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*Bill Analysis*  
*Legislative Service Commission*

## **H.B. 50**

123rd General Assembly  
(As Introduced)

**Reps. Damschroder, Harris, Ford, Grendell, Hood, O'Brien, Pringle**

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### **BILL SUMMARY**

- Reduces the prohibited concentrations of alcohol in a person's blood, breath, or urine for purposes of the state OMVI law, the state law relating to boating while under the influence of alcohol, a drug of abuse, or both ("BUI"), the statutes governing involuntary manslaughter, aggravated vehicular homicide, vehicular homicide, and aggravated vehicular assault, and the Implied Consent Law.

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### **CONTENT AND OPERATION**

**Reduction in the alcohol levels in the state OMVI statute, the statute governing boating while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse (BUI), and related statutes**

#### **Current law**

Current law contains general prohibitions under state law against operating a motor vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or with a prohibited concentration of alcohol in the blood, breath, or urine ("state OMVI"). A person of any age is prohibited from operating a vehicle, streetcar, or trackless trolley within Ohio if he is under the influence of alcohol, a drug of abuse, or both, or if he has a concentration of .10 of one percent or more by weight of alcohol in his blood, a concentration of .10 of one gram or more by weight of alcohol per 210 liters of his breath, or a concentration of .14 of one gram or more by weight of alcohol per 100 milliliters of his urine (sec. 4511.19(A)(2) to (4)). A person who is under 21 years of age is prohibited from operating a vehicle, streetcar, or trackless trolley within Ohio if he has a concentration of at least .02 of one percent but less than .10 of one percent by weight of alcohol in his blood, a concentration of at least .02 of one gram but less than .10 of one gram by weight of alcohol per 210 liters of his breath, or a concentration of at least .028 of one gram but less than .14 of one gram by weight

of alcohol per 100 milliliters of his urine (sec. 4511.19(B)(1) to (3)). A person who violates any of these latter prohibitions is guilty of the offense of operating a motor vehicle after underage alcohol consumption ("OMVUAC").

Current law also provides that no person is permitted to operate, be in physical control of any vessel underway, or manipulate any water skis, aquaplane, or similar device upon the waters of this state if he is under the influence of alcohol, a drug of abuse, or both, or if he has a concentration of .10 of one percent or more by weight of alcohol in his blood, a concentration of .10 of one gram or more by weight of alcohol per 210 liters of his breath, or a concentration of .14 of one gram or more by weight of alcohol per 100 milliliters of his urine (sec. 1547.11(A)(2) to (4)). These prohibitions will be referred to collectively as "state BUI."

In both the OMVI and BUI statutes, if a person has a concentration of less than .10 of one percent by weight of alcohol in his blood, a concentration of less than .10 of one gram by weight of alcohol per 210 liters of his breath, or a concentration of less than .14 of one gram by weight of alcohol per 100 milliliters of his urine, that fact may be considered with other competent evidence in determining the person's guilt or innocence (secs. 1547.11(D) and 4511.19(D)(2)).

### **Operation of the bill**

The bill modifies the offenses of state OMVI and state BUI by reducing the specified concentrations of alcohol that have to be present in a person's blood, breath, or urine in order for the person to have committed the offense. The bill prohibits a person of any age from operating a vehicle, streetcar, or trackless trolley within this state, and from operating, being in physical control of any vessel underway, or manipulating any water skis, aquaplane, or similar device upon the waters of this state, if he is under the influence of alcohol, a drug of abuse, or both, or if he has a concentration of .08 of one percent or more by weight of alcohol in his blood, a concentration of .08 of one gram or more by weight of alcohol per 210 liters of his breath, or a concentration of .11 of one gram or more by weight of alcohol per 100 milliliters of his urine. The bill prohibits a person who is under 21 years of age from operating a vehicle, streetcar, or trackless trolley within Ohio if he has a concentration of at least .02 of one percent but less than .08 of one percent by weight of alcohol in his blood, a concentration of at least .02 of one gram but less than .08 of one gram by weight of alcohol per 210 liters of his breath, or a concentration of at least .028 of one gram but less than .11 of one gram by weight of alcohol per 100 milliliters of his urine.

The bill also provides in both the OMVI and BUI statutes that if a person has a concentration of less than .08 of one percent by weight of alcohol in his

blood, a concentration of less than .08 of one gram by weight of alcohol per 210 liters of his breath, or a concentration of less than .11 of one gram by weight of alcohol per 100 milliliters of his urine, that fact may be considered with other competent evidence in determining the person's guilt or innocence.

**Corresponding changes in related provisions.** A number of statutes related to OMVI and BUI or related to the operation of a motor vehicle while under the influence of alcohol, drugs, or both contain references to these alcohol concentrations. The bill makes the same reductions in these provisions as are made in the state OMVI and BUI statutes.

In the existing statutes governing involuntary manslaughter, aggravated vehicular homicide, vehicular homicide, and aggravated vehicular assault, certain sanctions apply if the trier of fact finds as an element of the offense that the offender's operation or participation in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft was under the influence of alcohol, a drug of abuse, or both, or finds that the offender was under the influence of alcohol, a drug of abuse, or both at the time of the offense. This influence is presumed if a chemical test was done of the offender's blood, breath, or urine, and the test showed the presence of alcohol at or above the prohibited concentrations specified in current law. The bill reduces these concentrations to the same lower levels contained in the state OMVI and BUI statutes, as modified by the bill. (Secs. 2903.04, 2903.06, 2903.07, and 2903.08.)

In the motor vehicle Implied Consent Law, if a person is arrested for OMVI, submits to a chemical test of his blood, breath, or urine to determine its alcohol content, and the test shows that the person has a concentration of alcohol in his blood, breath, or urine at or above the concentrations specified in current law, the person's driver's or commercial driver's license, permit, or nonresident operating privilege is suspended immediately under the Administrative License Suspension provision of the Implied Consent Law. The bill reduces these concentrations, which appear several times in the Implied Consent Law, to the same lower levels contained in the state OMVI and BUI statutes, as modified by the bill. (Secs. 4511.191(D)(1), (D)(1)(c)(iv), (F), and (H)(1)(d)(ii).)

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-20-99	p. 93
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