO have the power to require or accept the filing of tariffs establishing rates. However, the PUCO may establish standards for the "consumer protection" of passengers transported by persons holding a certificate of necessity. The registration provisions apply to persons engaged in charter bus transportation, including "charter party trips," a motor transportation company, and a private motor carrier, all as defined in continuing law. Also under the act, any person holding a certificate of convenience and necessity to transport passengers must file a written notice with the PUCO 30 days prior to discontinuing service and also must publish the notice in a newspaper, rather than filing an *application* with the PUCO for authority to discontinue a route. (R.C. 4921.101.)

### *Color of school buses*

Prior law required school buses to be painted National School Bus Chrome Number Two. The act requires school buses to be painted National School Bus Yellow. (R.C. 4511.77.)

### **Motor vehicle stop lights**

Nearly all motor vehicles must be equipped with at least one stop light mounted on the rear of the vehicle. Under continuing law, stop lights must be actuated upon application of the service brake, and may be incorporated with other rear lights. When actuated, stop lights must emit a red light visible from a distance of 500 feet to the rear. Under prior law, these provisions did not apply to historical motor vehicles. (R.C. 4513.071.)

The act generally requires every motor vehicle to be equipped with two or more stop lights and also applies this requirement to trailers, semitrailers, and pole trailers. The exceptions are passenger cars manufactured or assembled prior to January 1, 1967, motorcycles, and motor-driven cycles; under the act, however, these motor vehicles must be equipped with at least one stop light. The act specifically applies the stop light provisions to historical motor vehicles unless such vehicles were not originally manufactured with stop lights. (See COMMENT.)

### **Brake equipment on certain trailers and semitrailers**

Continuing law contains provisions governing brake equipment on vehicles. For example, every trailer or semitrailer, except a pole trailer, of a *gross weight* of 2,000 pounds or more, manufactured or assembled on or after January 1, 1942, must be equipped with brakes "adequate to control the movement of and to stop and to hold the trailer or semitrailer." The brakes must be designed so that the driver of the towing motor vehicle can apply them from the cab, and in case of a breakaway of the towed vehicle, its brakes must be automatically applied. (R.C. 4513.20(D).)

The act applies these same braking requirements to every manufactured home or travel trailer with an *empty weight* of 2,000 pounds or more, manufactured or assembled on or after January 1, 2001 (R.C. 4513.20(D)(2)).

### **Motor vehicle directional signals**

Continuing law, amended by the act, provides that if a motor vehicle has been manufactured or assembled on or after January 1, 1954, no person may sell it and it cannot be registered unless the motor vehicle is equipped with electrical or mechanical directional signals. These provisions did not apply to motorcycles or motor-driven cycles.

"Directional signals" are defined in continuing law as electrical or mechanical signal devices capable of clearly indicating an intention to turn either to the right or to the left, and they must be visible from both the front and rear. All

mechanical signal devices must be self-illuminating devices when in use at night or during times of reduced visibility. (R.C. 4513.261.)

The act replaces the prior prohibition against "selling" or "registering" a vehicle without directional signals with a prohibition against *operating* any such motor vehicle manufactured or assembled on or after January 1, 1954 (R.C. 4513.261(A)(1)). The act also applies this prohibition to any motorcycle or motor-driven cycle manufactured or assembled on or after January 1, 1968 (R.C. 4513.261(A)(2)).

### **Wheel protectors**

Continuing law prohibits any person from operating any commercial car, trailer, or semitrailer that is used for the transportation of property and has a gross weight with load that exceeds three tons unless the vehicle is equipped with suitable metal protectors or substantial flexible flaps on the rearmost wheels of the vehicle or combination of vehicles. The purpose of the protectors or flaps is to prevent, as far as practicable, the wheels from throwing dirt, water, or other materials on the windshields of following vehicles. Under prior law, they had to have a ground clearance of not more than one-fifth of the distance from the center of the rearmost axle to the center of the flaps, whether loaded or unloaded, and had to be at least as wide as the tires they were protecting.

The act requires such protectors or flaps to have a ground clearance of not more than one-third of the distance from the center of the rearmost axle to the center of the flaps, whether loaded or unloaded, rather than one-fifth that distance as prescribed in prior law. (R.C. 5577.11.)

Continuing law provides that no such flaps are required if the vehicle is designed and constructed so that the protection requirements are accomplished by means of fenders, body construction, or other means of enclosure.

### **Recreational vehicles**

#### **Definition**

For purposes of the motor vehicle law, prior law defined a "recreational vehicle" as "a vehicular portable structure that is designed and constructed to be used as a temporary dwelling for travel, recreational, and vacation uses." The law specified five classes of recreational vehicles: travel trailers, motor homes, truck campers, fifth wheel trailers, and park trailers. (R.C. 4501.01(Q).)

The act redefines a "recreational vehicle" to mean a vehicular portable structure that meets all of the following conditions:

- (1) It is designed for the sole purpose of recreational travel.
- (2) It is not used for the purpose of engaging in business for profit.
- (3) It is not used for the purpose of engaging in intrastate commerce.
- (4) It is not used for the purpose of commerce as defined in the federal commercial driver's license law.
- (5) It is not regulated by the Public Utilities Commission under Revised Code chapters governing certain motor carriers.
- (6) It is classed as either a travel trailer, motor home, truck camper, fifth wheel trailer, or park trailer.

**Height and width restrictions for RVs on public roads**

(R.C. 5577.05)

For recreational vehicles to operate on public highways, streets, bridges, and culverts, prior law limited them to 102 inches in width and 40 feet in length. The act revises these restrictions as follows:

- (1) The maximum width remains 102 inches, but the act specifies that this measurement excludes safety devices and retracted awnings and other appurtenances of six inches or less in width; and
- (2) The maximum length is increased to 45 feet.

The act retains the Director of Transportation's authority to prohibit the operation of RVs on designated highways or portions of highways even if they fall within these limits.

**Exception to the general maximum vehicle width provision**

Under continuing law modified by the act, the maximum allowable width for most motor vehicles operated on the public highways, streets, bridges, and culverts is 102 inches, including load (previous R.C. 5577.05(A)(4), now R.C. 5577.05(A)(5)). A few motor vehicles have their own specified maximum widths; for example, passenger buses operated exclusively within municipal corporations cannot exceed 104 inches in width (R.C. 5577.05(A)(1)).

The act provides that the general width limitation of 102 inches (R.C. 5577.05(A)(5)) does not include automatic covering devices used by a vehicle hauling solid waste (R.C. 5577.05(D)).

### **Definition of "motor home"**

One type of recreational vehicle is a motor home. Motor vehicle law modified by the act defined a "motor home" as "a self-propelled recreational vehicle that is constructed with permanently installed facilities for cold storage, cooking and consuming of food, and for sleeping." (R.C. 4501.01(Q)(2).) The act adds to this definition a provision that a "motor home" cannot have a fifth wheel.

### **Definition of "commercial car"**

Motor vehicle law altered by the act defined a commercial car as "any motor vehicle that has motor power and is designed and used for carrying merchandise or freight, or that is used as a commercial tractor." (R.C. 4501.01(J).) The act expands this definition for commercial cars to include commercial "trucks."

### **Increase in certain towing charges**

Continuing law permits the sheriff of a county or chief of police of a municipal corporation, township, or township police district, upon complaint, to order into storage any motor vehicle, other than an abandoned junk motor vehicle, that has been left at either of the following locations:

- (1) On private residential or agricultural property for at least four hours without the permission of the person having control of the property;
- (2) At a repair garage or place of storage for a period longer than that agreed upon.

Continuing law also permits the owner of private property to create a private tow-away zone on that property. It must be designated by a sign that declares the existence of the tow-away zone and contains information concerning towing and storage charges. In the case of a motor vehicle improperly parked in a private tow-away zone, the owner of the private property or his authorized agent may cause the removal of the motor vehicle from the private tow-away zone.

Under prior law, if a motor vehicle was removed from any of the above locations, the motor vehicle owner was liable for payment of a towing charge of up to \$70, and a storage charge not exceeding \$8 per 24-hour period. If the towed vehicle had a laden gross vehicle weight in excess of 15,000 pounds and was a truck, bus, tractor-trailer combination, or tractor-semitrailer combination, the maximum towing charge was \$100, and the maximum storage charge was \$12 per 24-hour period. In order for these charges to apply to a vehicle that was removed from a private tow-away zone, all these charges had to appear on the sign that

created the private tow-away zone. (R.C. 4513.60.)

The act increases these towing and storage charges. Under the act, the owner of such a towed motor vehicle is liable for payment of a towing charge of up to \$90, and a storage charge in an amount not exceeding \$12 per 24-hour period. If the towed vehicle has a manufacturer's gross vehicle weight rating in excess of 10,000 pounds and is a truck, bus, tractor-trailer combination, or tractor-semitrailer combination, the towing charge is a maximum of \$150, and the maximum storage charge is \$20 per 24-hour period.

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## COMMENT

For purposes of the act, "historical motor vehicle" means any motor vehicle that is more than 25 years old and that is owned solely as a collector's item and for participation in club activities, exhibitions, tours, parades, and similar uses, but in no event is used for general transportation.

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## HISTORY

| ACTION   | DATE     | JOURNAL ENTRY |
|--|----------|---------------|
| Introduced                                     | 03-09-00 | p. 1639       |
| Reported, H. Transportation<br>& Public Safety | 04-12-00 | p. 1820       |
| Passed House (96-0)                            | 05-03-00 | pp. 1877-1878 |
| Reported, S. Highways<br>& Transportation      | 05-24-00 | p. 1812       |
| Passed Senate (33-0)                           | 05-24-00 | pp. 1834-1836 |
| House concurrence (87-6)                       | 05-25-00 | pp. 2135-2137 |

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